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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 10th September, 2025

\+ **W.P.(C) 10651/2025**

MR. IMRAN .....Petitioner

Through: Mr. Harsh Trikha, Adv.

versus

COMMISSIONER OF CUSTOMS, IGI AIRPORT .....Respondent

Through: Mr. Vishal Chadha, SSC with Mr. Chandan Kumar, Adv. (9810641379)

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

2. The present petition has been filed by the Petitioner- Imran under Articles 226 and 227 of the Constitution of India, *inter alia*, seeking release of one gold rectangular shaped cut piece, weighing 338 gms, *(hereinafter*, '*gold piece*') seized by the Customs Department *vide* detention receipt dated 24th March, 2024.

3. The case of the Petitioner, who is a resident of Kuwait, is that he arrived at the Indira Gandhi International Airport, New Delhi (hereinafter, '*IGI Airport*') on 23rd March 2024. Upon arrival at the IGI Airport, the said gold piece was detained by the Customs Department.

4. Thereafter, the Petitioner's Authorized Representative claims to have submitted a representation to the Customs Department on 20th May, 2024 seeking that the gold piece may not be disposed of. Despite this being the

position, it is the allegation of the Petitioner that the same has been disposed of on 10th June 2024.

5. The Order-in-Original dated 30th December 2024 (hereinafter, '*OIO*'), directed confiscation of the gold piece, however, the OIO permitted redemption of the same upon making a payment of Rs 2 Lakhs. The operative portion of the said OIO reads as under:-

> *"i) I deny the 'Free Allowance' to the Noticee on account of various omission and commission made by the Noticee;*
> *ii) I order confiscation of seized goods namely the Gold Jewellery total weighing **338 Grams Gold having Tariff Value Rs.19,70,202/ -(Rupees Nineteen Lakh Seventy Thousand Two Hundred and Two Only)** recovered from him seized from possession of the Noticee and seized under Panchnama proceedings dated 24.03.2024, under Section 111(d), lll (i), 111 (j), 111(l), l l l (m) & l l l (o) of the Customs Act, 1962;*
> *iii) I give an option to redeem the goods confiscated above, on payment of Redemption Fine of **Rs. 2,00,000** under Section 125 of Customs Act, 1962 and allowed the same for re-export only. **The Noticee is a resident of Kuwait holding a residence of State of Kuwait Civil ID No.299070704109.** The redemption is to be allowed after the completion of legal formalities in this regard and also fulfillment of any regulatory clearances/approvals required. The offer of redemption, if accepted, shall be subject to condition that the Noticee shall not dispute the identity and valuation of the seized goods. The offer of redemption shall cease after 'One Hundred Twenty Days' from date of the receipt of this order;*
> *iv)I also impose a Penalty of Rs. 1,90,000 upon the Noticee under Section 112(a), 112(b) and 114AA of the Customs Act, 1962."*

6. The challenge in this petition is to the fact that the gold piece has been disposed of prior to the passing of the OIO and without any intimation to the Petitioner. It is further submitted that the said disposal has been undertaken despite the representation filed on behalf of the Petitioner stating that the Petitioner is willing to re-export the gold piece.

7. On the last date of hearing, the Court had directed filing of a reply by the Department. Today, ld. Counsel for the Department has placed on record the counter affidavit, in which the following submissions are made:

(1) That the gold was appraised and intimation was given to the Petitioner at the Sikar address in Rajasthan, prior to the disposal of the gold.

(2) That the representation dated 20th May 2024, according to ld. Counsel for the Respondent, is a forged representation as the seal which is visible on the letter is not genuine. The said letter is also not reflected in the receipt register of the Customs Department.

8. A counter affidavit has been handed over by ld. counsel for the Respondent. The same is taken on record. The counter affidavit reveals that the gold piece was released to the SPMCIL for disposal, on 28th June 2024. The amount recovered has been set out below:

> "*14. That in the present case, the goods detained vide DR no. 35144 dated 24.03.2024 having file no. VIII (AP) 10/P&1/4806-C/Arrival/ 2024 containing one rectangular shaped cut piece of gold weighing 338 gm in r/o Mr. Imran was inventorised on 11.06.2024 and released to SPMCIL on 28.06.2024. The details are as under:*
>
> *Amount paid by RBI to CBIC per gram (in Rs): Rs.*

6,867.1828
Amount of 338 grams gold comes out to Rs. 23,21,107.79/-
Less Conversion Charges for 338 grams: - 7578.636/-Less photography and videography charges: - 612 / -
<u>Net value realized of 338 gm of gold of pax: - Rs. 23,12,917.15/-</u>

> ***<u>From the above it is clear that intimation to petitioner was duly sent before inventorisation process. It may also be noted that final disposal takes 1-2 months after inventorisation, so ample time was given to the petitioner for representing before the department for not disposing of the seized gold.”</u>***

9. The OIO clearly records that the Petitioner is a resident of Kuwait and accordingly, re-export was permitted in the terms as extracted above.

10. This Court is not going into the question as to how the entire gold piece came to be disposed prior to issuance of the Show Cause Notice dated 23rd September 2024 *(hereinafter, ‘SCN’)*. Even the OIO does not record that the gold has been disposed of.

11. While these issues are being considered in separate matters by this Court, however, insofar as the Petitioner is concerned, since the gold has been disposed of and amount has been recovered by the Customs Department upon disposing the gold piece, the following directions are issued:

(i) From the amount of Rs. 23,12,917.15/- the redemption fine of Rs. 2,00,000/- and penalty of Rs. 1,90,000/- shall be deducted and the remaining amount of Rs. 19,22,917/- shall be paid to the Petitioner without any further deductions, within a period of one month.

(ii) The interest on the amount which was recovered by the Customs

Department on the date of disposal i.e. 28th June, 2024, shall be liable to be paid @ 6%, which is the statutory interest. Accordingly, interest @ 6% on Rs. 23,12,917.15/-, from the date of disposal till date, which is calculated to be Rs. 1,67,045/- shall be paid to the Petitioner within a period of one month.

12. If any action needs to be taken by the Customs Department in respect of the alleged forgery of representation dated 20th May 2024, the Customs Department is free to do so.

13. Ld. Counsel for the Petitioner submits that insofar as the representation is concerned, there is a genuine difficulty that, passengers whose goods are detained, face at the airport. Since the counter of the Customs Department is in the secured area, it is not easy to access the said counter for delivery of letters. Hence, the passengers take help of the airport staff to deliver letters and to obtain seals.

14. This matter may be looked into by the concerned Commissioner of Customs at the Airport and a mechanism shall be set up so that some counters can be created at a designated area which can be easily accessed without entering the secured airport premises.

15. The petition is disposed of in the above terms. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH
JUDGE

SHAIL JAIN
JUDGE

SEPTEMBER 10, 2025
kk/ss