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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. DLHC010001232026**

\+ W.P.(C) 111/2026

IQRAR ALI .....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: Sh. Atul Tripathi, SSC-CBIC Mr. Akshay Sagar and Mr. Shubham Mishra, Advs.

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

J U D G M E N T

ANIL KSHETARPAL, J.:

1. The principal issue which arises for consideration in the present Petition is whether the Petitioner is entitled to seek release of the gold detained by the Customs authorities on the ground that the statutory requirement of issuance of a Show Cause Notice under Section 124 of the Customs Act, 1962 [the "Act"] was not complied with, notwithstanding the Respondent's case that the Petitioner had waived the requirement of a Show Cause Notice and personal hearing and that

a Show Cause Notice was subsequently issued within the extended period prescribed under Section 110(2) of the Act.

2. Through the present Petition, the Petitioner seeks release of nine gold bars and one gold chain weighing approximately 172 grams, which were detained by the Customs authorities on 26.02.2025 at the Indira Gandhi International Airport, New Delhi.

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 arrived at the Indira Gandhi International Airport, New Delhi, from Jeddah on 26.02.2025 by Flight No. SV 756. He opted for the Green Channel. After crossing the Green Channel, he was intercepted by the Customs authorities. During X-ray examination of his baggage, nine yellow metal bars and one chain of yellow metal, appearing to be gold, were recovered. The goods were detained *vide* Detention Receipt No. 36069 dated 26.02.2025. The total weight of the recovered goods was stated to be approximately 172 grams.

5. On 26.02.2025, the Customs authorities also recorded a document which the Respondent relies upon as the statement of the Petitioner under Section 108 of the Act. According to the Respondent, the Petitioner stated that the recovered goods did not belong to him, although he was carrying the same from Jeddah to India. It is further the Respondent's case that the Petitioner stated that he had not

declared the recovered goods and was aware that Customs duty was payable on the import thereof. The Respondent further relies upon the said document for contending that the Petitioner had stated that he did not require a Show Cause Notice or personal hearing and was willing to pay the Customs duty, fine and penalty, as applicable.

6. According to the Respondent, neither the Petitioner nor his authorised representative appeared for appraisement of the detained goods. The competent authority thereafter, *vide* approval dated 20.08.2025, granted an extension of a further period of six months for issuance of the Show Cause Notice under the proviso to Section 110(2) of the Act. According to the Respondent, the extended period was to expire on 25.02.2026.

7. The Respondent thereafter issued a communication dated 22.01.2026 requiring the Petitioner to appear for appraisement of the detained goods. According to the Respondent, neither the Petitioner nor his authorised representative appeared pursuant thereto. The Customs authorities consequently proceeded with the appraisement on 23.02.2026 in the presence of independent panch witnesses. The appraisement records the net weight of the gold as 170.6 grams, its purity as 995 and its assessable value as Rs.14,04,200/-.

8. The Respondent issued Show Cause Notice No. J.Fft.S./36069/26.02.2025/WH/2025-26 dated 23.02.2026. The Show Cause Notice records the recovery of nine gold pieces in cylindrical shape and one broken piece of gold chain having purity of 995, net weight of 170.6 grams and assessable value of Rs.14,04,200/-. The

notice proposes confiscation of the recovered goods under Sections 111(d), 111(j), 111(l), 111(m) and 111(o) of the Act and imposition of penalty upon the Petitioner under Sections 112(a), 112(b) and 114AA of the Act.

9. The Petitioner instituted the present Petition on 01.12.2025. At the time of institution of the Petition, the Respondent had not issued the Show Cause Notice. The principal grievance of the Petitioner is that the original period contemplated under Section 110(2) of the Act had expired without issuance of a Show Cause Notice and that the extension granted by the competent authority on 20.08.2025 was invalid. The Petitioner, therefore, contends that the continued detention of the goods thereafter was impermissible in law. During the pendency of the present Petition, however, the Respondent issued the aforesaid Show Cause Notice dated 23.02.2026.

CONTENTIONS OF THE PARTIES

10. Contentions of the Petitioner

10.1. Learned counsel for the Petitioner submitted that the continued detention of the goods is contrary to the statutory scheme of the Act. It was contended that the gold was detained on 26.02.2025 and that the original period of six months contemplated under Section 110(2) of the Act expired without issuance of a Show Cause Notice.

10.2. It was further submitted that the purported extension of the period by the competent authority *vide* approval dated 20.08.2025 is itself unsustainable. It was contended that the reasons recorded for seeking extension merely refer to the Petitioner having not appeared for appraisement and to the statutory period being due to expire, and do not disclose the requisite application of mind or sufficient cause for exercise of the power under the proviso to Section 110(2) of the Act. It was also contended that the Petitioner was not duly informed of the extension as contemplated under the said proviso.

10.3. 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 contend that the time prescribed under Section 110(2) of the Act is mandatory and that, upon failure to issue a Show Cause Notice within the prescribed period, the seized goods are liable to be returned. The Supreme Court has indeed held that the statutory consequence contemplated under Section 110(2) follows where no notice is issued within the prescribed period, including the validly extended period.

10.4. It was also submitted that the Respondent cannot rely upon the purported waiver of Show Cause Notice or personal hearing contained in the document stated to be the Petitioner's statement under Section 108 of the Act. It was contended that there is no provision in the Act permitting waiver of the mandatory requirements of Section 124 of the Act. Reliance was placed upon the judgment of this Court in ***Ms. Shubhangi Gupta v. Commissioner of Customs & Ors.***, W.P.(C) 10772/2024, decided on 04.11.2024, wherein this Court held that there is no provision under the Act for waiver of the notice contemplated under Section 124.

10.5. Learned counsel further disputed the genuineness and voluntariness of the document relied upon by the Respondent as the Petitioner's statement under Section 108 of the Act. It was submitted that the document was not in the handwriting of the Petitioner and that his signatures had been obtained on pre-written or blank papers. It was also submitted that the CCTV footage would demonstrate the circumstances in which the document was signed. On this basis, it was urged that the alleged waiver could not be relied upon for depriving the Petitioner of the statutory safeguards under Sections 110 and 124 of the Act.

10.6. Learned counsel also sought to contend that even assuming that an oral Show Cause Notice could be issued under the first proviso to Section 124 of the Act, the statutory requirement would not stand satisfied merely by recording a purported waiver. According to learned counsel, the Department would have to establish that there was a specific request by the person concerned for an oral Show Cause Notice and that the grounds on which confiscation and penalty were proposed were duly communicated.

11. Contentions of the Respondent

11.1. *Per contra*, learned counsel for the Respondent submitted that the present Petition is misconceived and premature. It was submitted that the Petitioner arrived at the Indira Gandhi International Airport on 26.02.2025 and, after opting for the Green Channel, was intercepted by the Customs authorities, whereupon nine gold bars and one gold chain were recovered from his possession. It was submitted that the goods were duly detained *vide* Detention Receipt No. 36069 dated 26.02.2025 and that the Petitioner's statement was recorded on the same date. It was submitted that, in the said statement, the Petitioner stated, inter alia, that the recovered goods did not belong to him and also waived the requirement of a Show Cause Notice and personal hearing.

11.2. It was further submitted that the competent authority, *vide* approval dated 20.08.2025, extended the period for issuance of the Show Cause Notice by a further period of six months under the proviso to Section 110(2) of the Act. The extended period was to expire on 25.02.2026.

11.3. It was submitted that the Petitioner did not appear for appraisement despite being called upon to do so. The Customs authorities thereafter conducted the appraisement on 23.02.2026 in the presence of independent panch witnesses and determined the net weight of the gold as 170.6 grams, with purity of 995 and assessable value of Rs.14,04,200/-.

11.4. It was further submitted that a Show Cause Notice dated 23.02.2026 was issued to the Petitioner proposing confiscation of the goods under Sections 111(d), 111(j), 111(l), 111(m) and 111(o) of the Act and imposition of penalty under Sections 112(a), 112(b) and 114AA of the Act. It was thus contended that the Show Cause Notice was issued within the extended period available under Section 110(2) of the Act.

11.5. It was submitted that the Petition was instituted on 01.12.2025, at a stage when the extended period under Section 110(2) was still subsisting. Consequently, on the date of institution itself, no statutory right to release of the goods had accrued in favour of the Petitioner.

ANALYSIS & FINDINGS

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

13. At the outset, it is necessary to notice the statutory scheme. Section 110(2) of the Act prescribes the consequence that follows where goods seized under Section 110(1) are not made the subject matter of a notice under clause (a) of Section 124 within six months of seizure. The proviso to Section 110(2) empowers 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 from whose possession the goods were seized before expiry of the period so specified. The Supreme Court in ***Jatin Ahuja*** (supra) has recognised the mandatory nature of this statutory consequence.

14. The judgment in ***Jatin Ahuja*** (supra) was rendered in a situation where the statutory period had expired without a notice being issued within the prescribed period. The Supreme Court held that, where there is neither a notice within the initial period nor a valid extension followed by issuance of the notice within the extended period, the consequence contemplated by Section 110(2) follows. The Supreme Court also clarified that the statutory time period contained

in Section 110(2) and the substantive requirements of Section 124 operate in distinct fields.

15. The factual position in the present case, however, is materially different.

16. The goods were detained on 26.02.2025. The Respondent relies upon the approval dated 20.08.2025 whereby the competent authority extended the period contemplated under Section 110(2) of the Act by a further period of six months. The extended period was to expire on 25.02.2026. More importantly, the Show Cause Notice was issued on 23.02.2026. Thus, the Show Cause Notice came to be issued before expiry of the extended period on 25.02.2026.

17. This factual circumstance is decisive for the purpose of the present Petition. The statutory consequence contemplated by Section 110(2) arises when the requisite notice is not issued within the period prescribed by that provision, including the period validly extended in accordance with its proviso. In the present case, the Respondent has issued the Show Cause Notice before expiry of the extended period.

18. It is significant that the present Petition itself was instituted on 01.12.2025. On that date, the extended period under Section 110(2) had not expired. Therefore, even on the date when the writ jurisdiction of this Court was invoked, the Petitioner could not claim that the statutory period available to the Department for issuance of the Show Cause Notice had already come to an end. The subsequent issuance of the Show Cause Notice on 23.02.2026 further removes the very foundation of the principal relief sought in the Petition, namely,

release of the goods on the ground that no Show Cause Notice had been issued within the statutory period.

19. This Court is conscious that the Petitioner has questioned the validity of the extension dated 20.08.2025. The principal grounds urged in this regard relate to the sufficiency of the reasons recorded for seeking extension, the alleged absence of application of mind and the alleged failure to communicate the extension to the Petitioner.

20. However, in the facts of the present case, it is not necessary for this Court to undertake an adjudication of these disputed aspects in exercise of its writ jurisdiction. The statutory period was extended by the competent authority on 20.08.2025, i.e. before expiry of the initial six-month period. The Show Cause Notice was thereafter issued on 23.02.2026, before expiry of the extended period. The Petition was instituted while the extended period was still running. The Petitioner, therefore, cannot seek release of the goods merely by relying upon expiry of the original six-month period while ignoring the extension granted under the proviso to Section 110(2).

21. The reliance placed upon ***Jatin Ahuja*** (supra) is consequently misplaced. The decision does not lay down that the mere expiry of the initial period of six months, despite a statutory extension having been granted, automatically results in release of the seized goods. On the contrary, the Supreme Court expressly considered the power of extension under the first proviso to Section 110(2) and held that the relevant consequence follows where the notice is not issued within the prescribed extended period.

22. Equally, the decision in ***Ms. Shubhangi Gupta*** (supra) does not advance the Petitioner's case at this stage. In that case, the Court was confronted with a situation where no Show Cause Notice had been issued and the Revenue sought to contend that the requirement of notice had been waived. This Court held that there was no provision under the Act for waiver of the notice prescribed under Section 124 and, in the absence of a notice, directed the consequential relief.

23. The present case stands on a different footing. The Respondent has, in fact, issued a written Show Cause Notice dated 23.02.2026 within the extended period under Section 110(2). Consequently, it is not necessary for this Court, for deciding the present Petition, to examine whether the Petitioner had validly waived a Show Cause Notice or personal hearing in his statement dated 26.02.2025.

24. Similarly, the allegations made by the Petitioner regarding the manner in which his statement under Section 108 was recorded, including the allegation that he was compelled to sign pre-written or blank papers, are disputed questions of fact. These allegations also do not require consideration for deciding the limited question arising in the present Petition, particularly when a written Show Cause Notice has now been issued.

25. The Petitioner shall have the opportunity, in the adjudicatory proceedings pursuant to the Show Cause Notice dated 23.02.2026, to raise all permissible objections available to him in law and on facts. Such objections may include the legality of the detention/seizure, the allegations contained in the Show Cause Notice, the evidentiary value

or otherwise of the statement relied upon by the Department, and all other contentions available to the Petitioner.

26. This Court makes it clear that nothing contained in this judgment shall be construed as an expression of opinion on the merits of the allegations contained in the Show Cause Notice or on the validity, evidentiary value or otherwise of the statement relied upon by the Respondent. Those matters are to be considered by the competent adjudicating authority in accordance with law.

27. The submission of the Petitioner that the extension dated 20.08.2025 was granted mechanically also cannot, in the circumstances of the present case, furnish a ground for granting the substantive relief sought in this Petition. The challenge raises questions concerning the circumstances in which the extension was granted and the communication thereof. These questions can be considered, if raised in appropriate proceedings, by the competent authority in accordance with law. This Court does not consider it appropriate to adjudicate upon them in the present proceedings when the Show Cause Notice has already been issued within the period for which the Department claims statutory authority to proceed.

28. It is clarified that the mere fact that the Petitioner has approached this Court before issuance of the Show Cause Notice does not confer upon him a right to unconditional release once the statutory period available to the Department is shown to have remained operative and the Show Cause Notice has been issued within that period. The relief under Section 110(2) is consequential upon failure

to issue the notice within the statutory period; it is not attracted in the present factual situation.

CONCLUSION

29. In view of the aforesaid discussion, this Court finds no ground to direct release of the goods under Section 110(2) of the Act. The Show Cause Notice dated 23.02.2026 was issued before expiry of the extended period of six months, which was to expire on 25.02.2026. The principal basis on which the present Petition seeks release of the detained goods, therefore, does not survive.

30. The present Petition is, accordingly, dismissed.

31. It is, however, clarified that the Petitioner shall be at liberty to avail all remedies available to him in the proceedings pursuant to the Show Cause Notice dated 23.02.2026. The competent adjudicating authority shall consider the Petitioner's objections, if any, independently and in accordance with law, without being influenced by any observation made in the present judgment on the merits of the allegations.

ANIL KSHETARPAL, J.

SHAIL JAIN, J.

SEPTEMBER 02, 2026
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