NEUTRAL CITATION
2026:GUJHC:54319-DB

Reserved On : 21/08/2026
Pronounced On : 25/08/2026

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 6295 of 2025

FOR APPROVAL AND SIGNATURE:
HONOURABLE MR. JUSTICE A.S. SUPEHIA Sd/-
and
HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI Sd/-

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Approved for Reporting	Yes	No
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PRANAVBHAI AMBALAL PATEL S/O SHRI AMBALAL PATEL
Versus
ADDITIONAL DIRECTOR GENERAL DIRECTORATE OF REVENUE INTELLIGENCE AHMEDABAD & ORS.

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Appearance:
MS ANJALI JHA MANISH WITH MR PARAS ANEJA WITH MR CHETAN K PANDYA(1973) for the Petitioner(s) No. 1
MR UTKARSH R SHARMA(6157) for the Respondent(s) No. 1,2,3

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CORAM:**HONOURABLE MR. JUSTICE A.S. SUPEHIA**
and
HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI

CAV JUDGMENT
(PER : HONOURABLE MR. JUSTICE A.S. SUPEHIA)

1. In the present writ petition, the petitioner has assailed the action of the respondents in detaining his car, which was imported against Bill of Entry No.7472252 dated 26.12.2024.

BRIEF FACTS:

2. The petitioner purchased a vehicle, being a Toyota Land Cruiser, for a total price of USD 54,000 from Japan on 13.12.2024. The car was shipped against a Sea Waybill/Bill of Lading on 23.12.2024. Upon arrival of the goods, Bill of Entry bearing No.7472252 dated 26.12.2024 was filed after declaring the description of the vehicle and an assessable value of USD

54,000. The out-of-charge was given to the petitioner on 02.01.2025, after proper assessment and examination.

3. The petitioner paid stamp duty of Rs.14,621 on the vehicle on 30.12.2024 and also paid the applicable customs duty amounting to Rs.99,78,795/- on 31.12.2024. The petitioner also got the car insured. However, the registration number was awaited.

4. On 07.02.2025, the Directorate of Revenue Intelligence (DRI) conducted a search at the residential premises of the petitioner, detained the imported car under a Panchnama prepared on the said date, and further directed the petitioner not to deal with the said car. Summons were issued by the DRI on 14.02.2025 and 03.03.2025, asking the petitioner to appear in connection with the inquiry conducted into the import of the car. On 10.03.2025, the petitioner authorised his son to appear in connection with the summons dated 03.03.2025. Another summons dated 21.03.2025 was also issued to the petitioner. However, the petitioner could not appear on the said date. On 04.04.2025, the petitioner supplied the documents which were in his possession and also tendered an explanation. Thereafter, the petitioner filed the present writ petition.

5. It appears that during the pendency of the writ petition, the Senior Intelligence Officer, DRI, Zonal Unit, Ahmedabad, issued a seizure memo on 17.04.2026 under Section 110(1) of the Customs Act, 1962 (for short, "the Act"), and, on 08.05.2026, a show-cause notice under Section 124 read with Section 28(4) of the Act was issued to the petitioner.

SUBMISSIONS ON BEHALF OF THE PETITIONER:

6. Learned advocate Ms.Anjali Jha Manish assisted by learned advocate Mr.Paras Aneja and learned advocate Mr.Chetan K. Pandya, appearing for the petitioner, at the outset, has submitted that the action of the respondents in detaining the car of the petitioner runs contrary to the statutory provisions of Section 110(2) of the Act and the decision of the Supreme Court in the case of Union of India Vs. Jatin Ahuja, (2025) 36 Centax 301 (SC). It is submitted that since the show-cause notice under Section 124 of the Act has been issued beyond the period of six months, the seizure automatically lapses. It is further submitted that no detention order has been passed by the authorities.

7. While inviting the attention of this Court to the interim order dated 18.09.2025 passed by the Coordinate Bench and the subsequent orders, she has submitted that the investigation was over on 08.05.2026. She has further submitted that the interim order was challenged by the petitioner before the Supreme Court by filing Special Leave to Appeal (Civil) No.12431 of 2026, and vide order dated 10.04.2026, the Apex Court directed the department to complete the inquiry by acting promptly, and the issue of the legality and validity of the detention of the vehicle was kept open. It is submitted that only after the aforesaid order of the Supreme Court was passed, the seizure memo was issued on 17.04.2026 under Section 110 of the Act, and the show-cause notice was issued on 08.05.2026 under the provisions of Section 124 of the Act. She has also submitted that the order

of provisional release was passed on 18.05.2026 by placing reliance on Circular No. 35/2017-Customs dated 16.08.2017, more particularly paragraph No. 2 thereof, which has been struck down by the Delhi High Court in the case of Shanus Impex vs. Union of India, 2024 (388) E.L.T. 78 (Del).

8. Learned advocate appearing for the petitioner has further submitted that, in fact, an incorrect statement was made before the Supreme Court on behalf of the DRI to the effect that the pendency of the writ petition before the High Court came in the way of the department initiating appropriate proceedings under Section 110 of the Act, whereas there was no stay on the investigation. She has further stated that the learned ASG had admitted that there was no seizure on record. Thus, it is urged that the respondents may be directed to release the car of the petitioner. In this context, reliance is placed on the decision of the Delhi High Court in case of Worldline Tradex Pvt. Ltd. Vs. Commissioner of Customs (Import), 2016(340) ELT 174(Del).

SUBMISSIONS ON BEHALF OF THE RESPONDENT – AUTHORITIES :

9. Opposing the aforesaid submissions and the present writ petition, learned Senior Standing Counsel Mr.Utkarsh Sharma, on instructions, has pointed out that this Court may order the release of the vehicle on any of the conditions as may be determined by this Court.

10. Learned Senior Standing Counsel Mr. Sharma has further submitted that the respondents did not issue the seizure memo earlier in view of the interim order dated 18.09.2025 passed by this Court.

11. It is submitted that now the investigation is over and, accordingly, necessary further action will be taken by the respondent department in accordance with law.

ANALYSIS AND OPINION :

12. Heard learned advocates appearing for the respective parties, at length.

13. The established facts from the record are as under:

(A) The petitioner purchased a Toyota Land Cruiser car on 13.12.2024 and, upon the arrival of the goods, Bill of Entry bearing No. 7472252 was filed on 26.12.2024.

(B) The petitioner paid the total applicable duty of Rs. 99,78,795/- on 31.12.2024.

(C) The DRI conducted a search at the residential premises of the petitioner on 07.02.2025 and prepared a Panchnama.

(D) The Panchnama records that the DRI officers directed the petitioner not to deal with or part with the car until the inquiry was completed.

(E) The petitioner filed the writ petition before this Court and, by an order dated 18.09.2025, the Coordinate Bench, after hearing the learned advocates for the respective parties, directed the respondent officers to take the vehicle into custody and to keep it in a safe place during the pendency of the petition. Further directions were also issued to the respondents to conduct a thorough investigation into the transactions relating to the purchase of the car. The statement of learned Senior Standing Counsel Mr.Sharma was recorded that the investigation report would be submitted before this Court on or before 09.10.2025.

(F) Further, an order dated 06.11.2025 passed by this Court reflects that the investigation was not completed. The statement was recorded that the petitioner, though he had appeared twice before the respondent authorities and handed over the requisite documents, and his son had also appeared twice before the respondent authorities, the investigation was not completed. Accordingly, this Court directed the respondent authorities to complete the investigation by the next date of hearing, and the matter was posted on 27.11.2025. Finally, the investigation was completed on 08.05.2026.

(G) The petitioner challenged the orders dated 18.09.2025 and 09.10.2025 by filing a Petition for Special Leave to Appeal (C) No. 12431 of 2026, which was disposed of by order dated 10.04.2026 by the Supreme Court, *inter alia*, recording the statement of the learned ASG to the effect that the pendency of the writ petition before the High Court came in the way of the department in initiating appropriate proceedings under Section 110 of the Act. A further statement was recorded that there was no seizure on record. The Supreme Court directed the department to act promptly, as the car was a perishable commodity, and the issue of the legality and validity of the detention of the vehicle was kept open.

(H) After the aforesaid order was passed, a seizure memo under Section 110(1) of the Act was issued on 17.04.2026 and thereafter, a show-cause notice dated 08.05.2026 was issued under Section 124 read with Section 28(4) of the Act. Finally, an order dated 18.05.2026 was issued by the respondent authorities for the provisional release of the seized vehicle by resorting to paragraph No.2 of Circular No.35/2017 dated 16.08.2017, which prescribes the duty/differential duty leviable on the seized goods, the amount of fine and the amount of penalties to be levied under the Customs Act.

14. At this stage, we may mention that paragraph No.2 of Circular No.35/2017 dated 16.08.2027 has been set aside by the Delhi High Court in the case of ***Shanus Impex (supra)*** to the extent that it curtails the discretion accorded to the adjudicating authority. Despite the setting aside of paragraph No.2 of the said Circular, the respondent-Department has resorted to the same and ordered the provisional release by directing the petitioner to execute a bond for the assessable value of Rs.85,95,860/- with an undertaking that the importer shall pay the duty, fine and/or penalty as may be adjudged by the adjudicating authority and also execute a bank guarantee of Rs. 1,20,00,000/- to cover the differential duty, potential fine and penalties. Hence, the action of the respondents is in fact contumacious, and is strongly deprecated.

15. The aforesaid facts indicate that though the Panchnama was prepared on 07.02.2025, whereby the petitioner was

directed by the DRI officers not to deal with or part with the said car till the inquiry was completed, the seizure memo under Section 110(1) of the Act was issued on 17.04.2026, i.e. almost after a period of more than one year. The DRI, before the Supreme Court and this Court, has blamed the pendency of the present writ petition for not resorting to the proceedings under Section 110 of the Act.

16. We may clarify that this Court never prevented the officers of the DRI from completing the investigation or conducting the proceedings under the Customs Act. On the contrary, the order dated 18.09.2025 reflects that this Court directed the respondent officers to conduct a thorough investigation and the learned Senior Standing Counsel made a statement that the investigation report would be submitted on or before 09.10.2025. Further, on 09.10.2025, the Coordinate Bench passed the order directing the respondents to carry out the investigation at the earliest and file a confidential report before this Court on or before the next date of hearing, and the matter was listed on 16.10.2025. A statement was recorded of the learned advocate appearing for the petitioner that the petitioner was ready and willing to cooperate with the investigation.

17. Further, the order dated 16.10.2025 records the statement of the learned Senior Standing Counsel appearing for the DRI that the investigation was under process and would be completed, and the Court directed that the same be completed before the next date of hearing. The matter was ordered to be listed on 06.11.2025. On 06.11.2025, the Court

again recorded the statement of the learned Senior Standing Counsel appearing for the DRI that the petitioner was not cooperating in the inquiry, which was opposed by the learned advocate appearing for the petitioner, who submitted that, in fact, the petitioner, along with his son, had appeared twice before the respondent authorities and had handed over the requisite documents. The Court directed that the report of the investigation be produced by the next date of hearing, and the matter was listed on 27.11.2025. When the matter was listed on 18.12.2025, a statement of the learned Senior Standing Counsel appearing for the DRI was recorded that the report dated 26.11.2025 had already been prepared and had been handed over to the learned advocate appearing for the petitioner.

18. Thus, all the aforesaid orders reflect that this Court never restricted the respondents from carrying out the investigation and proceedings under the Act, including the proceedings under Section 110 of the Act. Thus, a bald statement has been made before the Supreme Court that the pendency of the writ petition before this Court prevented the DRI from initiating appropriate proceedings under Section 110 of the Act, and that there was no seizure memo which was passed. Before this Court, the DRI never raised the objection that it had not initiated proceedings under Section 110 of the Act and was prevented from undertaking such proceedings because of the pendency of the writ petition. No efforts are made by the respondents to inform this Court in this regard, and in fact the order sheets reflects that the time is consumed by the respondents. The respondents have attempted to justify their

remissness on the pendency of the writ petition. Pertinently, after the order was passed by the Supreme Court on 10.04.2026, the seizure memo was issued on 17.04.2026 under the provisions of Section 110 of the Act, after a period of one year, and thereafter, the notice under Section 124 of the Act was issued on 08.05.2026.

19. Keeping in mind the aforesaid facts, we may refer to the decision of the Supreme Court in the case of ***Jatin Ahuja (supra)***. The Supreme Court, after examining the provisions of Section 110(2) and Section 124(a) of the Act in the case of the seizure of a car read with Instruction No.1/2017-Cus. dated 08.02.2017, has held thus:

> *"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."

20. Thus, as per the decision of the Supreme Court, if the goods are seized under sub-section (1) of Section 110 of the Act, the notice is required to be issued within a period of six months under Section 124(a) of the Act, which can be extended to a further period of six months by resorting to first proviso under Section 110(2) of the Act, and if, in the absence of there being any notice as required by the first proviso even within the extended period of up to one year, the consequence that ought to follow is the release of the seized car.

21. The relevant part of Section 110 is as under:

"SECTION 110 : Seizure of goods, documents and things

(1) If the proper officer has reason to believe that any goods are liable to confiscation under this Act, he may seize such goods:

[PROVIDED that where it is not practicable to remove, transport, store or take physical possession of the seized goods for any reason, the proper officer may give custody of the seized goods to the owner of the goods or the beneficial owner or any person holding himself out to be the importer, or any other person from whose custody such goods have been seized, on execution of an undertaking by such person that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer:

PROVIDED FURTHER that where it is not practicable to seize any such goods, the proper officer may serve an order on the owner of the goods or the beneficial owner or any person holding himself out to be importer, or any other person from whose custody such goods have been found, directing that such person *shall not remove, part with, or otherwise deal with such goods except with the previous permission of such officer.]*

xxxxx

(2) Where any goods are seized under sub-section (1) and no notice in respect thereof is given under clause (a) of section 124 within six months of the seizure of the goods, the goods shall be returned to the person from whose possession they were seized:

[PROVIDED that the Principal Commissioner of Customs or Commissioner of Customs may, for reasons to be recorded in writing, extend such period to a further period not exceeding six months and inform the person from whom such goods were seized before the expiry of the period so specified."

22. In the present case, the panchnama was prepared on 07.02.2025, through which the petitioner was directed not to deal or part away with the car. The Act does not define either detention or seizure. The Law Dictionary states "detention" is the act of keeping back or withholding, either accidentally or by design, a person or thing. Thus, by a panchnama, the car of the petitioner was detained. The proviso to Section 110(1) of the Act prescribes the process to be undertaken by the proper officer in the eventuality where where it is not practicable to remove, transport, store or take physical possession of the seized goods for any reason. In such cases, the proper officer may give custody of the seized goods to the persons as mentioned therein, on execution of an undertaking by such person that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer. The second proviso further stipulates that where it is not practicable to seize any such goods, the proper officer may serve an order on such person, directing that such person shall not remove, part with, or otherwise deal with such goods

except with the previous permission of such officer. In the instant case, it is not the case of the respondent-department that the car which was ordered to be detained would fall within the categories of the goods as mentioned in the first proviso. Thus, the proper officer was required to pass an order under second proviso, which is not done. In this context, we rely upon the judgement of Delhi High Court in the case of ***Worldline Tradex Pvt. Ltd. (supra).***

> *"17. Mr Agarwala drew the attention of the Court to the proviso to Section 110(1) of the Act which envisages a situation where it is not practical to seize imported goods. The proviso states that in such instance "the proper officer may serve on the owner of the goods an order that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer".*
>
> *18. In the present case, as already noted, no order was served on the owner of the goods in terms of proviso to Section 110(1) of the Act. What the panchnama talks of is the custodian being told by the DRI not to remove, part with or otherwise deal with the goods. Clearly, therefore, no action was proposed and, in fact, taken in terms of the proviso to Section 110(1) of the Act, which is the only exception to not immediately seizing the goods. It appears to be imperative that if the proper officer decides to seize the goods, then he must record first reasons to believe that such goods are liable to be confiscation under the Act.*
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> *19. In R.S. Seth Gopikisan Agarwal (supra) the Supreme Court discussed Section 105 of the Act dealing with search and not Section 110 of the Act which deals with seizure. In any event, even the Supreme Court did not suggest that no reasons at all are required to be given for a search undertaken under Section 105 of the Act. In para 7 the Supreme Court observed that the Customs Officer "doubtless" has to indicate "broadly the nature of the documents and the goods in regard to which the officer authorized by him should make a search, for without that his mandate cannot be obeyed". While the Supreme Court observed that the specific particulars need not be mentioned, it did not dispense with the recording of reasons for the action taken under Section 105 of the Act.*

20. Even the decision in S.J. Fabrics Pvt. Ltd. v. Union of India (supra) does not suggest that the proceedings under Section 110(1) of the Act is not to be followed. The above observations in para 6 of the decision are relevant in the context of the computation of the period of limitation for the purposes of issuance of the show cause notice under Section 124(a) of the Act. The said decision does not suggest that for effecting a seizure under Section 110(1) of the Act, no order is required to be passed by the proper officer.

21. None of the above decisions is an authority for the proposition sought to be advanced by Mr. Agarwala that detention and seizure is one and the same thing. On the contrary, the decisions of the Punjab & Haryana High Court referred to by learned counsel for the Petitioner hold to the contrary. Both in Mapsa Tapes Pvt. Ltd. v. Union of India (supra) and Om Udyog v. Union of India (supra) the High Court was concerned with the similar situation of detention of the goods without recording reasons to believe that seizure of the goods was warranted under Section 110(1) of the Act. The following discussion in Mapsa Tapes Pvt. Ltd. v. Union of India (supra) supports the case of the Petitioner that, for there to be a valid seizure of the goods it is incumbent on the proper officer to record reasons to believe, under Section 110(1) of the Act, that the goods are liable to be confiscated:

> *"23. The case in hand, in our opinion, will fall within the four corners of Section 105 of the Act as in the present case the seizure of the goods was preceded by search. It is even evident from panchnama dated 8-2-2005 (Annexure P. 3) attached with the writ petition.*
>
> *24. In the present case, what to talk of respondents themselves producing the records to show recording of reasons, even in spite of specific query by the court, nothing has been produced before us to show as to whether reasons were recorded or not before the search was authorised or the seizure took place. All what has been relied upon is the report of Directorate of Revenue Intelligence, Delhi Zonal Unit (DRI) which is much prior to the date of seizure and important aspect of the matter is that the goods were cleared under Section 47 of the Act after the above report was available with DRI. Further, undisputed allegations of the petitioners are that even after the clearance of the consignment, seizure*

of which is in question, in the present petition a number of consignments were cleared by the respondents under Section 47 of the Act under similar circumstances.

25. We are of the view that while existence power of seizure may be justified but its exercise will be liable to be struck down unless 'reasons to believe' were duly recorded before action of search and seizure is taken, which has not been done in the present case because the respondents have not been able to satisfy the court that due process of law was followed while taking drastic step of search and seizure in the case of the petitioner. On this ground alone, we are of the view that action of search and seizure is liable to be quashed and accordingly we answer the second issue in favour of the petitioner and against the revenue.

26. Before parting with the judgment, we make it clear that we are not going into question of alleged liability for undervaluation or mis-description or any other consequence or the liability of the petitioners as a result of pending show cause notice issued to the petitioners...."

22. In Om Udyog v. Union of India (supra), in similar circumstances, the Court directed immediate release of the goods since "the Department had not shown prima facie case for exercise of powers of confiscation and has only relied upon existence of power". The Gujarat High Court in Baboo Ram Hari Chand v. Union of India (supra) negatived the plea of the Department that seizure and confiscation were one and same thing. In that case the panchnama was projected as the seizure order. The Court observed that "such composite order is unheard of". It further observed:

"27. Technically, asking the party to submit fresh PD Bonds for a period of six months on one hand and proceeding to seize the goods on the other hand may not perhaps be faulted with, however, burden lies on the authority to explain rationale to rush into seizure/ confiscation of the goods in such circumstances, the reason is the „proper officer" cannot proceed to seize the goods under Section 110 of the Act unless he has reason to believe. The authority would exercise drastic powers to seize the goods only in case wherein it has reason to believe that the goods is liable to be confiscated. The powers to seize and the power to confiscate are quite drastic powers. Little elaboration would show apparent

inconsistency in the conduct of the respondent, from which it can be said that formation of belief for seizure by the respondent is vitiated...."

23. The power of seizure under Section 110 of the Act has to obviously be exercised for valid reasons. The proper officer has to record his reasons to believe that the goods that he proposes to seize are liable to confiscation. The said reasons for exercise of the power have to be recorded prior to the seizure. In the present case, as already noticed, apart from the panchnama, there is no separate order passed under Section 110(1) of the Act by the proper officer recording the reasons to believe that the goods are liable for confiscation. Since till date no other order exists and no such order has been communicated to the Petitioner, it is not possible to accept the plea of Mr Agarwala, learned counsel for the DRI, that the 'detention' of the goods by the DRI was with the authority of law and in any event should be treated as a seizure in terms of Section 110(1) of the Act."

23. The Delhi High Court in a similar issue, wherein the owner of the goods was directed not to remove or part with the goods through a panchanama, has held that it is imperative for the proper officer to pass a separate order as stipulated in the proviso of Section 110(1) of the Act, and record that the goods, which he/she proposes to seize are liable to be confiscated. It is held that the "detention" of goods by the DRI cannot be treated as "seizure" in terms of Section 110(1) of the Act. In the instant case, after the order dated 10.04.2026 was passed by the Supreme court , the seizure order has been issued on 17.04.2026 under Section 110(1) of the Act, which means that the car was under detention bereft of any order passed under the provisos under Section 110(1) of the Act, and thereafter, the show-cause notice was issued on 08.05.2026 under the provisions of Section 124 of the Act for confiscation, which is within the limitation period of six months as prescribed under the provisions of Section 110(2) read with Section 124(a) of the Act.

24. We may, at this stage, incorporate the relevant extract of Instruction No.1/2017-Cus. [F. No. 591/04/2016-Cus. (AS)], dated 08.02.2017, which has been considered by the Supreme Court in the case of ***Jatin Ahuja(supra).*** The Circular is as under :-

> ***"Instruction No.01/2017-Cus. (F. No. 591/04/2016-Cus. (AS)) dated 8.2.2017***
>
> *Government of India*
> *Ministry of Finance (Department of Revenue)*
> *Central Board of Excise & Customs, New Delhi*
>
> *Subject: Passing of order under Section 110 of the Customs Act, 1962 – reg.*
>
> *Attention is invited to Section 110 of the Customs Act, 1962 and Para 1.1 of Chapter 15 of the Customs Manual 2015.*
>
> *2. It has been brought to the notice of the Board that in several cases, goods arc being held-up/seized by the field formations only under panchnama and separate orders for seizure of goods are not being passed. The Hon'ble Delhi High Court, in a recent order, has held that a panchnama is a statement by panchas (witnesses) and cannot be taken to be an order passed by the proper officer under Section 110 of the Customs Act, 1962.*
>
> *3. Though Section 110 of the Act ibid does not specify passing an order for seizure of goods, it says that where it is not practicable to seize any such goods, the proper officer may serve on the owner of the goods an order that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer.*
>
> *4. In view of the above, in all future cases, the following may be adhered to:*
>
> - *Whenever goods are being seized, in addition to panchnama, the proper officer must also pass an appropriate order (seizure memo/order/etc.) clearly mentioning the reasons to believe that the goods are liable for confiscation.*
> - *Where it is not practicable to seize any such goods, the proper officer may serve on the owner of the goods an*

order that he shall nor remove, part with, or otherwise deal with the goods except with the previous permission of such officer. In such cases, investigations should be fast-tracked to expeditiously decide whether to place the goods under seizure or to release the same to their owner.

5. Further, it has been brought to the notice of the Board that in cases where provisional release of seized goods is allowed under Section 110A of the Act ibid, show cause notices are not being issued within the stipulated time period on the ground that the goods have been released to the owner of the goods. The provisions of the Customs Act, 1962 are clear that irrespective of the fact whether goods remain seized or are provisionally released, once goods are seized, the time period (including extended time period) stipulated under Section 110(2) of the Act shall remain applicable and has to be strictly adhered to.

6. The Chief Commissioners/Director Generals are requested to circulate the present guidelines to all the formations under their charge. Difficulties, if any, in implementation of the aforesaid guidelines may be brought to the notice of the Board. Hindi version follows."

25. The Ministry of Finance, in the context of passing an order under Section 110 of the Act, has taken cognizance of those cases where the goods are being held up or seized under the Panchnama and no separate orders for seizure of goods are passed by the authority.

26. The guidelines issued by the Ministry of Finance specifically direct that whenever goods are being seized, in addition to the Panchnama, the proper officer must also pass an appropriate order (seizure memo/order/etc.) clearly mentioning the reasons to believe that the goods are liable for confiscation.

27. The expression used in the guidelines, that *"the proper officer must also pass an appropriate order in addition to*

Panchnama", has to be construed to mean that such orders of seizure should be coterminous and are required to be passed along with or after the Panchnama is prepared, clearly mentioning the reasons to believe that the goods are liable for confiscation.

28. Thus, the respondents have detained the car vide panchanama dated 07.02.2025, and in fact the seizure order under Section 110(1) has been passed after a period of one year on 17.04.2026, and in order to escape the limitation of six months, the Notice for confiscation under Section 124(a) of the Act has been issued on 08.05.2026. The customs authority cannot indefinitely seize the goods in the garb of detention, without passing any order under the provisos to Section 110(1) of the Act. In absence of any order, when there is actual detention of goods, the time will start running from detention of goods vide panchanama dated 07.02.2025, more particularly, when the DRI has issued summons to the petitioner on 14.02.2025 and 03.03.2025 under Section 108 of the Act directing him to remain present. Section 110(1) of the Act uses the expression "reason to believe" that any goods are liable to confiscation, the proper officer may seize the goods. The first proviso uses the expression "where it is not practicable to remove, transport..., he may give custody of the goods on execution of an undertaking". The second proviso further mentions "where it is not practicable to seize the goods". In either scenario, the proper officer is legally bound to satisfy a two-fold statutory obligation before passing a seizure order, a) he/she must explicitly record reasons that the goods are liable for confiscation, and b) he must record clear

satisfaction by passing the order regarding the nature of the goods under the respective provisos, which strictly restricts, the removal, transport, storage, or physical possession and the physical seizure. The panchanama cannot satisfy the ingredients of the Section 110 of the Act, and an order is mandatory under the proviso to Section 110 of the Act for paving the way for issuance of notice under Section 124(a) within a period of 6 months unless extended.

29. As a necessary corollary, the proper officer or the DRI officers cannot consume a considerable period, such as, in the present case, over a period of one year, to pass the seizure order under Section 110(1) after the Panchnama was prepared on 07.02.2025, by continuing the detention of the vehicle. The consequential effect is that, when the seizure memo travels beyond the period of one year, the time limit of six months as mentioned in the provisions of Section 110(2) and the further period of six months as envisaged under the proviso to sub-section (2) of Section 110[6] will get consumed, and the DRI thereafter cannot be allowed to reap the fruits of its inaction. Thus, after consuming a considerable period of more than one year, the proper officer has passed an order under Section 110(1) and thereafter has issued the show-cause notice under Section 124(a) of the Act. The respondents have sprung into action by passing the order and show-cause notice only after the order dated 10.04.2026 passed by the Supreme Court. We have already deprecated the stance of the Respondents, who have sought to use the pendency of the present writ petition as a shield to justify their persistent inaction in failing to pass appropriate orders.

30. As held above, the order of provisional release dated 18.05.2026 is also illegal, as the conditions mentioned in the said order are premised on paragraph No.2 of Circular No.35/2017 dated 16.08.2017, which has been struck down by the Delhi High Court in the decision rendered in the case of ***Shanus Impex (supra).***

31. On an overall analysis of the facts and the scheme of the statutory provisions, we direct the respondents to release the Toyota Land Cruiser, shipped against the Sea Waybill/Bill of Lading dated 23.12.2024 and covered by Bill of Entry bearing No.7472252 dated 26.12.2024. The directions shall be complied with within a period of two weeks. We also impose costs of Rs.10,000/- on the Respondents, which shall be deposited with the Registry of this Court within a period of two weeks.

Sd/-
(A. S. SUPEHIA, J)

Sd/-
(VAIBHAVI D. NANAVATI,J)

MAHESH/Supp.Board/01