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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 23rd April, 2025
+ **W.P.(C) 4962/2025**

HARIS ASLAM

.....Petitioner

Through: Ms. Richa Kumari, Adv.
(M:8766321884)

versus

COMMISSIONER OF CUSTOMS

.....Respondent

Through: Mr. Avijit Dikshit, Standing counsel.
Mr. Jatin Singh, Adv. for UOI.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE RAJNEESH KUMAR GUPTA

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner- Haris Aslam under Article 226 of the Constitution of India, *inter alia*, seeking issuance of an appropriate writ directing the Respondent- Commissioner of Customs to release the personal jewellery of the Petitioner *i.e.* gold ring weighing 20 grams and a gold chain weighing 137 grams (hereinafter, '*gold items*') seized *vide* detention receipt bearing no. DR/INDEL4/23-03-2024/004056 dated 23rd March 2024 (hereinafter, '*detention receipt*').
3. The Petitioner is an Indian citizen and resident of UAE having valid residence ID. He is a software engineer working in Emirates Airlines for at least 7 years at the time of filing of the present writ petition.
4. It is the case of the Petitioner that being an employee of Emirates Airlines, he frequently travels to India to visit his family. On 23rd March,



2024, while travelling, he was wearing gold items which were detained by the Customs Department on the ground that the Petitioner had failed to declare the same.

5. According to the Customs Department, the Petitioner had signed the waiver and hence, no Show Cause Notice (hereinafter, 'SCN') was issued and no personal hearing was granted. The Order-in-Original has been passed on 14th June, 2024 (hereinafter, 'OIO') by which the absolute confiscation was directed in the following terms:

"i) I deny the 'Free Allowance' if any admissible to the Pax Mr. Haris Aslam 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. Haris Aslam an "ineligible Passenger" for the purpose of the Notification No. 50/2017-Cus dated 30.06.2017 (as amended) read with Baggage Rules, 2016 (as amended).

iii) I order absolute confiscation of the above said detained goods i.e. "(i) One unfinished gold chain having purity 996, weight 137 grams, valued at Rs.8,60,223/- (ii) One gold wire bent in circular shape having purity 996, weight 20 grams, valued at Rs. 1,25,580/- aforesaid gold jewellery collectively valued at Rs. 9,85,803/-" recovered from the Pax Mr. Haris Aslam and detained vide DR No. DR/INDEL4/23.03.2024/004056 dt. 23.03.2024, under Section 111 (d), 111 (i), 111 (j) & 111 (m) of the Customs Act, 1962;

iv) I also impose a penalty of Rs.1,00,000/- (Rupees One Lac Only) on the Pax, Haris Aslam under Section 112(a) & 112(b) of the Customs Act, 1962."

6. This OIO was challenged by the Petitioner in appeal before the Commissioner of Customs (Appeals). The Commissioner *vide* passing of the



Order-in-Appeal No. CC(A)CUS/D-I/Airport/3645/2024-25 dated 29th January 2025 (hereinafter, 'OIA') allowed the said appeal in the following terms:

“6.0 In light of discussions and findings as above, I allow the appeal partially against OIO No. 1629/004056/ 23.03.2024/ WH/2024-25 dated 14-06-2024 passed by the Assistant Commissioner of Customs, T-3, IGI Airport, New Delhi and impugned goods i.e. "(i) One unfinished gold chain having purity 996, weight 137 grams, valued at Rs.8,60,223/- (ii) One gold wire bent in circular shape having purity 996, weight 20 grams, valued at Rs.1,25,580/- (Total value Rs.9,85,803/-)" are allowed to be released to the appellant on payment of redemption fine of Rs.1,48,000/- (Rupees One Lakh Forty-Eight Thousand only) under Section 125 of the Customs Act, 1962 for re-export to UAE. The penalty of Rs.1,00,000/- (Rupees One Lakh only) imposed on the Appellant under Section 112(a) & 112(b) of the Customs Act, 1962 is upheld. The Appeal is disposed off with such modifications and consequential relief as above.”

The Petitioner is, thus, praying for the release of gold items with an undertaking that he will re-export goods.

7. Ld. Counsel for the Respondent had sought time to take instructions on the last date of hearing. Today, ld. Counsel has submitted that the Customs Department has decided to approach the Revisional Authority against the said OIA.

8. Two important facts, which deserve to be noted, are that in the present case, neither the SCN nor the hearing notice has been issued. Ld. Counsel for the Respondent has also not produced any voluntary signed waiver declaration.



9. It is clear from paragraph 4 of the OIO that the same appears to have been a standard form of waiver, which was signed by the Petitioner. The said paragraph reads as under:

“4. The AR Advocate Richa Kumari (Aadhar No. 8030 7269 1370) of The Pax Mr. Haris Aslam visited this office and submitted a letter dated 22.04.2024 wherein he submitted that he had arrived from Riyadh to IGI Airport, Terminal-3, New Delhi by Flight No. G 9463 Dated 23.03.2024 and brought the above said detained goods. He further requested that the said detained goods may please be appraised and released to him after observing necessary legal formalities. The Pax regretted his mistake of opting for Green Channel and also requested for lenient view in the matter. He is ready to pay the applicable Customs Duty, fine and penalty for the same after taking lenient view as these goods belong to him and were meant for personal use. He did not want any Show Cause Notice and Personal Hearing in the matter and requested for order for re-export.”

10. This Court has held in several matters that signing of waiver of SCN and waiver of personal hearing by a way of preprinted waiver form would be contrary to principles of natural justice and, in any case, cannot be recognized as legally followed procedure by this Court. In the cases of ***Mr Makhinder Chopra vs. Commissioner of Customs, New Delhi, 2025:DHC-1162-DB*** and ***Amit Kumar v. The Commissioner of Customs, 2025:DHC:751-DB*** this Court has discussed various issues arising in several cases where the goods have been detained from a tourist by the Customs Department, including the issue of personal jewellery being part of personal effects under the Baggage Rules, 2016 and waiver of SCN and personal hearing by way of a preprinted waiver form. The relevant extracts of the said decisions are as under:



**Mr Makhinder Chopra vs. Commissioner of Customs,
New Delhi, 2025:DHC-1162-DB**

“34. Since, the Court has made clear that the practice of making tourists sign undertaking in a standard form waiving the show cause notice and personal hearing is contrary to the provisions of Section 124 of the Act, hereinafter, the Customs Department is directed to discontinue the said practice. The Customs Department is expected to follow the principles of natural justice in each case where goods are confiscated in terms of Section 124 of the Act.”

**Amit Kumar v. The Commissioner of Customs,
2025:DHC:751-DB**

“19. This Court is of the opinion that the printed waiver of SCN and the printed statement made in the request for release of goods cannot be considered or deemed to be an oral SCN, in compliance with Section 124. The SCN in the present case is accordingly deemed to have not been issued and thus the detention itself would be contrary to law. The order passed in original without issuance of SCN and without hearing the Petitioner, is not sustainable in law. The Order-in-Original dated 29th November, 2024 is accordingly set-aside”

11. Moreover, once the Commissioner of Customs (Appeals) has also allowed redemption, the decision to file revision cannot be a ground to withhold the release of the goods. Further, there is no stay which has been granted by the Commissioner of Customs (Appeals).

12. This Court is of the opinion that the items deserve to be released to the Petitioner in terms of the OIA dated 29th January, 2025.

13. Under these facts and circumstances, no warehouse charges shall be



collected from the Petitioner.

14. The Petitioner shall deposit the redemption and penalty within one week as per the OIA.

15. After verifying the credentials of the Petitioner or Authorized Representative of the Petitioner, the goods shall be released to the Petitioner.

16. The petition is disposed of in the above terms. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH
JUDGE

RAJNEESH KUMAR GUPTA
JUDGE

APRIL 23, 2025/dk/ck