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* IN THE HIGH COURT OF DELHI AT NEW DELHI
% ***Judgment reserved on: 19.08.2026***
Judgment pronounced on: 02.09.2026
Judgment uploaded on: 02.09.2026

\# **CNR No. DLHC010001222026**

\+ W.P.(C) 102/2026

SAIYYADA KHATOON .....Petitioner
Through: Dr. Ashutosh, Ms. Fatima, Mr. Rohit Swarup, Mr. Dalip Singh, Mr. Avinash Kumar Singh, Mr. Pravej Hasan, Mr. Abhijeet Sagar, Mr. S.Vijaykanth, Advs.

versus

COMMISSIONER OF CUSTOMS .....Respondent
Through: Mr. Akash Verma, SSC- CBIC with Ms. Aanchal Uppal, Adv.

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MS. JUSTICE SHAIL JAIN

<u>J U D G M E N T</u>

<u>ANIL KSHETARPAL, J.:</u>

1. The principal issue which arises for consideration in the present Petition is whether the Petitioner is entitled to unconditional release of the gold bar weighing 100 grams, detained/seized on 19.12.2023, on the ground that no written show-cause notice was issued within the period prescribed under Section 110(2) of the Customs Act, 1962 [‘the Act’], notwithstanding the Respondent’s assertion that an oral show-cause notice was issued on the date of detention and that the Petitioner had expressly stated that she did not require a show-cause notice or

personal hearing.

2. Through the present Petition, the Petitioner seeks a direction to the Respondent to release one gold bar weighing 100 grams, detained/seized *vide* Detention Receipt No. DR/INDEL4/19-12-2023/003353 dated 19.12.2023, and further seeks a direction that no detention/warehouse charges be recovered from her at the time of release.

FACTUAL MATRIX

3. In order to appreciate the controversy involved in the present Petition, the relevant facts, in brief, are required to be noticed.

4. The Petitioner, an Indian citizen, arrived at Indira Gandhi International Airport, New Delhi on 19.12.2023 by Flight No. 6E-0195. The Petitioner had travelled to Saudi Arabia for Umrah. Upon her arrival, she was intercepted by the Customs authorities after she had crossed the Green Channel.

5. A Detention Receipt bearing No. DR/INDEL4/19-12-2023/003353 was issued on 19.12.2023. The receipt records, *inter alia*, that one plastic cut bottle containing one yellow bar, having the marking "*100 grams fine gold 999.9*", appearing to be made of gold, had been detained/seized. The reason recorded in the receipt is "*Green Channel Violation*". The Detention Receipt further records the weight of the gold bar as 100 grams. It also bears the signature of the Petitioner and records, *inter alia*, that the articles listed therein were correct and that the article had been detained at her request and sealed

in her presence over her signature.

6. On the same date, i.e. 19.12.2023, a statement of the Petitioner was recorded under Section 108 of the Act. In the said statement, the Petitioner stated that she admitted omission and commission on her part and that she would agree with the description, quantity and value as assessed by the Customs Department. She further stated that she was ready to pay the Customs duty along with fine and penalty, as applicable. Significantly, the statement also records the following:

> "*I also do not need any Show Cause Notice or personal hearing in the matter.*"

7. The Respondent has placed on record a tabulated statement of the cases in which the goods were detained/seized. In respect of the present Petitioner, the said chart records the date of detention as 19.12.2023, the Detention Receipt as DR No. 3353 dated 19.12.2023, the voluntary statement under Section 108 as having been recorded on 19.12.2023, and specifically records that the Petitioner admitted omission and commission on her part, agreed to pay Customs duty with fine and penalty and stated that she did not require a show-cause notice or personal hearing. More importantly, the Respondent's chart separately records the date of oral show-cause notice under the proviso to Section 124 of the Act as 19.12.2023. It is also not the Respondent's case that any Order-in-Original has been passed as yet.

CONTENTIONS OF THE PARTIES

8. Contentions of the Petitioner

8.1. Learned counsel for the Petitioner submitted that the requirement of issuing a show-cause notice under Section 124 of the Act is mandatory and that the same cannot be dispensed with merely on the basis of an alleged waiver contained in the statement recorded under Section 108 of the Act.

8.2. It was further submitted that the first proviso to Section 124 permits the notice referred to in clause (a), as well as the representation referred to in clause (b), to be oral only at the request of the person concerned. According to the Petitioner, there is nothing on record to establish that she had made any such request. It was, therefore, submitted that the alleged oral show-cause notice cannot be treated as a valid notice for the purposes of Section 110(2) of the Act.

8.3. It was contended that the statement relied upon by the Department cannot be treated as a valid statement under Section 108 of the Act, as it is not in the Petitioner's handwriting and, according to the Petitioner, was prepared by the Customs officials and merely made to be signed by her. The Petitioner also alleges that the contents were not properly explained to her and that the statement was not voluntary.

8.4. Reliance was placed upon the judgment of the Supreme Court in ***Union of India & Ors. v. Jatin Ahuja***, Civil Appeal No. 3489/2024, decided on 11.09.2025, to submit that the consequence of non-issuance of notice within the statutory period prescribed under Section 110(2) is that the seizure ceases to operate and the goods are liable to be returned.

9. Contentions of the Respondent

9.1. *Per contra*, learned counsel for the Respondent submitted that the Petitioner's own statement dated 19.12.2023 constitutes a voluntary admission regarding the contravention. It is submitted that the Petitioner expressly stated that she did not require a show-cause notice or personal hearing and agreed to pay the applicable Customs duty, fine and penalty. It was further submitted that an oral show-cause notice was issued on 19.12.2023 under the first proviso to Section 124 of the Act.

9.2. It was accordingly submitted that the foundation of the Petitioner's case, namely, that no notice was issued within the statutory period, is factually incorrect. It is submitted that the Petition essentially seeks adjudication of disputed questions concerning the circumstances in which the statement was recorded and the nature of the proceedings conducted on 19.12.2023, which exercise ought not to be undertaken in proceedings under Article 226 of the Constitution.

ANALYSIS & FINDINGS

10. This Court has carefully considered the submissions advanced on behalf of the parties and perused the material on record.

11. At the outset, it is necessary to notice the statutory scheme. Section 110(1) of the Act empowers the proper officer to seize goods where he has reason to believe that the goods are liable to confiscation. Section 110(2) provides that where goods are seized under Section 110(1) and no notice in respect thereof is given under clause (a) of Section 124 within six months of the seizure, the goods shall be returned to the person from whose possession they were

seized. The first proviso permits the Principal Commissioner of Customs or Commissioner of Customs, for reasons to be recorded in writing, to extend the said period by a further period not exceeding six months, subject to the statutory requirement of informing the person concerned before expiry of the original period.

12. The legal position regarding the consequence of failure to issue the requisite notice within the statutory period has been authoritatively considered by the Supreme Court in ***Jatin Ahuja*** (supra). The Supreme Court affirmed that the time-limit prescribed under Section 110(2) is mandatory and that, in the absence of the requisite notice within the prescribed or duly extended period, the statutory consequence of return of the seized goods follows. The Supreme Court also clarified that the time period contemplated under Section 110(2) concerns the notice under Section 124(a), and that Sections 110(2) and 124 operate in distinct fields.

13. There can, therefore, be no dispute with the proposition that where there is no notice under Section 124(a) within the period contemplated by Section 110(2), the statutory consequence cannot be defeated by continued retention of the seized goods by the Customs authorities.

14. The question in the present case, however, is somewhat different. The Petitioner's entire case proceeds on the premise that no show-cause notice was issued. The Respondent, on the other hand, has specifically asserted that an oral show-cause notice was issued on 19.12.2023 under the first proviso to Section 124 of the Act.

15. This distinction is material. The first proviso to Section 124 expressly contemplates that the notice referred to in clause (a), as well as the representation referred to in clause (b), may, at the request of the person concerned, be oral. Therefore, the statutory scheme does not confine a Section 124(a) notice, in every case, to a written document.

16. This Court is conscious of the decision of this Court in ***Ms. Shubhangi Gupta v. Commissioner of Customs & Ors.***, W.P.(C) 10772/2024, decided on 04.11.2024, wherein the Court rejected the Revenue's contention that the statutory notice could simply be dispensed with on the basis of a purported waiver by the petitioner. In that case, the Revenue had not asserted in its counter-affidavit that an oral show-cause notice had actually been issued; rather, the Revenue's contention was that no such notice was required because the petitioner had waived it. The Court consequently held that, in the absence of a notice, whether written or oral, Section 124(a) had not been complied with and also noticed that there was no statutory provision permitting waiver of the notice.

17. The factual position in the present case is materially different. Here, the Respondent does not rest its defence merely on the proposition that the Petitioner waived the requirement of a show-cause notice. The Respondent has specifically placed on record a chart in which the date of oral show-cause notice is recorded as 19.12.2023. Thus, the Respondent's case is that the statutory requirement was complied with by an oral notice, and not merely that the requirement of notice stood waived.

18. The Petitioner's own statement dated 19.12.2023 assumes significance in this context. The statement records that the Petitioner admitted the omission and commission on her part, agreed to the description, quantity and value as assessed by the Customs Department, expressed her willingness to pay Customs duty along with fine and penalty, and specifically stated that she did not require a show-cause notice or personal hearing.

19. This Court does not propose to hold that the mere recording of the aforesaid statement, by itself, constitutes an oral show-cause notice under Section 124(a). Such a proposition would not follow from the statutory language. However, the statement, read together with the Respondent's specific assertion that an oral show-cause notice was issued on the same date, demonstrates that the factual foundation of the Petitioner's plea of complete absence of notice is seriously disputed.

20. The Petitioner seeks to overcome this material by alleging that the statement was prepared by the Customs officials, that she was made to sign pre-typed papers and blank papers, that its contents were not explained to her, and that the statement was obtained under coercion. These allegations are specifically disputed by the record before this Court. The statement itself contains an express declaration that it was tendered voluntarily, without duress, pressure or threat, and that its contents were understood by the Petitioner in vernacular.

21. This Court is not inclined, in exercise of writ jurisdiction, to conduct a roving factual enquiry into the circumstances in which the

statement was recorded, particularly when the Petitioner seeks to rely upon CCTV footage and alleges coercion, while the Respondent relies upon the contemporaneous statement and the proceedings recorded on 19.12.2023. Such an enquiry would necessarily require examination of evidence and appreciation of disputed factual material.

22. It is also relevant that the Petitioner does not merely seek enforcement of an admitted statutory right arising from an undisputed absence of notice. The foundational factual assertion itself, namely, that no oral show-cause notice was issued, is disputed by the Respondent. The Respondent has specifically recorded 19.12.2023 as the date of the oral show-cause notice.

23. In this regard, the decision in ***Jatin Ahuja*** (supra) does not assist the Petitioner beyond the proposition that Section 110(2) operates mandatorily where the requisite notice under Section 124(a) has not been issued within the statutory period. The said decision does not dispense with the necessity of determining, in an appropriate case, whether a notice contemplated by Section 124(a) was in fact given. Indeed, the Supreme Court's formulation itself proceeds upon the premise of there being no notice under Section 124(a) within the prescribed period.

24. In the present case, therefore, the question whether the oral proceedings conducted on 19.12.2023 constituted compliance with Section 124(a), including the Petitioner's alleged request for oral proceedings and the nature and contents of the notice communicated to her, cannot be conclusively determined merely by accepting one

version of the disputed facts.

25. This Court may also observe that the Petitioner's reliance upon the alleged absence of a personal hearing does not, by itself, lead to the conclusion that the gold must necessarily be released under Section 110(2). Section 110(2) is concerned with the issuance of the notice contemplated by Section 124(a) within the prescribed period. The statutory consequence under Section 110(2) cannot be invoked merely by pointing to every subsequent procedural grievance while leaving unresolved the factual question as to whether the requisite notice under Section 124(a) was issued.

26. Equally, this Court is not called upon in the present proceedings to adjudicate whether the Petitioner's alleged admission in the statement dated 19.12.2023 is ultimately sufficient to establish a contravention of the Act, whether the gold is liable to confiscation, or what fine or penalty, if any, may be imposed. Those are matters falling within the domain of the competent Customs authority in accordance with law.

27. The Petitioner's further allegations regarding declaration of the gold, the alleged altercation with the Customs officers, the alleged coercion in obtaining her signatures, and the evidentiary value of the CCTV footage also involve disputed questions of fact. It would neither be appropriate nor necessary for this Court to return any finding on those matters while deciding the limited question arising in the present Petition.

28. This Court also notes that the Respondent's own chart records

that no Order-in-Original has been passed. Consequently, there is no adjudication order before this Court which can be examined for its legality or correctness. The present Petition is directed essentially against the continued detention of the gold and proceeds on the assertion that the statutory period for issuance of notice has expired. Since the Respondent specifically asserts that an oral show-cause notice was issued on 19.12.2023, the Petitioner's claim for automatic release cannot be accepted merely on the basis of the absence of a written show-cause notice.

29. It is clarified that nothing contained in this judgment shall be construed as an expression of opinion on the ultimate liability of the Petitioner, the confiscability of the gold, or the validity or evidentiary value of the statement dated 19.12.2023. Those questions are left open to be considered by the competent authority in accordance with law.

CONCLUSION

30. For the aforesaid reasons, this Court finds no ground to issue the writ of mandamus sought by the Petitioner for unconditional release of the gold bar.

31. The present Petition is accordingly dismissed.

ANIL KSHETARPAL, J.

SHAIL JAIN, J.

SEPTEMBER 02, 2026
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