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

\+ **W.P.(C) 18494/2025**

MOHAMMAD HAKMUDDIN .....Petitioner

Through: Mr. Ashish Pandey & Mr. Ajay Singh, Advs.

versus

COMMISSIONER OF CUSTOMS .....Respondent

Through: Mr. Akshay Amritanshu, SSC with Ms. Drishti Rawal, Mr. Abhay Nair, Mr. Mayur Goyal & Mr. Sarthak Srivastava, Advs.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

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

% 05.12.2025

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 one gold chain weighing 108 grams *(hereinafter, 'gold chain')* which was detained by the Customs Department on 9th July, 2024.

3. A brief background of the Petitioner's case is that, the Petitioner who is an Indian passport holder had travelled from Saudi Arabia to India on 9th July, 2024. Upon his arrival at the Terminal-3, Indira Gandhi International Airport, New Delhi, he was intercepted by the concerned officials of the Customs Department and the gold chain was detained by the Customs Department *vide* detention receipt dated 9th July, 2024 bearing No. 54157.

4. The grievance of the Petitioner is that, after the detention of the gold

chain, no Show Cause Notice *(hereinafter, 'SCN')* and personal hearing notice has been issued to the Petitioner in this matter.

5. Ld. Counsel for the Petitioner has placed reliance upon the recent decision of the Supreme Court in ***Union of India & Anr. v. Jatin Ahuja in Civil Appeal No.3489/2024*** of the Supreme court, where the Court held 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.***
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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.* ***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.”***

6. The above decision is clear to the effect that if no SCN is issued within the time prescribed under Section 110 of the Customs Act, 1962 *(hereinafter, 'the Act')*, the detained goods are liable to be released. The time prescribed under Section 110 of the Act, is a period of six months and subject to reasons recorded in writing, the same may be extended for a maximum period of six months. In this case, the one year period itself has elapsed, thus no SCN can be issued at this stage. The continued detention of detained gold chain is, therefore, impermissible and the same are liable to be released to the Petitioners.

7. Accordingly, considering the above decision as also the facts of the case, since no SCN has been issued to the Petitioner, it is directed that the Customs Department shall release the seized gold chain to the Petitioner in the following terms:

i. The entire applicable Customs Duty shall be paid by the Petitioners;

ii. Full warehousing charges as applicable on the date of detention shall also be paid.

8. The Petitioner is directed to appear before the Customs Department on 6th January 2026. 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

9. The petition is disposed of in these terms. All pending applications, if any, are also disposed of.

PRATHIBA M. SINGH, J.

SHAIL JAIN, J.

DECEMBER 5, 2025/*pd/sm*