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* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of decision: 21st November, 2025**Uploaded on: 22nd November, 2025*

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W.P.(C) 16724/2025**TARUN ARORA**

.....Petitioner

Through: Ms. Richa Kumari, Adv.

versus

COMMISSIONER OF CUSTOMS

.....Respondent

Through: Mr. Vishal Chadha, SSC with Mr.
Chandan Kumar, Adv. (9810641379)**CORAM:****JUSTICE PRATHIBA M. SINGH****JUSTICE SHAIL JAIN****Prathiba M. Singh, J. (Oral)**

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner under Article 226 of the Constitution of India, *inter alia*, challenging the continued detention of a gold chain weighing 100 grams (*hereinafter*, 'gold chain') which was seized by the Customs Department on 16th July, 2023.
3. The brief background of the Petitioner's case is that, the Petitioner is an Indian Passport holder bearing No. Z7342352 and had travelled from Bangkok to India on 16th July, 2023. Upon his arrival at the Indira Gandhi International Airport, New Delhi, he was intercepted by the concerned officials of the Customs Department and the gold chain was seized by the Customs Department *vide* detention receipt No. 2224 dated 16th July, 2023. The gold chain was appraised on 31st July, 2023 by the Customs Department



vide detention receipt No. 69770 dated 31st July, 2023.

4. The Petitioner is stated to have visited the Customs Department repeatedly. However, the Customs Department got a pre-printed waiver of the Show Cause Notice (*hereinafter*, 'SCN') and personal hearing signed from the Petitioner. Thereafter the Order-in-Original dated 12th August, 2023 was passed by the Assistant Commissioner of Customs, Terminal-3, Indira Gandhi International Airport, New Delhi (*hereinafter*, 'OIO'). The Petitioner in fact visited the Customs Department multiple times and entry passes of the Petitioner dated 26th July, 2023 and 18th August, 2023 have also been placed on record.

5. *Vide* the OIO absolute confiscation of the gold chain has been directed in the following terms:

"i) I deny the 'Free Allowance' if any admissible to the Pax Mr. Tarun Arora for not declaring the detained goods to the Proper Officer at Red Channel as well to the Customs Officer at Green Channel who intercepted him and recovered the detained goods from him.

ii) I declare the passenger, Mr. Tarun Arora, is an "ineligible Passenger" for the purpose of the Notification No. 50/2017-Customs dated 30.06.2017 (as amended) read with Baggage Rules, 2016 (as amended).

iii) I order absolute confiscation of the above said detained goods i.e., "one gold chain purity 996 weighing 100.00 grams valued at Rs.6,24,475.00" (as on 16.07.2023) recovered from the Pax Mr. Tarun Arora and detained vide DR/ INDEL4/16-07-2023/002224 Dated 16.07.2023, under Section 111(d), 111(j) & 111(m) of the Customs Act, 1962;

iv) I also impose a penalty of Rs.60,000/- (Rs.Sixty



Thousand Only) on the Pax. Mr. Tarun Arora under Section 112(a) & 112(b) of the Customs Act, 1962”

6. Upon being queried by the Court as to why the Petitioner did not challenge the OIO within the time prescribed, Id. Counsel for the Petitioner submits that the Petitioner was wrongly advised by the Customs Department that there is no remedy available, as absolute confiscation of the gold bar has been directed.

7. On the other hand, Id. Counsel for the Respondent submits that the OIO has been with the Petitioner continuously since September, 2023. There was a clear waiver of any SCN or personal hearing by the Petitioner. It is not even the case of the Petitioner that he did not have the OIO. Thus, under such circumstances, the order has attained finality.

8. The Court has considered the matter. In view of the decision in ***Amit Kumar v. The Commissioner of Customs, 2025:DHC:751-DB***, standard pre-printed waivers of Show Cause Notice and personal hearing would not be valid in law. Additionally, the continued detention of the gold chain would be contrary to law in view of the recent decision of the Supreme Court in ***Union of India & Anr. v. Jatin Ahuja, Civil Appeal No. 3489/2024*** dated 11th September, 2025, where it has been held that if there is no Show Cause Notice issued to the Petitioner, the Petitioner is entitled to unconditional release of the goods. The relevant extracts of the judgment is 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.

9. In view of the above legal position, in the opinion of this Court, the Petitioner cannot be rendered completely remediless in this matter as he may have proceeded on the legal advice.

10. Accordingly, the Petitioner is permitted to challenge the OIO dated 12th September, 2023 by way of an appeal before the Commissioner (Appeals).

11. If the appeal is filed by 10th January, 2026, the same shall be adjudicated on merits and shall not be dismissed on the ground of limitation.

12. While deciding the appeal, the Appellate Authority shall bear in mind the decisions in *Directorate of Revenue Intelligence v. Pushpa Lekhumal Tolani, (2017) 16 SCC 93* and *Mr. Makhinder Chopra v. Commissioner of Customs New Delhi 2025: DHC: 1162-DB*, as the item involved is only a gold chain which was purchased by the Petitioner.



2025:DHC:10330-DB



13. The said appeal shall be disposed of in an expeditious manner, and in any case, within a period of four months from the date of filing of the appeal.

14. The writ petition is disposed of in the aforesaid terms.

**PRATHIBA M. SINGH
JUDGE**

**SHAIL JAIN
JUDGE**

NOVEMBER 21, 2025

kk/sm

Signature Not Verified

Digitally Signed
By: RAHUL
Signing Date: 22.11.2025
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