$~89

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

\+ **W.P.(C) 18770/2025**

VENKATA MANI BHASKARA RAO KONDANGI .....Petitioner

Through: Mr. Harsh Trikha, Adv.

versus

COMMISSIONER OF CUSTOMS, IGI AIRPORT & ORS. .....Respondents

Through: Appearance not given

**CORAM:**
**JUSTICE PRATHIBA M. SINGH**
**JUSTICE SHAIL JAIN**

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

**% 10.12.2025**

1. This hearing has been done through hybrid mode.

**<u>CM APPL. 78141/2025</u>**

2. Allowed, subject to all just exceptions. The Application is disposed of.

**<u>W.P.(C) 18770/2025</u>**

3. The present petition has been filed by the Petitioner seeking release of his one gold Kada weighing 98 grams, purity 957 *(hereinafter, 'the gold kada').*

4. The Petitioner is an Indian national who was working in Liberia, and had arrived in India on 17th April, 2024. It is his case that upon his arrival at the IGI Airport, New Delhi, the gold kada was seized by the Customs Authorities and at the time of appraisement the same was wrongly mentioned as elongated gold metal.

5. No Show Cause Notice (*hereinafter, 'SCN'*) is stated to have been

issued and no hearing was also granted. However, the Order-In-Original was passed on 16th July 2024 *(hereinafter, 'the OIO')*, directing absolute confiscation of the gold *kada* along with a penalty of Rs.60,000/-. The said order reads as under:

> *"ORDER*
>
> *1) I* ***deny the 'Free Allowance'*** *if any, admissible to the Pax Mr. Venkata Mani Bhaskara Rao Kondangi 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. Venkata Mani Bhaskara Rao Kondangi 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 absolute confiscation of One elongated gold piece bent in circular shape having average purity 957 with gross and net weight 98 grams having Assessable value Rs.5,97,090/- recovered from the Pax Mr. Venkata Mani Bhaskara Rao Kondangi and detained vide DR No. 52630 dated 07.05.2024 under section 111(d). 111(j) and 111(m) of the Customs Act, 1962:***
>
> ***(iv) I also impose a penalty of Rs.60,000/- (Rupees Sixty Thousand Only) on the Pax Mr. Venkata Mani Bhaskara Rao Kondangi under section 112 (a) and 112(b) of the Customs Act, 1962."***

6. The Petitioner is stated to have filed an appeal challenging the said OIO on 4th September, 2024, however, the same has not been decided till date. Hence, the present petition.

7. The Court has heard the parties. This Court, in ***W.P. (C) 17371/2025*** titled ***Yatin Miglani v. Commissioner of Customs*** has already held that the reasonable period for deciding the appeal, has already been set out in the

statute under Section 128A(4A) of the Customs Act, 1962, which shall be adhered to. The relevant portion of the said decision reads as under:

> *"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) shall, where it is possible to do so, hear and decide every appeal within a period of six months 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."***

8. Hence, in ***Yatin Miglani (supra),*** the Court has held that an endeavour shall be made by the authorities to decide the Appeals within a period of six months. However, in the present case, more than one and half years have elapsed and there is no hearing in the Appeal. This is clearly contrary to the spirit of Section 128A(4A) of the Customs Act, 1962.

9. Accordingly, it is directed that the Appeal filed by the Petitioner against the OIO shall be heard within a period of two months from the date of this Order.

10. In addition, from the date of filing of Appeal, i.e. from 04th September, 2024 till the date of decision in the Appeal, no warehousing charges shall be liable to be paid by the Petitioner.

11. The Petitioner further submits that he is, in fact, willing to re-export the gold *kada*. This request shall be considered by the Appellate Authority,

in accordance with law.

12. All rights and contentions of parties are left open.

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

**PRATHIBA M. SINGH, J.**

**SHAIL JAIN, J.**

**DECEMBER 10, 2025/***Pallavi/ss*