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

\+ **W.P.(C) 18244/2025**

GURLEEN KAUR .....Petitioner
Through: Ms. Richar Kumari, Adv.
versus

COMMISSIONER OF CUSTOMS .....Respondent
Through: Mr. Vishal Chadha, Adv.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RENU BHATNAGAR

<u>O R D E R</u>

% 01.12.2025

1. This hearing has been done through hybrid mode.

2. The Petitioner, *inter alia,* seeks compliance of the Order-in-Original dated 1st September, 2025 by which the personal gold jewellery of the Petitioner has been released by the Adjudicating Authority.

3. A perusal of the said order would show that the gold jewellery seized are two gold bangles weighing 60 grams and one gold chain weighing 33 grams which the Petitioner has clearly purchased in India and had travelled with the same to Dubai for her daughter's marriage.

4. These gold items having been purchased in India, there is no illegality involved in the present case inasmuch as these are personal effects of the Petitioner which she is entitled to wear if she is travelling abroad.

5. The Order-in-Original has, therefore, directed release of the gold jewellery. The paragraph 9.4.5 of the said order reads as under:

> *"9.4.5 In view of the above discussion and precedence placed on record, I find that the detained gold jewellery has been claimed to be* ***purchased in India*** *by the Pax*

before her visit abroad for her daughter's wedding and she has produced copy of the purchase invoice for the same. The Pax has further claimed that since the ***detained jewellery*** *was not purchased overseas, but has only been brought back after visit abroad,* ***no customs duty*** *can be imposed thereon. Therefore, the detained jewellery is* ***<u>not liable for confiscation as the same is personal jewellery</u> of Indian origin as it is established that the 'personal jewellery'*** *is includible in "personal effects* ***of the Pax.***

9.5 *I have already discussed the facts of the case and accordingly. I find that the Pax has not committed any act, nor omitted to do any act she was legally obligated to do and consequently cannot be held liable for penal action under* ***section 112 of the Customs Act, 1962.***

9.6 *At last, I proceed to examine as to whether the Pax is eligible for 'Free Allowance' under Baggage Rules, 2016 (as amended). In this regard, I observe bat the 'Free Allowance' is allowed only on the bona fide baggage as per Rule 3 of Baggage Rules 2016. I find that the benefit of 'Free Allowance' is available to the Pax, as discussed hereinabove. as being an Indian national visiting abroad, the Pax has neither failed in her legal obligations, nor omitted to act in consonance of her duties. Thus, in the instant case, I allow 'Free Baggage Allowance' to the Pax as is admissible to the Indian nationals returning from visit abroad.*

10. In view of the foregoing. I pass the following order

<u>ORDER</u>

i) I ***allow*** *the* ***'Free Allowance'*** *as is admissible to the Indian Passengers for visit aboard to the Pax* ***Ms. Gurleen Kaur,*** *as well*

ii) I order ***release*** *of the above said detained goods, i.e.,* ***"1. Two gold bangles having puristy 997, weighing 60***

gm valued at Rs. 5,23,578/- 2. One gold cham having purity 997 weighing 33 gm, valued at Rs. 2,87,968/-; totally valued at Rs. 8,11,546/- *from the Pax* ***Ms. Gurleen Kaur*** *and detained vide DR No. 5814 dt. 10.03.2025 as the same is* ***not liable for confiscation*** *under Section 111 of the Customs Act 1962, without* ***payment of Customs/ duty/fine/penalty, as it is established that the said gold items are of India origin and are part of the 'personal effects' of the Pax***

iii) I refrain from imposing any ***penalty*** *on the Pax,* ***Ms. Gurleen Kaur****, under Section 112 of the Customs Act 1962 holding that she was under no legal obligation to declare the detained goods under Section 77 of the Act, being 'personal effects' of Indian origin brought back by the Pax after visit aborad."*

6. Ld. Counsel for the Petitioner prays for release of the goods in terms of the above order.

7. Mr. Vishal Chadda, ld. Counsel for the Customs Department submits that the extended period of limitation has not yet lapsed and the Department is in the process of filing the appeal.

8. The Court has heard the parties and perused the Order-in-Original. In the facts of this case, the Order-in-Original is completely logical and rational. It is also a reasonable view which is taken by the adjudicating authority. Moreover, the Petitioner being an Indian citizen who has purchased these gold jewellery in India cannot be harassed in this manner unnecessarily if she has merely made a trip to Dubai for her daughter's wedding and has returned back to India.

9. *Prima facie,* this Court is of the opinion that the finding in the Order-in-Original goes in favour of the Petitioner and if the Department wishes to challenge the same they ought to have filed the appeal in time.

10. In any event, the Petitioner being a citizen of India and these being personal effects the same are liable to be released but only on one condition that the Petitioner shall not dispose of these goods for a period of six months and shall abide by the order of the appellate forum, if any.

11. The goods shall be released to the Petitioner on 23rd December, 2025. In the facts of this case, no warehousing charges shall be liable to be paid.

12. 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
Mobile No.: 9999922479

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

PRATHIBA M. SINGH, J.

RENU BHATNAGAR, J.

DECEMBER 1, 2025
dj/msh