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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. DLHC010059042026**
\+ W.P.(C) 2255/2026
MOHAMMAD SADIQ .....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: Ms. Anushree Narain, SSC with Mr. Apurv Yadav and Mr. Naman Choula, Advs.

\# **CNR No. DLHC010012042026**
\+ W.P.(C) 666/2026
ULUGBEK ZOKIROV .....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: Ms. Anushree Narain, SSC with Mr. Apurv Yadav and Mr. Naman Choula, 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. Since the present two Petitions raise substantially similar

questions concerning the continued detention of gold/gold jewellery by the Customs Department and the effect of the alleged non-issuance of a Show Cause Notice under Section 124 of the Customs Act, 1962 [the 'Act'] within the period contemplated under Section 110(2) thereof, they are being taken up together and are being disposed of by this common judgment.

2. Through the present Petitions, the Petitioner(s) seeks release of the respective gold items, as also a direction that no detention or warehouse charges be recovered from him at the time of release of the said gold.

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. In W.P.(C) 2255/2026, the Petitioner is an Indian citizen. He arrived at the Indira Gandhi International Airport, New Delhi on 25.02.2022 by Flight No. XY-329 from Saudi Arabia. Three yellow-metal bars, collectively weighing 253.2 grams, were found in his possession. A Detention Receipt bearing No. 51478 dated 25.02.2022 was issued in respect thereof. A subsequent Detention Receipt bearing No. 40698 also refers to the aforesaid three gold bars.

5. The record placed before this Court contains a document described by the Respondent as the statement of the Petitioner recorded under Section 108 of the Act on 25.02.2022. The said document records that the Petitioner had crossed the Green Channel

without declaring the gold bars, was aware of the requirement of payment of Customs duty on goods exceeding the permissible baggage allowance and had intentionally not declared the goods. The document further records that the goods did not belong to the Petitioner and that he admitted his omission and commission.

6. The aforesaid document further records that the Petitioner did not desire a Show Cause Notice and that the matter could be decided without a personal hearing. It also records that the statement was tendered voluntarily, without duress, pressure or threat, and after being read and understood by the Petitioner in vernacular.

7. The Respondent also relies upon a communication dated 25.04.2022 submitted on behalf of the Petitioner through his authorised representative. According to the Respondent, the said communication sought release of the gold and stated that the Petitioner was willing to pay the Customs duty, redemption fine and penalty as may be imposed. The Respondent further states that the said communication reiterated that the Petitioner did not desire a written Show Cause Notice or personal hearing.

8. In W.P.(C) 666/2026, the Petitioner is a national of Uzbekistan. He arrived at the Indira Gandhi International Airport, New Delhi on 24.02.2024 by Flight No. HY-423 from Uzbekistan. A Detention Receipt bearing No. DR/INDEL4/24-02-2024/003866 dated 24.02.2024 was issued in respect of one plastic box containing assorted jewellery, weighing 230 grams and appearing to be made of gold. The reason recorded for detention/seizure was "*Green Channel*

Violation".

9. The Detention Receipt records the Petitioner's name, nationality and passport particulars and contains the Petitioner's signature against the endorsement that the articles listed therein were correct and had been detained at his request and sealed in his presence over his signature. The receipt further records that the passenger was required to produce the receipt and passport for seeking delivery of the goods and that, if the goods were not cleared within two months or such extended period as may be permitted by the competent authority, action for disposal under the relevant provisions of the Act would be initiated.

10. The record in the said Petition also contains a document dated 24.02.2024 described as the statement of the Petitioner under Section 108 of the Act. The statement records that the Petitioner had been intercepted after crossing the Green Channel and that, during X-ray examination of his baggage and DFMD, the aforesaid jewellery was recovered from him. It further records that the Petitioner stated that the recovered items did not belong to him, admitted his omission and commission, was aware that Customs duty was payable on import of the goods and agreed with the description, quantity and value as assessed by the Department.

11. The said statement further records that the Petitioner did not require any Show Cause Notice or personal hearing and that the statement had been tendered voluntarily, without duress, pressure or threat, after being understood in vernacular.

12. The Petitioner in W.P.(C) 666/2026 disputes the circumstances in which the aforesaid documents came to be signed. He asserts that he knows only the Uzbek language, that there was an altercation with the Customs officials regarding his eligibility to bring the jewellery and the duty payable thereon, and that he was made to sign documents which had already been prepared as well as certain blank papers, without the assistance of a translator. He also relies upon CCTV footage to contend that the Department's version regarding non-declaration is incorrect.

13. In both Petitions, it is not disputed that the goods continue to remain with the Customs Department and that no Order-in-Original has been passed till date.

14. The Respondent has stated before this Court that the Petitioners may appear before the competent adjudicating authority and that the adjudication proceedings can be completed in a time-bound manner.

CONTENTIONS OF THE PARTIES

15. Contentions of the Petitioner

15.1. Learned counsel for the Petitioner submitted that Section 110(2) of the Act prescribes a mandatory period within which a notice contemplated under Section 124(a) is required to be given in respect of goods seized under Section 110(1). It was contended that, in both cases, the goods have remained with the Department for a period far exceeding six months and there is no material to establish that the statutory period was extended in accordance with the first proviso to

Section 110(2).

15.2. 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. It was submitted that Section 110(2) has mandatory operation and that, upon expiry of the prescribed period without the requisite notice, the seized goods are liable to be returned. The Supreme Court has indeed held that where no notice under Section 124(a) is given within the prescribed period, the consequence contemplated by Section 110(2) is return of the seized goods.

15.3. It was further submitted that the Respondent cannot rely upon the statements under Section 108 as a substitute for the statutory Show Cause Notice. According to learned counsel, a mere recital that the person concerned does not desire a Show Cause Notice cannot itself establish that an oral Show Cause Notice was actually issued in terms of the first proviso to Section 124.

15.4. 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, in the facts of that case, the Court held that in the absence of an oral or written Show Cause Notice, the requirement of Section 124(a) could not be treated as satisfied merely on the basis of a purported waiver.

15.5. Reliance was also placed upon ***Amit Kumar v. Commissioner of Customs***2025:DHC:751-DB, to contend that a printed waiver of Show Cause Notice and personal hearing cannot, by itself, be treated as an oral Show Cause Notice complying with Section 124 of the Act.

15.6. In the case of Mohammad Sadiq, it was further submitted that the document relied upon by the Respondent is not in the Petitioner's handwriting and that the Petitioner has specifically alleged that he was made to sign documents which had already been prepared. It was also submitted that the Respondent has not produced the CCTV footage despite the same having been sought.

15.7. In the case of Ulugbek Zokirov, it was submitted that the Petitioner did not know any language other than Uzbek and that there is no material to demonstrate that the contents of the documents relied upon by the Respondent were explained to him through a translator. It was submitted that the alleged statement, therefore, cannot be treated as a voluntary and informed waiver of statutory rights.

15.8. It was lastly submitted that the Petitioners had declared the goods and were willing to pay the applicable Customs duty and that the allegations of Green Channel violation and liability to confiscation are themselves disputed questions which cannot justify continued detention of the goods contrary to Section 110(2) of the Act.

16. <u>Contentions of the Respondent</u>

16.1. *Per contra*, learned counsel for the Respondent was submitted that the Petitions are founded upon an incomplete narration of the relevant facts. It was submitted that the Petitioners were intercepted after crossing the Green Channel and that the goods were recovered from their possession.

16.2. The Respondent relies upon the contemporaneous statements recorded under Section 108 of the Act. In both cases, the respective statements record that the Petitioners did not desire a Show Cause Notice or personal hearing and that the matters could be decided without such hearing.

16.3. In the case of Mohammad Sadiq, further reliance is placed upon the communication dated 25.04.2022 submitted through the Petitioner's authorised representative, which, according to the Respondent, reiterated the Petitioner's position regarding the Show Cause Notice and personal hearing.

16.4. It was submitted that the proceedings undertaken with the Petitioners were treated by the Department as an oral Show Cause Notice in terms of the first proviso to Section 124 of the Act. According to the Respondent, the present challenge necessarily requires examination of the circumstances in which the statements were recorded, the conduct of the Petitioners at the time of interception and the subsequent conduct of the Petitioners.

16.5. It was further submitted that the Petitioners' allegations of coercion, use of pre-prepared documents, absence of proper explanation and, in the case of Ulugbek Zokirov, absence of a translator, are disputed questions of fact which cannot satisfactorily be adjudicated in proceedings under Article 226 of the Constitution.

16.6. The Respondent further submitted that the underlying allegations concerning declaration of the goods, ownership thereof, importability, liability to confiscation, duty and penalty are also matters which require examination by the competent adjudicating authority.

16.7. In the case of Mohammad Sadiq, the Respondent also relied upon the Petitioner's delay of nearly four years in approaching this Court. It was submitted that during this period the Petitioner neither retracted the statement relied upon by the Department nor approached the Customs authorities alleging coercion or procedural irregularity.

ANALYSIS & FINDINGS

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

18. At the outset, it is necessary to notice the statutory scheme. Section 110(2) of the Act 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 or Commissioner of Customs, for reasons to be recorded in writing, to extend the period by a further period not exceeding six months, subject to the person concerned being informed before expiry of the prescribed period.

19. The Supreme Court in ***Jatin Ahuja*** (supra) has authoritatively considered the consequence of failure to comply with Section 110(2). The Supreme Court has held that the statutory period for issuance of notice is mandatory and that, in the absence of notice within the prescribed or validly extended period, the consequence contemplated by Section 110(2) is return of the seized goods. The Supreme Court

has also clarified that the period for issuance of notice is prescribed by Section 110(2), while Section 124 operates in a distinct field.

20. Thus, there can be no dispute with the proposition that the Department cannot retain seized goods indefinitely merely because adjudication has not been completed. Nor can the statutory period prescribed by Section 110(2) be extended except in the manner contemplated by the Act.

21. The controversy before us, however, does not end with a mere assertion that a written Show Cause Notice is not available on record. In both the present cases, the Respondent relies upon contemporaneous documents recording the proceedings undertaken with the respective Petitioners on the date of interception.

22. Section 124 of the Act requires, before an order of confiscation or imposition of penalty is made, that the person concerned be given notice of the grounds on which confiscation or penalty is proposed, an opportunity to make a representation and a reasonable opportunity of being heard. The first proviso permits the notice contemplated by clause (a), and the representation contemplated by clause (b), to be oral at the request of the person concerned.

23. The distinction between a genuine oral Show Cause Notice and a mere recital of waiver is material. This Court has, in ***Ms. Shubhangi Gupta*** (supra), held that the statutory requirement could not be treated as satisfied merely because the Revenue asserted that the notice had been waived, in the absence of material showing that an oral Show Cause Notice had actually been given. Similarly, in ***Amit Kumar***

(supra) this Court held that a printed waiver could not, by itself, be deemed to constitute an oral Show Cause Notice.

24. The aforesaid principles are not in dispute. The question in the present Petitions is whether, on the particular material available on record, this Court should itself finally determine the factual and evidentiary questions arising from the documents relied upon by the Respondent and, on that basis, direct unconditional release of the goods.

25. In the case of Mohammad Sadiq, the Respondent relies upon the statement dated 25.02.2022 as well as the subsequent communication dated 25.04.2022 submitted through his authorised representative. The statement records, *inter* alia, the alleged Green Channel violation, the Petitioner's awareness regarding Customs duty and his purported decision not to require a Show Cause Notice or personal hearing.

26. The Petitioner, however, disputes the circumstances in which the statement was recorded and alleges that he was made to sign documents which had already been prepared. The Petitioner also disputes the manner in which the proceedings took place and relies upon the non-production of CCTV footage.

27. In the case of Ulugbek Zokirov, the statement dated 24.02.2024 similarly records that the Petitioner was intercepted after crossing the Green Channel, that the jewellery was recovered from him and that he did not require a Show Cause Notice or personal hearing. The Petitioner, however, specifically asserts that he knows only the Uzbek

language and that he was made to sign documents without the contents being explained to him through a translator. He also alleges coercion and relies upon CCTV footage in support of his version.

28. Thus, although the factual circumstances of the two Petitioners are not identical, the nature of the controversy which arises from the respective documents is substantially the same. In each case, the Respondent relies upon a contemporaneous document which records an alleged voluntary decision on the part of the passenger not to require a Show Cause Notice and personal hearing, whereas the passenger disputes the circumstances in which the document was executed.

29. This Court is not inclined, in exercise of writ jurisdiction, to undertake a detailed factual enquiry into these competing versions. Such an enquiry would necessarily require examination of the original records, the circumstances in which the respective statements were recorded, the manner in which their contents were explained to the Petitioners, the surrounding contemporaneous material, and, where relevant, the CCTV footage and other records maintained by the Customs Department.

30. This aspect assumes significance because the Respondent does not seek to rely upon a bare, abstract waiver divorced from the contemporaneous record. The Department relies upon documents which purport to record the proceedings undertaken with the Petitioners on the dates of interception. Whether those documents merely contain a printed or standard recital of waiver, or whether the

proceedings actually constituted an oral notice satisfying the requirements of Section 124, is a question which has to be determined on the basis of the complete record.

31. This Court is conscious that the existence of a disputed factual question cannot be used by the Department as a device to defeat the mandatory consequence prescribed by Section 110(2). The Supreme Court in ***Jatin Ahuja*** (supra) has made it clear that, in the absence of a notice under Section 124(a) within the prescribed or validly extended period, the consequence under Section 110(2) follows.

32. At the same time, in the present cases, the Court is not confronted with an admitted position that no notice whatsoever was given. The Department's specific case is that the proceedings undertaken on the date of interception constituted an oral Show Cause Notice and that the Petitioners expressly stated that they did not require a written Show Cause Notice or personal hearing.

33. The Petitioners dispute this very factual premise. In particular, the Petitioners dispute the voluntariness and circumstances of the documents relied upon by the Department. These allegations cannot be conclusively accepted merely because they have been pleaded in the writ petitions. Equally, the Department's version cannot be accepted merely because the documents contain recitals of voluntariness and waiver.

34. The appropriate course, therefore, is to permit the competent adjudicating authority to examine the complete record and determine the legal effect of the contemporaneous documents in accordance with

the statutory scheme. This would include consideration of whether the proceedings relied upon by the Department constituted a valid oral notice within the meaning of the first proviso to Section 124 and, consequently, whether the requirements of Section 110(2) stood satisfied.

35. This Court is also mindful that no Order-in-Original has yet been passed in either matter. The Petitioners seek, in substance, a final determination by this Court that the Department has lost the authority to proceed against the goods and that the goods must be released unconditionally. Such a determination, in the peculiar factual circumstances of the present cases, would require adjudication of the disputed factual questions referred to above.

36. This Court is not persuaded that such an evidentiary exercise ought to be undertaken in the present proceedings, particularly when the competent adjudicating authority has not yet considered the Petitioners' objections and the Respondent has undertaken to afford the Petitioners an opportunity of personal hearing and to complete the adjudication proceedings within a stipulated period.

37. This Court makes it clear that the present decision does not proceed on the basis that a passenger can, by a mere printed waiver or unilateral statement, dispense with the mandatory requirements of Sections 110(2) and 124 of the Act. The decisions in ******Ms. Shubhangi Gupta*** (supra) and ***Amit Kumar*** (supra) continue to govern the legal position in their respective fields.

38. The question left open is a narrower one: whether the particular

proceedings and documents relied upon by the Department in the two cases, when examined in their entirety, constitute compliance with the statutory requirements and what consequence follows therefrom. That determination shall be made by the competent authority strictly in accordance with law.

39. In the case of Mohammad Sadiq, the Respondent has additionally relied upon the Petitioner's delay of nearly four years in approaching this Court. The delay is certainly a relevant circumstance while considering the Petitioner's conduct and, in particular, the disputed factual allegations now sought to be raised concerning the circumstances in which the statement dated 25.02.2022 was recorded. However, such delay, by itself, cannot dispense with the statutory requirements contained in Section 110(2). The effect, if any, of the alleged non-compliance with Section 110(2) shall have to be determined in accordance with the statutory scheme and the law laid down by the Supreme Court in ***Jatin Ahuja*** (supra).

40. In the case of Ulugbek Zokirov, the Petitioner's contention regarding his inability to understand languages other than Uzbek and the alleged absence of a translator is also a factual issue requiring examination of the contemporaneous record. The Petitioner's allegation of coercion and the Respondent's assertion of voluntariness cannot, in our view, be conclusively determined merely on the pleadings.

41. It is clarified that this Court has not expressed any opinion on the merits of the alleged Green Channel violation in either case. This

Court has likewise not expressed any opinion regarding the declaration or non-declaration of the goods, ownership thereof, their importability, liability to confiscation, duty payable, redemption fine or penalty.

42. The competent adjudicating authority shall consider the objections of the respective Petitioners independently and strictly in accordance with law. In particular, the authority shall consider the Petitioners' objections concerning the statements purportedly recorded under Section 108, the circumstances in which the documents were executed, the alleged waiver of Show Cause Notice and personal hearing, and the applicability and consequence of Section 110(2).

43. The Respondent cannot, however, take advantage of the pendency of these Petitions to indefinitely retain the goods. The adjudication shall be undertaken expeditiously and in accordance with the statutory scheme. The competent authority shall also bear in mind the binding principles laid down by the Supreme Court in ***Jatin Ahuja*** (supra) and the decisions of this Court concerning Section 124.

44. In view of the undertaking furnished by the Respondent, the respective Petitioners shall appear before the competent adjudicating authority, personally or through a duly authorised representative, <u>on 26.09.2026 at 2:30 pm</u>. The competent authority shall afford each Petitioner a reasonable opportunity of personal hearing and shall thereafter pass an appropriate order in accordance with law.

45. The adjudication proceedings in each case shall be completed expeditiously and, in any event, within six (06) weeks from the date

on which the concerned Petitioner or his duly authorised representative appears before the competent authority pursuant to the notice issued by the Respondent.

46. It is made clear that the competent authority shall not treat the dismissal of the present Petitions as an affirmation of the Department's contention that the requirements of Sections 110(2) and 124 of the Act stood satisfied merely by reason of the recitals contained in the respective statements. The legal effect of the documents shall be determined independently and in accordance with law.

47. Insofar as the prayer for unconditional release of the goods is concerned, this Court is not inclined to grant the same at this stage, for the reasons recorded above. The prayer relating to detention/warehousing charges shall also abide by the determination to be made in accordance with law.

CONCLUSION

48. In view of the aforesaid discussion, both the present Petitions are dismissed, with the directions contained hereinabove.

49. The dismissal of the Petitions shall not be construed as an affirmation of the Respondent's contention that a mere waiver of Show Cause Notice or personal hearing, by itself, satisfies the requirements of Sections 110(2) and 124 of the Act.

50. Nothing contained in this judgment shall be construed as an expression of opinion on the merits of the Customs Department's

allegations concerning the Green Channel violation, declaration or non-declaration of the goods, ownership, liability to confiscation, Customs duty, redemption fine or penalty.

ANIL KSHETARPAL, J.

SHAIL JAIN, J.

SEPTEMBER 02, 2026
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