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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ **W.P.(C) 16883/2025**

FAISALUDDIN SHEIKH .....Petitioner

Through: Ms. Richa Kumari, Adv.

versus

COMMISSIONER OF CUSTOMS .....Respondent

Through: Mr. Akshay Amritanshu, SSC.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

O R D E R

% 13.11.2025

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*, seeking release of the following goods detained by the Customs Department *vide* detention receipt number 87370 dated 7th March, 2021:

- One gold chain, stated to be weighing 49 grams;
- One iPhone 12 Pro.

3. The case of the Petitioner is that he was travelling from Dubai to India on 7th March, 2021. Upon arrival at the Indira Gandhi International Airport, New Delhi, the Petitioner was intercepted by the concerned officials of the Customs Department and the abovementioned goods of the Petitioner were detained. According to the Petitioner, no Show Cause Notice (hereinafter, *'SCN'*) has been issued till date.

4. Mr. Akshay Amritanshu, ld. SSC for the Respondent, submits that the Petitioner had waived the SCN. However, no Order-in-Original has been passed by the Customs Department.

5. The Court has considered the matter. The seizure in this case would be a seizure under Section 110 of the Customs Act, 1962, and the issuance of SCN is mandatory failing which, in terms of judgment of the Supreme Court titled ***Union of India & Anr. v. Jatin Ahuja in Civil Appeal No.3489/2024*** dated 11th September, 2025, the detained article is liable to be released. The relevant portion of the said judgment reads as under:

> *"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).* ***<u>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.</u>***
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> *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).*
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> *19.* ***<u>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</u>***

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.”***

6. In view thereof, in terms of the judgment in ***Jatin Ahuja (Supra),*** it is the settled position in law that once the goods are detained, it is mandatory to

issue a SCN and afford a hearing to the Petitioner. The time prescribed under Section 110 of The Customs Act, 1962, is a period of six months and subject to complying with the formalities, a further extension for a period of six months can be taken by the Customs Department for issuing the SCN. In this case, the one year period itself has elapsed, thus no SCN can be issued. The detention is therefore impermissible.

7. Since no SCN has been issued and no Order-in-Original has been passed, the continued detention would be contrary to the dictum in ***Jatin Ahuja (Supra).*** Accordingly, the goods of the Petitioner shall be released subject to the payment of applicable customs duty alone. It is made clear that no redemption fine, interest and penalty would be liable to be paid by the Petitioner.

8. Considering that there is only one gold item, the warehousing charges are reduced to Rs.50,000/-.

9. The Petitioner is directed to appear before the Customs Department on **2nd December, 2025,** in person or through an Authorised Representative, in which case, a proper email from the Petitioner or some form of communication shall be sent to the Customs Department that the Petitioner has authorised the concerned Authorised Representative to appear on behalf of the Petitioner. After verifying the credentials of the Petitioner and also the authorised representative, the items shall be released.

10. The Nodal Officer mentioned below shall facilitate the Petitioner's appearance before the competent authority for compliance with the present order:

Mr. Mukesh Gulia, Superintendent, Legal
Office of Commissioner, Customs

IGI Airports, T-3, New Delhi
Email id: igilegaldelhi@gmail.com

11. Upon payment of the applicable customs duty, the goods of the Petitioner shall be released.

12. The petition is disposed of in these terms. Pending applications, if any, are disposed of.

PRATHIBA M. SINGH, J.

SHAIL JAIN, J.

NOVEMBER 13, 2025/*kp/ck*