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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. DLHC010874872025**

\+ W.P.(C) 16994/2025

NAJIR .....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. Vishal Chadha, Senior Standing Counsel with Mr. Chandan Kumar, 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 issue which arises for consideration in the present Petition is whether the Petitioner is entitled to unconditional release of three gold bars, collectively weighing 93 grams, detained/seized by the Customs Authorities on 20.01.2024, on the ground that no show-cause notice under Section 124 of the Customs Act, 1962 [‘Act’] was issued within the period contemplated under Section 110(2) of the Act.

2. Through the present Petition, the Petitioner seeks release of three gold bars, collectively weighing 93 grams, which were detained/seized by the Customs Authorities at the Indira Gandhi International Airport, New Delhi, vide Detention Receipt No. DR/INDEL4/20-01-2024/003576 dated 20.01.2024. The principal contention of the Petitioner is that the continued detention of the said gold bars is impermissible in law as, according to him, no show-cause notice under Section 124 of the Act was issued within the statutory period prescribed under Section 110(2) of the Act.

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 holding Indian Passport No. U5433321, had travelled to Saudi Arabia on 30.10.2023 for performing Umrah. Upon his return to India on 20.01.2024 by Flight No. EY-224 from Abu Dhabi to New Delhi, three yellow-metal bars, each bearing the marking “1 Ounce Fine Gold 999.9” and collectively weighing 93 grams, were recovered from his possession at the Indira Gandhi International Airport, New Delhi. The Detention Receipt dated 20.01.2024 records the reason for detention/seizure as “Green Channel violation” and describes the goods as three gold bars weighing 93 grams. The receipt further records that the articles were detained/seized in the presence of the Petitioner.

5. On the same date, i.e. 20.01.2024, a statement of the Petitioner was recorded under Section 108 of the Act before the Air Customs

Superintendent. In the said statement, the Petitioner is recorded to have stated that he was intercepted by the Customs Officer after crossing the Green Channel and that, during DFMD, a beep sound was heard, pursuant to which three yellow-metal bars, bearing the marking "*1 Ounce Fine Gold 999.9*" and collectively weighing approximately 93 grams, were recovered from him. The statement further records that the said gold bars had been concealed in the belt worn by the Petitioner and that the same belonged to him. The Petitioner is also recorded to have admitted the "*omission and commission*" on his part, stated that he was aware that Customs duty was payable on the value exceeding the baggage allowance, and admitted that he had intentionally not declared the said goods.

6. The said statement further records that the Petitioner agreed to the description, quantity and value of the goods as assessed by the Department and expressed his willingness to pay the Customs duty, fine and penalty, as applicable. Significantly, the statement contains the following recital:

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

The statement concludes with a recital that the Petitioner had tendered the same as true and correct, had understood it in vernacular and had tendered the statement without any duress, pressure or threat.

7. The Petitioner was issued Detention Receipt No. DR/INDEL4/20-01-2024/003576 dated 20.01.2024 in respect of the aforesaid goods. The Detention Receipt describes the detained/seized package as containing one transparent cut-plastic bottle containing

three yellow-metal bars, each bearing the marking "1 Ounce Fine Gold 999.9", and records the quantity as 93 grams. The reason for detention/seizure is recorded as "Green Channel violation".

8. The Detention Receipt bears the signatures of the Customs Officer as well as the passenger. It also records, *inter alia*, that the articles had been detained at the request of the passenger and sealed in his presence over his signature. The receipt requires the passenger to produce the original receipt and his passport at the time of seeking delivery of the goods. It further states that if the goods were not cleared within two months of detention, or within such period as may be extended by the competent authority, action for disposal of the goods under the relevant provisions of the Act would be initiated.

9. The record placed before the Court does not disclose any written show-cause notice issued to the Petitioner in respect of the aforesaid goods. The Respondent, however, has placed on record a chart setting out the particulars of the proceedings undertaken in the matter. In the said chart, the Respondent has recorded 20.01.2024 as the date of the oral show-cause notice. The chart also records that the Petitioner had tendered the statement under Section 108 of the Act and had stated therein that he did not require a show-cause notice or personal hearing. The record further reflects that the goods have not been appraised. The Respondent has stated that the Petitioner did not appear before the Department for appraisement of the detained goods.

10. The Petitioner thereafter instituted the present Petition seeking, *inter alia*, release of the three gold bars weighing 93 grams.

CONTENTIONS OF THE PARTIES

11. Contentions on behalf of the Petitioner

11.1. Learned counsel for the Petitioner submitted that the continued detention of the three gold bars is contrary to Sections 110(2) and 124 of the Act, as admittedly no written show-cause notice was issued within the statutory period of six months, or the extended period of one year. It was contended that, upon expiry of the period prescribed under Section 110(2), the seizure ceases to have legal efficacy and the goods are liable to be released unconditionally.

11.2. It was further submitted that the Respondent cannot overcome the aforesaid statutory consequence by relying upon the statement allegedly recorded under Section 108 of the Act, wherein the Petitioner is stated to have waived issuance of a show-cause notice and personal hearing. According to learned counsel, the said document cannot constitute a valid statement under Section 108, as it was a pre-typed document allegedly obtained from the Petitioner at the airport and was not voluntarily tendered by him. It was contended that the Petitioner was made to sign documents without their contents being explained to him and was also compelled to sign blank papers. Reliance was placed upon the allegations made in the Petition regarding coercion and upon the CCTV footage, which, according to the Petitioner, would demonstrate the circumstances in which the document was signed.

11.3. It was further submitted that, in any event, there can be no waiver of the statutory requirement of issuance of a show-cause notice under Section 124. The first proviso to Section 124, according to the Petitioner, permits the notice and the representation to be oral only at the request of the person concerned; it does not dispense with the requirement of a notice itself. It was therefore contended that a mere recital in the alleged statement that the Petitioner did not require a show-cause notice cannot amount to either a valid waiver or an oral show-cause notice. Even assuming that an oral show-cause notice was permissible, the Respondent was required to communicate the grounds on which confiscation and penalty were proposed and afford the Petitioner a reasonable opportunity of being heard.

11.4. Reliance was placed upon the decisions of this Court and the Supreme Court, including ***Union of India v. Jatin Ahuja*** Civil Appeal No.3489/2024, decided on 11.09.2025, and ***Shubhangi Gupta v. Commissioner of Customs & Ors.***, W.P.(C.) 10772/2024, to contend that the statutory requirements under Sections 110(2) and 124 cannot be circumvented by treating the requirement of issuance of a show-cause notice as having been waived. It was submitted that once the statutory period expires without a valid show-cause notice, the seizure stands dissolved and the goods cannot thereafter be retained for the purpose of confiscation. The Petitioner accordingly seeks unconditional release of the gold bars.

11.5. It was lastly contended that the Respondent cannot seek to justify continued detention by directing the Petitioner to participate in a future adjudication or by offering provisional release. According to learned counsel, once the statutory consequence under Section 110(2) has ensued, there is no question of reviving the seizure through subsequent proceedings.

12. Contentions on behalf of the Respondent

12.1. *Per contra*, learned counsel for the Respondent submitted that the Petition is misconceived, as the Petitioner was intercepted after crossing the Green Channel and the three gold bars were recovered from his person. The Petitioner thereafter voluntarily tendered his statement under Section 108 of the Act, wherein he admitted concealment and intentional non-declaration of the gold bars and expressly stated that he did not require a show-cause notice or personal hearing.

12.2. It was submitted that the aforesaid statement has never been retracted and the allegations of coercion and procedural irregularity have been raised for the first time in the present proceedings. It was therefore contended that the Petitioner, having voluntarily admitted the Green Channel violation and waived the requirement of notice and personal hearing, cannot subsequently seek unconditional release of the goods on the ground of non-issuance of a written show-cause notice.

12.3. It was further submitted that the Petitioner was required to approach the Customs Authorities for appraisement and clearance of the detained goods, but admittedly did not do so. It was contended that the Petitioner cannot take advantage of his own failure to participate in the proceedings. It was also submitted that the Department is ready and willing to afford the Petitioner an opportunity of personal hearing and to adjudicate the matter in accordance with law within a time-bound period.

12.4. Reliance was also placed upon the Baggage Rules, 2016 and the applicable customs notifications to contend that the gold bars in question did not constitute duty-free baggage merely because they were carried by the Petitioner. It was submitted that the manner in which the gold was brought into the country, coupled with its concealment and non-declaration after crossing the Green Channel, warranted its detention/seizure.

12.5. It was accordingly contended that the present Petition involves disputed questions concerning the circumstances of recovery, declaration, concealment and the voluntariness of the statement under Section 108, which ought not to be adjudicated in writ jurisdiction. The Respondent therefore seeks dismissal of the Petition, while submitting, in the alternative, that the Petitioner may be directed to participate in the adjudication proceedings and the matter be decided expeditiously.

ANALYSIS & FINDINGS

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

14. The undisputed position is that the Petitioner arrived at the Indira Gandhi International Airport, New Delhi on 20.01.2024 from Abu Dhabi and that three gold bars, collectively weighing 93 grams, were recovered from his possession after he had crossed the Green Channel. The Detention Receipt dated 20.01.2024 records the reason

for detention/seizure as "Green Channel violation". The Petitioner also admittedly signed the said Detention Receipt.

15. It is also not in dispute that no separate written show-cause notice under Section 124 of the Act was issued to the Petitioner. The Respondent, however, has placed on record a chart of the proceedings undertaken in the matter, wherein 20.01.2024 has been recorded as the date of the oral show-cause notice. The Respondent has also relied upon the statement of the Petitioner recorded under Section 108 of the Act on the same date.

16. The said statement records that the Petitioner was intercepted after crossing the Green Channel and that three yellow-metal bars were recovered from him, which, according to the statement, had been concealed in the belt worn by him. The Petitioner is further recorded to have admitted that he had intentionally not declared the goods and that he was aware of the Customs duty payable thereon. He is also recorded to have agreed to the description, quantity and value of the goods as assessed by the Department and to have expressed his willingness to pay Customs duty, fine and penalty, as applicable.

17. More importantly, the statement contains the following recital:

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

The statement further records that the Petitioner had understood the same in vernacular and had tendered it without any duress, pressure or threat.

18. The Petitioner has, however, disputed the voluntariness and

evidentiary value of the aforesaid statement. In the Petition, he has alleged that certain pre-typed documents were made to be signed by him and that he was also compelled to sign blank papers. He has further relied upon CCTV footage to contend that the circumstances in which the documents were signed would demonstrate the falsity of the Department's case.

19. These allegations raise disputed questions of fact which cannot appropriately be adjudicated in the present writ proceedings. This Court, exercising jurisdiction under Articles 226 and 227 of the Constitution, is not required to determine at this stage whether the Petitioner had in fact declared the gold bars, whether the gold bars were concealed in the manner recorded in the statement, whether the statement dated 20.01.2024 was voluntarily tendered, or what evidentiary value is ultimately to be attached to the said statement. These questions are appropriately to be considered by the competent adjudicating authority.

20. The principal submission of the Petitioner is that, in the absence of a written show-cause notice under Section 124 of the Act within the period prescribed under Section 110(2), the seizure stood dissolved and the goods are consequently liable to be released unconditionally. The Petitioner has relied upon the judgment of the Supreme Court in ***Jatin Ahuja*** (supra).

21. There can be no dispute with the proposition that the statutory period prescribed under Section 110(2) of the Act has to be complied with and that the consequences contemplated by the said provision

cannot be defeated by the Customs authorities by adopting a procedure not sanctioned by law.

22. However, the controversy in the present case cannot be determined merely by noticing that no separate written show-cause notice was issued. Section 124 of the Act itself contemplates that the notice referred to in clause (a), as also the representation referred to in clause (b), may, at the request of the person concerned, be oral. The Respondent's specific case before this Court is that the Petitioner was dealt with on 20.01.2024 itself and that the proceedings undertaken on that date included an oral show-cause notice. The proceedings chart placed on record by the Respondent specifically records 20.01.2024 as the date of the oral show-cause notice.

23. Thus, the question which arises is not merely whether a formal written show-cause notice was issued, but whether the proceedings undertaken on 20.01.2024 constituted compliance with the requirements of Section 124 of the Act and, in particular, whether the Petitioner was informed of the grounds on which confiscation of the goods and/or imposition of penalty was proposed and was afforded the opportunity contemplated by the statutory scheme.

24. In this regard, the decision of this Court in ***Shubhangi Gupta*** (supra) relied upon by the Petitioner, does not warrant a different conclusion at this stage. In the said case, the Revenue had not asserted that an oral show-cause notice had actually been issued to the petitioner. The present case stands on a different factual footing, since the Respondent has specifically placed on record a proceedings chart

recording the date of the oral show-cause notice as 20.01.2024 and has relied upon the contemporaneous statement of the Petitioner recorded on the same date.

25. At the same time, the recital in the statement that the Petitioner did not require a show-cause notice or personal hearing cannot, by itself, be treated as conclusive proof of compliance with Section 124. The statutory requirements have to be satisfied in accordance with law. However, whether an oral show-cause notice was in fact given to the Petitioner, what was communicated to him in the course thereof, and whether the proceedings undertaken on 20.01.2024 constituted sufficient compliance with Section 124, are matters which require examination of the contemporaneous record and the circumstances in which the statement came to be recorded.

26. This Court would also not be justified in determining, in the present proceedings, the Petitioner's allegation that the statement was obtained by coercion or that he was made to sign pre-typed or blank documents. These allegations are disputed by the Respondent and would require appreciation of evidence, including the circumstances in which the statement was recorded and the CCTV footage relied upon by the Petitioner. Such an exercise is appropriately undertaken by the competent adjudicating authority.

27. The Detention Receipt dated 20.01.2024 also records that the goods had been detained at the request of the passenger and sealed in his presence over his signature. It further required the passenger to approach the Department for clearance of the goods and stipulated

that, if the goods were not cleared within two months or within such extended period as may be granted by the competent authority, action for disposal under the relevant provisions of the Act would be initiated. The Respondent states that the Petitioner did not thereafter appear before the Department for appraisement of the goods.

28. In these circumstances, this Court is of the view that the present case ought not to be decided solely on the basis of the absence of a written show-cause notice, particularly when the Respondent has specifically asserted that an oral show-cause notice was issued on 20.01.2024 and the contemporaneous record contains the Petitioner's statement regarding the goods and the alleged violation. The effect of these proceedings and their compliance with Section 124 are matters which should first be considered by the competent adjudicating authority.

29. The judgment of the Supreme Court in ***Jatin Ahuja*** (supra) does not require this Court to direct unconditional release of the goods without first determining whether the statutory requirement of notice stood satisfied in the facts of the present case. The ratio of the said judgment applies where the statutory requirement has not been complied with within the prescribed period. The question whether there was such compliance in the present case cannot be conclusively determined merely from the absence of a written notice, particularly in view of the Respondent's specific case regarding the oral show-cause notice dated 20.01.2024.

30. The Respondent has also stated before this Court that it is ready

and willing to afford the Petitioner an opportunity of personal hearing and to adjudicate the matter in accordance with law within a time-bound period. The Petitioner would, therefore, have an adequate opportunity before the competent authority to place on record his version regarding declaration of the gold, the circumstances of its recovery, the statement dated 20.01.2024, the alleged coercion and the CCTV footage relied upon by him.

31. At the same time, the Department cannot be permitted to keep the detained goods and the proceedings pending indefinitely. Since the Respondent has expressed its readiness to undertake the adjudication, the said process must now be completed within a definite time.

32. Accordingly, this Court finds no ground, at this stage, to direct unconditional release of the three gold bars merely on the ground that no separate written show-cause notice was issued. The Petitioner shall, however, be afforded an opportunity of personal hearing before the competent adjudicating authority and shall be at liberty to place on record his explanation and all material on which he seeks to rely.

33. The competent authority shall thereafter adjudicate the matter strictly in accordance with law and expeditiously. It shall examine, inter alia, the question whether the proceedings undertaken on 20.01.2024 constituted compliance with Section 124 of the Act, including the Respondent's assertion regarding the oral show-cause notice, as well as the Petitioner's objections regarding the voluntariness of his statement.

34. It is clarified that this Court has not expressed any opinion on

whether the Petitioner had declared the gold bars, whether the goods were liable to confiscation, whether the Petitioner was eligible to import the same, whether the statement dated 20.01.2024 was voluntarily tendered, or whether the proceedings undertaken on that date constituted sufficient compliance with Section 124 of the Act. All such questions are left open for consideration by the competent authority in accordance with law.

CONCLUSION

35. For the foregoing reasons, this Court finds no ground to exercise its extraordinary writ jurisdiction for directing unconditional release of the detained gold bars at this stage. The Writ Petition is, accordingly, **disposed of**.

36. However, the Respondent shall afford the Petitioner an opportunity of personal hearing before the competent adjudicating authority and shall thereafter adjudicate the matter in accordance with law, as expeditiously as possible and, in any event, within a period of **four (04) weeks** from the date on which the Petitioner appears before the competent authority pursuant to notice issued by the Respondent.

37. The Petitioner shall appear before the competent authority on such date as may be communicated to him by the Respondent and shall be at liberty to produce all documents and material on which he seeks to rely, including the material concerning the circumstances in which his statement dated 20.01.2024 was recorded.

38. It is clarified that the dismissal of the present Petition shall not

be construed as an expression of opinion on the merits of the allegations against the Petitioner or on the question of confiscation, duty, fine or penalty. The competent authority shall take a decision strictly in accordance with law and on the basis of the material placed before it.

ANIL KSHETARPAL, J.

SHAIL JAIN, J.

SEPTEMBER 02, 2026
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