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* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of decision: 10th November, 2025*

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W.P.(C) 16976/2025**AVAZBEK MUSAEV**

.....Petitioner

Through: Ms. Richa Kumari & Mr. Pawan,
Advvs.

versus

COMMISSIONER OF CUSTOMS

.....Respondent

Through: Mr. Vishal Chadha, SSC

CORAM:**JUSTICE PRATHIBA M. SINGH****JUSTICE SHAIL JAIN****Prathiba M. Singh, J. (Oral)**

1. This hearing has been done through hybrid mode.
2. The Petitioner- Avazbek Musaev, has filed the present writ petition under Article 226 of the Constitution of India challenging the detention of one gold bar weighing 50 grams (*hereinafter, 'the detained article'*) which was detained *vide* detention receipt dated 13th July, 2024 when he was travelling from Uzbekistan to India.
3. The case of the Petitioner is that he is a citizen of Uzbekistan and had travelled to India on 13th July, 2024. Upon his arrival at the IGI Airport, the detained article was seized from his possession.
4. Ld. Counsel for the Petitioner submits that no show cause notice (*hereinafter, 'SCN'*) has been issued to the Petitioner with respect to the detention. Hence, the detained articles shall be released.
5. According to the Id. Counsel for the Respondent, the SCN was orally communicated to the Petitioner. It is further submitted by Id. Counsel for the



Respondent that the Petitioner is a foreign national and he should pay the redemption fine and penalty as well, since the detained article would not be covered by the Baggage Rules, 2016.

6. 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). **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.”

7. In view thereof, in terms of the judgment in *Jatin Ahuja (Supra)*, it is a settled position of 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 and the detained article of the Petitioner is directed to be released to the Petitioner.

8. The Petitioner shall pay the customs duty, as applicable, along with the entire warehousing charges, as per the charges applicable on the date of detention. No penalty, interest or redemption fine would be liable to be paid by the Petitioner.

9. The Petitioner is directed to appear before the Customs Authority on 20th November, 2025 in person or through an Authorised Representative, in which case, a proper email from the Petitioner or some form of communication to be sent to the Customs Department that the Petitioner has authorised the concerned Authorised Representative to appear on behalf of the Petitioner.

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



2025:DHC:9878-DB



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

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

**PRATHIBA M. SINGH
JUDGE**

**SHAIL JAIN
JUDGE**

NOVEMBER 10, 2025/pd/ss

Signature Not Verified

Signed By: TANISHKA
GUPTA
Signing Date: 14.11.2025
10:44:08

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