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

Date of decision: 7th November, 2025

\+ **W.P.(C) 16869/2025**

SUNIL KUMAR GUPTA .....Petitioner
Through: Mr. Aman Yadav, Adv.
versus

COMMISSIONER OF CUSTOMS, ...Respondent
Through: Appearance not given.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE MADHU JAIN

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

2. The Petitioner has filed the present petition under Article 226 of the Constitution of India, *inter alia,* seeking release of one gold *kada*and one gold chain, collectively weighing 160 grams (hereinafter, *'goods'*) seized by the Customs Department *vide* Detention Receipt bearing no. DR/INDEL/24-02-2024/003863 dated 24th February, 2024.

3. The Petitioner was travelling from Dubai to India on 24th February, 2024. Upon arrival at the Indira Gandhi International Airport, the Petitioner was intercepted by the concerned officials of the Customs Department and the abovementioned goods of the Petitioner were detained. The statement of the Petitioner was recorded by the officials of the Customs Department on 24th February, 2024. However, no Show Cause Notice (hereinafter, *'SCN'*) was issued to the Petitioner.

4. It is the case of the Petitioner that till date, he has not received any hearing notice from the Customs Department. Ld. Counsel for the Petitionerrelies upon

the decision of the Supreme Court in ***Union of India &Anr. v. Jatin Ahuja, Civil Appeal No. 3489/2024***

5. Heard. It is the settled position in law, after ***Union of India &Anr. v. Jatin Ahuja* (*Supra*)** that without a SCN under Section 110 of the Customs Act, 1962, the goods of the Petitioner would be liable to be unconditionally released. The relevant observation in ***Union of India &Anr. v. Jatin Ahuja (Supra)*** stated 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.***
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> *[...]*
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> *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. In view of the above decision, the Petitioner is entitled to unconditional release of the goods subject to payment of applicable Customs Duty. No

redemption fine or penalty would be liable to be paid by the Petitioner and no interest would be liable to be charged. It is, however, made clear that warehousing charges shall be collected on the basis of the charges which were applicable on the date of detention.

7. The Petitioner shall appear before the Customs Department on **18th November, 2025 at 11:00 AM** in person or through an Authorised Representative, in which case, a proper email from the Petitioner or some form of communication to be sent to the Customs Department that the Petitioner has authorised the concerned Authorised Representative to appear on behalf of the Petitioner.

8. 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

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

PRATHIBA M. SINGH
JUDGE

MADHU JAIN
JUDGE

NOVEMBER 7, 2025*/kp/ck*