$~65

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

\+ **W.P.(C) 17371/2025**

YATIN MIGLANI .....Petitioner

Through: Ms. Richa Kumari, Adv.

versus

COMMISSIONER OF CUSTOMS .....Respondent

Through: Mr. Piyush Beriwal with Ms.Ruchita Srivastava, Advs. (9910396352)

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

ORDER

% 18.11.2025

1. This hearing has been done through hybrid mode.

2. The present petition has been filed by the Petitioner-Yatin Miglani under Article 226 of the Constitution of India, *inter alia*, challenging the Order-in-Original dated 9th February, 2024 (hereinafter, *'impugned order'*) passed by the Assistant Commissioner of Customs, Terminal-3, Indira Gandhi International Airport, Terminal-3, New Delhi.

3. A brief background of the Petitioner's case is that he is an Indian Passport holder, who was travelling from Dubai to India on 8th October, 2023. Upon his arrival at the Indira Gandhi International Airport, New Delhi, he was intercepted by the concerned officials of the Customs Department and two gold chains of the Petitioner, collectively weighing 150 grams, were detained by the Customs Department, *vide* detention receipt bearing no. 2814 dated 8th October, 2023.

4. Thereafter, the impugned order has been passed allowing an option to redeem the seized gold chains in the following terms:

> *"ORDER*
>
> *i) I deny the 'Free Allowance' if any, admissible to the Pax Mr.* ***Yatin Miglani*** *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.* ***Yatin Miglani*** *as 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 confiscation of "****Two Gold chains having average purity 998 with both gross and net weight 150 grams and valued at Rs.9,11,046/-****" recovered from the Pax Mr. Yatin Miglani and detained vide DR No. DR/INDEL4/08.10.2023/002814 dated 08.10.2023 under section 111(d), 111(j)and 111(m) of the Customs Act, 1962;*
>
> *(iv) I give an option to redeem, the goods confiscated above on payment of fine of* ***Rs.1,15,000/- (Rupees One Lac Fifteen Thousand Only****) along-with applicable rate of Customs duty on tariff valuation as on the date of detention of goods. I allow* ***release*** *of the detained goods within 120 days of issue of this order under Section 125(3) of Customs Act, 1962. The redemption is to be allowed after the completion of legal formalities in this regard and also fulfillment of any regulatory clearances/approvals required. The offer of redemption, if accepted, shall be subject to condition that the Pax shall not dispute the identity and valuation of the detained goods. The offer of*

> *redemption shall cease after 'One Hundred Twenty Days' from date of the receipt of this order;*
>
> *(v) I also impose a penalty of* ***Rs.90,000/- (Rupees Ninety Thousand Only)*** *on the Pax Mr. Yatin Miglani under section 112 (a) and 112(b) of the Customs Act, 1962."*

5. Subsequently, the Customs Department filed an appeal against the impugned order on 02nd April, 2024. The Petitioner had filed a reply to the same on 16th October, 2024. However, the appeal has not proceeded before the Appellate Authority.

6. On the last date of hearing *i.e.,*17th November, 2025, ld. Counsel for the Respondent was granted time to obtain instructions.

7. Today, Mr. Beriwal, ld. Counsel for the Respondent, has sought instructions. He submits that there was no change of Counsel representing the Petitioner and the same Counsel who had appeared in January, 2024 on behalf of the Petitioner had also filed a reply in October, 2024. Mr. Beriwal, ld. Counsel further submits that there are a large number of appeals which are pending which led to the delay in disposal. Moreover, he submits that Section 128A(4A) of the Customs Act, 1962 is a directory provision.

8. Heard. Under Section 128A(4A) of the Customs Act, 1962, appeals are to be decided within six months by the Commissioner of Appeals. The said provision reads as under:

> *"(4A) The Commissioner (Appeals)* ***<u>shall</u>****, where it is possible to do so, hear and decide every appeal* ***<u>within a period of six months</u>*** *from the date on which it is filed."*

A perusal of the said Section reveals that it uses the word *'shall'*. However, the provision also stipulates that the said period is to be adhered where it is possible to do so. Therefore, the appeal deserves to be decided early as there has been considerable delay in this matter.

9. Accordingly, it is directed that the appeal shall be disposed of by the concerned Appellate Authority by 15th February, 2026, failing which the Petitioner is permitted to seek revival of the present petition.

10. The writ petition is disposed of in the aforesaid terms. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH, J.

SHAIL JAIN, J.

NOVEMBER 18, 2025

kk/ck