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

Date of decision: 4th December, 2025
Uploaded on: 6th December, 2025

\+ **W.P.(C) 18456/2025**

SUHEL KHAN .....Petitioner
Through: Dr. Ashutosh and Ms. Fatima, Adv.

versus

COMMISSIONER OF CUSTOMS .....Respondent
Through: Ms. Monica Benjamin, SSC with Ms. Nancy Jain, Adv.

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*, seeking release of one gold bar weighing 116.60 grams *(hereinafter, 'gold bar')* which was detained by the Customs Department.

3. A brief background of the Petitioner's case is that, the Petitioner is an Indian passport holder who is stated to have travelled from Saudi Arabia to India on 19th May, 2024. 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 bar was detained by the Customs Department *vide* detention receipt bearing No. 4464 dated 19th May, 2024. The gold bar was appraised *vide* detention receipt bearing No. 54066 dated 22nd May, 2024.

4. The case of the Petitioner, who is present virtually, is that, after the detention of the gold bar, no Show Cause Notice *(hereinafter, 'SCN')* has been issued to the Petitioner.

5. Ld. Counsel for the Petitioner relies upon the recent decision of the Supreme Court in ***Union of India & Anr. v. Jatin Ahuja, Civil Appeal No. 3489/2024*** to argue that since no SCN has been issued, the detention would no longer be tenable. 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</u>***

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."***

6. Ms. Monika Benjamin, ld. SSC for the Respondent submits that though no SCN was issued to the Petitioner, the personal hearing was granted to the Petitioner on 15th May, 2025 and the Petitioner agreed as under:

> *"Record of submission*
> *The AR of the Pax namely Parvej Hasan presented himself i.e. on 15/5/25 for personal hearing & submitted that*
> 1. *While coming from Saudi via Flight No. SR-756 dt. 19/5/24, the pax brought one gold metal Bar weighting 117 gm as mentioned in DR no. -4464 dt 19/5/24*
> 2. *The said detained goods belongs to him & purchased from Saudi. The AR present the invoice of same bearing no.-5580 dt 18/5/23*
> 3. *That he does not want any show cause notice in this matter*
> 4. *Pax/AR submitted that it was a bonafide mistake as he was of bonafide belief that he does not aware that carrying a gold attract customs duty.*
> 5. *AR requested to take a linent view in this matter.*
> 6. ***Authorized Representaive agreed to pay the Customs duty, Redemption Fine & penalty**."*

7. It is further submitted by ld. SSC for the Respondent that the Petitioner was duly represented by an advocate during the personal hearing where he agreed to pay the customs duty, redemption fine and penalty.

8. The Court has heard ld. Counsels for the parties. Following the decision in ***Jatin Ahuja (supra)***, and the undertaking given by the Petitioner, the following directions are issued:

i. The Petitioner shall appear before the Customs Authority on 15th December, 2025. He is permitted to be accompanied by an advocate.

ii. 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

iii. Subject to payment of customs duty, redemption fine and penalty, the gold bar shall be released to the Petitioner.

iv. In the facts of this case, no warehousing charges shall be collected from the Petitioner.

9. The proceedings of the personal hearing handed over by Ms. Monica Benjamin, ld. SSC for the Respondent, are taken on record.

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

PRATHIBA M. SINGH
JUDGE

SHAIL JAIN
JUDGE

DECEMBER 4, 2025/*kp/sm*