2026:DHC:7368-DB

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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. DLHC010000122026

\+ W.P.(C) 42/2026

MOHAMMAD UMAR .....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. Aditya Singla, SSC-CBIC with Mr. Arya, Mr. Dhananjay Gautam, Mr. Akhil Sharma, Ms. Adv Sakshi Chandna and Mr. Nehaol, Advs.

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

JUDGMENT

ANIL KSHETARPAL, J.:

1. The principal issue which arises for consideration in the present Petition is whether the Petitioner is entitled to a direction for release of two gold bars weighing 233 grams, on the ground that the statutory requirements under Sections 110 and 124 of the Customs Act, 1962 [the "Act"] have not been complied with, when the contemporaneous

record contains the Petitioner's own statement under Section 108 of the Act and a subsequent written request acknowledging receipt of an oral Show Cause Notice and requesting that the matter be decided on merits.

2. Through the present Petition, the Petitioner seeks a direction for unconditional release of the aforesaid gold bars and further prays that no detention or warehousing charges be recovered from him at the time of release.

FACTUAL MATRIX

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

4. The Petitioner, an Indian citizen, arrived at the Indira Gandhi International Airport, New Delhi, from Medina by Flight No. SV 758 on 10.04.2023. Two gold bars, totally weighing 233 grams and stated to be of 995 purity, were found in his possession. The goods were detained *vide* Detention Receipt No. 001633 dated 10.04.2023.

5. The Detention Receipt describes the goods as "*One Transparent Plastic bottle containing 02 gold bars total weighing 233 grams purity 995, wrapped with customs tape & plier having no impression*". The Detention Receipt further records that the goods "have been detained at my request and sealed in my presence over my signature". The receipt bears the signature of the Petitioner as well as the signatures of the concerned Customs officials.

6. On the same date, i.e. 10.04.2023, a statement of the Petitioner

was recorded under Section 108 of the Act. The Petitioner is recorded as having stated that he had been intercepted by the Customs officer after crossing the Green Channel and that the gold bars were recovered from his possession during DFMD and X-Ray examination of his baggage. The said statement further records that the gold belonged to the Petitioner and had been carried by him from Medina. The Petitioner is also recorded as having stated that he was aware that Customs duty was leviable on the import of gold over and above the permissible baggage allowance; that he had intentionally not declared the recovered gold; that he agreed with the description, quantity and value to be assessed by the Department; and that he was ready to pay Customs duty, fine and penalty as applicable.

7. Significantly, the statement further records that the Petitioner did not require any Show Cause Notice or personal hearing in the matter. It also records that the statement was tendered by him voluntarily, without any duress, pressure or threat, after being understood by him in the vernacular.

8. Thereafter, on 08.05.2023, the Petitioner submitted a written request for release of the detained goods. A second Detention Receipt bearing No. 23597 dated 08.05.2023 was also issued after appraisement.

9. The written request dated 08.05.2023 is of considerable significance. In the said request, the Petitioner records that he had "*opted for Green Channel but did not declare any dutiable item*" which he had brought with him. He further states that he regretted his

mistake and requested the Department to take a lenient view. The said request also contains the following declaration:

> "*I undertake that my case may be decided on merit and as such I do not want any written Show Cause Notice and Personal Hearing in the matter. An oral SCN has been received.*"

10. The Respondent has also placed on record a Special Power of Attorney dated 13.04.2023 authorising the Petitioner's representative to appear before the Customs authorities on his behalf.

11. It is not disputed that no written Show Cause Notice has been issued to the Petitioner. The Respondent, however, relies upon the aforesaid contemporaneous documents and submits that the Petitioner's case cannot be examined on the assumption that there was no compliance whatsoever with the requirements relating to Show Cause Notice, particularly when the Petitioner's own written request acknowledges receipt of an oral Show Cause Notice.

CONTENTIONS OF THE PARTIES

12. Contentions of the Petitioner

12.1. Learned counsel for the Petitioner submitted that Section 110(2) of the Act mandates issuance of a Show Cause Notice within six months from the date of seizure, subject to a further extension of six months in accordance with the proviso thereto. It was submitted that even the maximum period of one year has expired and, consequently, the continued detention of the gold bars is impermissible.

12.2. It was submitted that an oral Show Cause Notice cannot be presumed merely because the Petitioner is stated to have waived a written Show Cause Notice. According to learned counsel, Section 124 of the Act requires the person concerned to be informed of the grounds on which confiscation of the goods or imposition of penalty is proposed.

12.3. It was further submitted that the statement under Section 108 of the Act cannot be treated as a Show Cause Notice. Learned counsel also disputes the voluntariness and correctness of the said statement and submits that the Petitioner was made to sign documents prepared by the Department. It was contended that the CCTV footage of the relevant events would demonstrate that the Petitioner's case of declaration of the gold at the Red Channel was correct.

12.4. It was further submitted that the pre-printed request dated 08.05.2023 cannot constitute a valid waiver of the statutory requirements under Section 124 of the Act. Reliance in this regard has been placed upon the judgments of this Court, including ***Ms. Shubhangi Gupta v. Commissioner of Customs & Ors.*** and ***Amit Kumar v. Commissioner of Customs*** and, also upon the judgment of the Supreme Court in ***Union of India & Anr. v. Jatin Ahuja***, Civil Appeal No. 3489/2024, decided on 11.09.2025.

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

13.1. *Per contra*, learned counsel for the Respondent submitted that the Petitioner's case proceeds on a factually incorrect premise. It was submitted that the contemporaneous record demonstrates that the Petitioner had crossed the Green Channel without declaring the gold bars and had thereafter voluntarily admitted the same in his statement under Section 108 of the Act.

13.2. Relies was placed upon the written request dated 08.05.2023 submitted by the Petitioner himself. It was submitted that the Petitioner not only stated therein that he had opted for the Green Channel without declaring the dutiable goods, but also expressly recorded that he did not want a written Show Cause Notice or personal hearing and that an oral Show Cause Notice had been received.

13.3. It was, therefore, submitted that the Petitioner's present plea that he had declared the gold at the Red Channel, that the documents were forcibly obtained from him and that there was complete non-compliance with the statutory procedure raises disputed questions of fact. Such questions, according to learned counsel, cannot be adjudicated in the present writ proceedings.

ANALYSIS & FINDINGS

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

15. At the outset, this Court may observe that there can be no quarrel with the proposition that the statutory safeguards contained in Sections 110(2) and 124 of the Act are required to be complied with. The Supreme Court, in ***Jatin Ahuja*** (supra), Civil Appeal No. 3489/2024, decided on 11.09.2025, has held that the period prescribed under Section 110(2) for issuance of the notice contemplated by Section 124(a) is mandatory and that, in the absence of such notice within the prescribed period, the statutory consequence contemplated

under Section 110(2) follows. The Supreme Court has also clarified that the time period under Section 110(2) and the substantive requirements of Section 124 operate in distinct fields.

16. Equally, this Court has held that a mere pre-printed form recording that a passenger does not require a Show Cause Notice or personal hearing cannot, by itself, be treated as sufficient compliance with Section 124 of the Act. In ***Ms. Shubhangi Gupta*** (supra), this Court rejected the Revenue's contention that the statutory requirement stood satisfied merely because an oral Show Cause Notice was asserted and the passenger was stated to have waived the requirement. The Court noted, *inter alia*, that there is no provision for waiver of the notice prescribed under Section 124.

17. The aforesaid principles, however, cannot be applied in isolation from the peculiar factual matrix of the present case. The question before us is not whether a passenger can, by merely signing a standard printed form, extinguish the statutory requirements under Sections 110(2) and 124 of the Act. The question is whether, on the material placed before us, the Petitioner has established a clear case of statutory non-compliance warranting the extraordinary relief of release sought in the present Petition.

18. In this regard, the contemporaneous record assumes significance.

19. The Petitioner's case in the present Petition is that he had declared the two gold bars at the Red Channel and that, despite such declaration, the goods were illegally detained/seized. He further

alleges that the Customs officials made him sign pre-written documents and blank papers and that the statement relied upon by the Department is a false document.

20. This assertion, however, is materially at variance with the Petitioner's own contemporaneous documents.

21. First, the statement dated 10.04.2023, which bears the Petitioner's signature, records that he was intercepted after crossing the Green Channel and that he had intentionally not declared the gold bars. The statement further records his willingness to pay Customs duty, fine and penalty and his statement that he did not require a Show Cause Notice or personal hearing.

22. Secondly, and more significantly, on 08.05.2023, almost a month after the alleged incident, the Petitioner submitted a written request bearing his signature. In this request, he himself stated that he had opted for the Green Channel but had not declared any dutiable item. He expressed regret for his mistake and requested that the Department take a lenient view. He further recorded that he did not want a written Show Cause Notice or personal hearing and that an oral Show Cause Notice had been received.

23. Thus, this is not a case where the Department relies solely upon a subsequently prepared departmental record to assert waiver of statutory safeguards. There are contemporaneous documents bearing the Petitioner's own signatures, separated in time by almost a month, which materially contradict the factual foundation of the present Petition.

24. The Petitioner's explanation that he was coerced into signing the documents is a disputed factual assertion. No contemporaneous retraction of the statement dated 10.04.2023 has been brought to our notice. Likewise, the Petitioner did not, in his written request dated 08.05.2023, allege that his earlier statement had been forcibly obtained or that the contents thereof were incorrect. On the contrary, the subsequent request proceeds on the basis that the Petitioner had committed a mistake by opting for the Green Channel and not declaring the dutiable goods.

25. The subsequent assertion that the Petitioner had in fact declared the gold at the Red Channel, therefore, raises a disputed question of fact which cannot be satisfactorily adjudicated in exercise of writ jurisdiction under Article 226 of the Constitution.

26. This Court is also not persuaded to undertake an examination of the alleged CCTV footage in the present proceedings. The Petitioner seeks, in substance, a finding that the contemporaneous documents relied upon by the Customs Department are false or were obtained by coercion and that the Petitioner had, in fact, declared the gold. Such an exercise would necessarily require appreciation of evidence and determination of disputed questions of fact. The writ jurisdiction is not ordinarily the appropriate forum for undertaking such an evidentiary enquiry.

27. The Petitioner's reliance upon ***Jatin Ahuja*** (supra) does not advance his case to the extent sought. The proposition laid down therein is undoubtedly binding, namely, that where the statutory notice

contemplated by Section 124(a) is not given within the period prescribed under Section 110(2), the statutory consequence follows. However, the present case cannot be decided merely by proceeding on the Petitioner's assertion that there was no notice whatsoever.

28. The Respondent relies upon the Petitioner's own written acknowledgement dated 08.05.2023 that an oral Show Cause Notice had been received. The Respondent also relies upon the Petitioner's statement dated 10.04.2023 recording that he did not require a Show Cause Notice or personal hearing. Whether these contemporaneous documents, read with the proceedings undertaken by the Customs Department, constitute sufficient compliance with the statutory requirements is a matter which cannot be determined in favour of the Petitioner merely by accepting his subsequent and disputed version of events.

29. This Court is conscious that the first proviso to Section 124 permits the notice contemplated by clause (a) and the representation contemplated by clause (b) to be oral at the request of the person concerned. The requirement cannot, of course, be reduced to a mechanical or pre-printed waiver. This Court has repeatedly cautioned the Customs Department against such a practice. The Customs Department has also been directed in appropriate cases to discontinue reliance upon standard pre-printed waivers and to ensure compliance with the requirements of Section 124.

30. However, the present Petition cannot be allowed merely on the basis of a general challenge to the departmental practice. The

particular record before us contains the Petitioner’s subsequent written acknowledgement that an oral Show Cause Notice had been received. The Petitioner has not been able to explain, in a manner capable of being conclusively determined in the present writ proceedings, why such a specific recital was made in his own written request dated 08.05.2023, particularly when that request also contains his admission regarding opting for the Green Channel without declaration.

31. There is another relevant circumstance. The Detention Receipt dated 10.04.2023 records that the goods were “*detained at my request and sealed in my presence over my signature*”. The Petitioner signed the said receipt. The subsequent request for release also proceeds on the basis of the detention. The statutory consequences relied upon by the Petitioner are therefore sought to be founded upon a factual characterisation of the proceedings which itself is disputed on the record.

32. In these circumstances, this Court is of the view that the Petitioner has failed to establish an undisputed case of statutory violation warranting issuance of a mandamus for release of the goods. The Court cannot, in the exercise of its extraordinary jurisdiction, accept one disputed version of the facts while rejecting the contemporaneous documents relied upon by the Respondent, particularly when some of those documents bear the Petitioner's own signatures.

33. This Court may also note that the Petitioner’s challenge is not confined to the alleged non-issuance of a Show Cause Notice. He

seeks a finding that the Customs officials falsely implicated him, that his declaration at the Red Channel was ignored, that the statement was obtained under coercion, and that the documents relied upon by the Department are fabricated or otherwise unreliable. These are matters requiring appreciation of evidence and cannot be conclusively determined in the present proceedings.

34. Nothing stated herein shall, however, be construed as approval of any practice whereby a passenger is made to sign a standard form mechanically waiving the statutory safeguards under Section 124 of the Act. The statutory requirements must be complied with in accordance with law. The dismissal of the present Petition follows from the particular factual record and the nature of the relief sought by the Petitioner.

35. It is clarified that this Court has not adjudicated upon the ultimate liability of the Petitioner to confiscation or penalty, nor have we expressed any final opinion on the question whether the gold bars are liable to confiscation. Those matters, if pending before the competent authority, shall be dealt with in accordance with law.

CONCLUSION

36. For the reasons recorded above, this Court is not inclined to exercise our extraordinary jurisdiction under Article 226 of the Constitution in favour of the Petitioner.

37. The Petition is, accordingly, dismissed.

38. It is, however, clarified that the dismissal of the present Petition

shall not preclude the Petitioner from pursuing such remedies as may be available to him in law before the competent Customs authority or any other appropriate forum, in accordance with law.

ANIL KSHETARPAL, J.

SHAIL JAIN, J.

SEPTEMBER 02, 2026
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