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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 18th November, 2025Uploaded on: 21st November, 2025

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W.P.(C) 16345/2025

PAVNEET OBEROI

.....Petitioner

Through: Mr. S. Vijay Kanth and Mr. Utkarsh
Tripathi, Advs.

versus

THE COMMISSIONER OF CUSTOMS

.....Respondent

Through: Mr. Shubham Tyagi, SSC, CBIC with
Ms. Navruti Ojha, Adv.**CORAM:****JUSTICE PRATHIBA M. SINGH****JUSTICE SHAIL JAIN****JUDGMENT****Prathiba M. Singh, J.**

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner- Pavneet Oberoi under Article 226 of the Constitution of India, *inter alia*, challenging the detention of Petitioner's gold chain weighing 54 grams (*hereinafter*, 'gold chain'), which was detained by the Customs Department *vide* detention receipt dated 16th April, 2025.
3. The case of the Petitioner is that she is an Indian passport holder, residing in Dubai, holding a residence certificate of Dubai. The Petitioner had travelled from Dubai to India on 16th April, 2025, and upon her arrival at the Indira Gandhi International Airport, New Delhi, she was intercepted by the concerned officials of the Customs Department and her gold chain, which is stated to be a personal effect item, was detained.
4. Mr. Shubham Tyagi, Id. Counsel for the Respondent, has taken instructions in this matter and submits that no Show Cause Notice (SCN) was



issued to the Petitioner pursuant to the detention of her gold chain.

5. However, it is submitted on behalf of Id. Counsel for the Respondent that the statement under Section 108 of the Customs Act, 1962, has been recorded wherein the Petitioner states that she is working in a company in Dubai and had purchased the gold chain in Dubai in June, 2024 on instalments from one store called Malabar Gold & Diamonds in Dubai.

6. It is further stated on behalf of the Department that the Petitioner had orally waived her right to SCN and personal hearing. However, despite that, a personal hearing notice was issued to the Petitioner on 16th October, 2025 with the hearing being fixed for 27th October, 2025 or 29th October, 2025 or 31st October, 2025.

7. The Court notes that the present writ petition was filed on 23rd October, 2025 and was first listed before the Court on 29th October, 2025. The affidavit was attested on 27th September, 2025.

8. Id. Counsel for the Petitioner also states that the Petitioner is willing to re-export the gold chain.

9. The Court is convinced that the Petitioner's case is *bonafide*. It is noted that no Show Cause Notice has been issued in this case as the Customs Department is relying on the oral waiver that was obtained from the Petitioner. The validity of such oral waiver of SCN and personal hearing has been considered by this Court in various matters, including in ***Amit Kumar v. The Commissioner of Customs, 2025:DHC:751-DB*** and ***Mr Makhinder Chopra vs Commissioner of Customs New Delhi, 2025:DHC:1162-DB***. The operative portion of the judgment in ***Amit Kumar (supra)*** is as under:

“16. A perusal of Section 124 of the Act along with the alleged waiver which is relied upon would show that the



oral SCN cannot be deemed to have been served in this manner as is being alleged by the Department. If an oral SCN waiver has to be agreed to by the person concerned, the same ought to be in the form of a proper declaration, consciously signed by the person concerned. Even then, an opportunity of hearing ought to be afforded, inasmuch as, the person concerned cannot be condemned unheard in these matters. Printed waivers of this nature would fundamentally violate rights of persons who are affected. Natural justice is not merely lip-service. It has to be given effect and complied with in letter and spirit.

17. The three-pronged waiver which the form contains is not even decipherable or comprehensible to the common man. Apart from agreeing as per the said form that the oral SCN has been served, the person affected has also waived a right for personal hearing. Such a form in fact shocks the conscience of the Court, that too in cases of the present nature where travellers/tourists are made to run from pillar to post for seeking release of detained goods.

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19. This Court is of the opinion that the printed waiver of SCN and the printed statement made in the request for release of goods cannot be considered or deemed to be an oral SCN, in compliance with Section 124. The SCN in the present case is accordingly deemed to have not been issued and thus the detention itself would be contrary to law. The order passed in original without issuance of SCN and without hearing the Petitioner, is not sustainable in law. The Order-in-Original dated 29th November, 2024 is accordingly set-aside”

10. Thus, the law is well settled, that the Customs Department cannot rely on oral waiver of show cause notice as the same would be contrary to the



requirements of Section 124 of the Customs Act, 1962.

11. Moreover, the Supreme Court in *Union of India & Anr. v. Jatin Ahuja (Civil Appeal No.3489/2024)* dated 11th September, 2025 has held that non-issuance of SCN would lead to unconditional release of the goods. The observations of the Supreme Court are set out below:

“17. It is difficult for us also to subscribe to the views expressed by the Bombay High Court in Jayant Hansraj Shah’s case (supra). We are of the view that the only power that has been conferred upon the Revenue to extend the time period is in accordance with the first proviso to Sub-section (2) of Section 110 of the Act, 1962. The Delhi High Court is right in saying that any effort to say that the release under Section 110A of the Act, 1962 would extinguish the operation of the consequence of not issuing show-cause notice within the statutory period spelt out in Section 110(2) would be contrary to the plain meaning and intendment of the statute.

18. The Delhi High Court has done well to explain that this is so because Section 110A, is by way of an interim order, enabling release of goods like fast moving or perishable etc. The existence of such power does not, in any way, impede or limit the operation of the mandatory provision of Section 110(2).

19. In the case in hand, indisputably the car was seized under sub-section (1) and furthermore no notice in respect of the goods seized was given under clause (a) of section 124 of the said Act within six months of the seizure. The consequence, therefore, in such a case is that the goods shall be returned to the person from whose possession they were seized. The first proviso to sub-section (2) of section 110 of the said Act, however, provides that the Principal Commissioner of Customs or Commissioner of Customs may, for reasons to be



recorded in writing, extend the six months' period by a period not exceeding six months and inform the person from whom such goods were seized before the expiry of the period so specified. The proviso therefore contemplates that the period of six months mentioned in sub-section (2) of section 110 of the said Act can be extended by the higher authority for a further period not exceeding six months, for reasons to be recorded in writing. The proviso also requires the higher authority to inform this to the person from whom such goods were seized before the expiry of the period of six months mentioned in sub-section (2) of section 110. We find that in respect of the seized car, there is neither any notice under clause (a) of section 124 issued to the respondent within six months of the seizure nor the period of six months ever came to be extended for a further period of six months. In the absence of there being any notice as required by the first proviso even within the extended period upto one year, the consequence that ought to follow is release of the seized car.

[...]

24. The appeals before us are all anterior in time to the coming into force of the second proviso to Section 110(2) of the Act, 1962. Although, it is not necessary for us to say anything further, yet we may clarify that the time period to issue notice under Clause (a) of Section 124 is prescribed only in sub-section (2) of Section 110 of the Act, 1962. This time period has nothing to do ultimately with the issuance of show-cause notice under Section 124 of the Act, 1962. The two provisions are distinct and they operate in a different field."

12. In light of the above discussion, it is clear that the continued detention or seizure of goods by the Customs Department would be untenable in law, where



the Show Cause Notice or the personal hearing have been waived *via* an oral waiver.

13. Once the goods are detained, it is mandatory to issue a Show Cause Notice and afford a personal hearing to the Petitioner. The time prescribed under Section 110 of Customs Act, 1962, is a period of six months. Since the said period of 6 months has lapsed in the present case and no extension thereto has been sought by the Department, the continued detention of the gold chain of the Petitioner is impermissible.

14. Accordingly, the gold chain of the Petitioner is directed to be released for the purpose of re-export, subject to the payment of warehousing charges.

15. The Petitioner's mother Ms. Jasvinder Kaur shall appear before the Customs Authorities, along with the original Special Power of Attorney on 8th December, 2025 and Petitioner shall join virtually and confirm that the gold chain can be released to her mother.

16. The following nodal officer shall assist the Petitioner in appearing before the Customs Authority:

***Mr. Mukesh Gulia, Superintendent, Legal
IGI Airports, T-3, New Delhi
Email id: igilegaldelhi@gmail.com***

17. The present petition is disposed of in these terms. Pending applications, if any, are also disposed of.

**PRATHIBA M. SINGH
JUDGE**

**SHAIL JAIN
JUDGE**

NOVEMBER 18, 2025/kp/ss