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

Date of decision: 11th March, 2025

\+ **W.P.(C) 3042/2025**

MUHAMMAD NAZIM .....Petitioner

Through: Mohammed Ather, Advocate. (M: 7011359907)

versus

THE COMMISSIONER OF CUSTOMS & ORS. .....Respondents

Through: Mr. Harpreet Singh, Senior Standing Counsel with Ms. Suhani Mathur and Mr. Jai Ahuja, Advocates.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA

<u>Prathiba M. Singh, J.</u> (ORAL)

1. This hearing has been done through hybrid mode.

2. The present petition has been filed by the Petitioner- Muhammad Nazim, under Article 226 & 227 of the Constitution of India *inter alia* seeking release of the gold bars, which were detained by the Customs Department *vide* detention receipt no. DRINDEL4/07-11-2023/003033 dated 07th November, 2023.

3. The brief background is that the Petitioner is a resident of India and had arrived at the IGI Airport, New Delhi on 07th November, 2023 from Saudi Arabia. Two gold bars, weighing 174 grams were seized from the possession of the Petitioner by the Customs Department. The Petitioner then moved an application on 14th December 2023 for release of the gold bars to the Customs Department *vide* DD No. 11216. Appraisement was effected and a new DR No. 61225 was issued by the Customs Department.

4. According to the Petitioner, no show cause notice was issued in this matter, hence this petition seeking release.

5. Ld. Counsel for the Respondent has appeared on advance notice and submits that a detailed Order in Original dated 29th February, 2024 has already been passed in the matter. Copy of the same has been handed over to the ld. Counsel for the Petitioner. The operative portion is extracted hereunder: -

"In view of the foregoing, I pass the following order:

ORDER

*i) I deny the **'Free Allowance'** if any admissible to the passenger, **Muhammad Nazim** for the various acts of commission and omission;*

*ii) I declare the passenger, **Muhammad Nazim** is **"an eligible Passenger"** for the purpose of the Notification No. 50/2017-Cus dated 30.06.2017 (as amended) read with Baggage Rules, 2016 (as amended);*

*iii) I order **absolute confiscation** of the **"Two gold bars engraved SUISSE having purity 999 weight 174 grams valued at Rs.9,84,987"** recovered from the Pax **Muhammad Nazim** and detained vide **DR No. DR/INDEL4/07.11.2023/003033 dated 07.11.2023** under Section 111(d), 111(0), 1110) & 111(m) of the Customs Act, 1962;*

*iv) I also impose a penalty of **Rs.1,00,000/- (Rupees One Lac Only)** on the passenger **Muhammad Nazim** under Section 112(a) & 112(b) of the Customs Act, 1962."*

6. Mr. Harpreet Singh, ld. Senior Standing Counsel submits that the same was communicated *via* speed post to the Petitioner, however, the Petitioner's case is that he never received it. It has been repeatedly impressed upon the Customs Department and also directed that show cause

notices, correspondence and orders ought to be communicated through email, as observed by this Court in ***Bonanza Enterprises vs. The Assistant Commissioner of Customs & Anr., 2024: DHC: 9885-DB.*** The relevant portion of the said order reads:

> *"22. The Customs Department ought to in future follow a system by which in addition to notices by speed post, registered post or courier**, notices are also sent on the email address** which is provided on the letterhead of the Petitioner or any authorised person. This would avoid substantial delay and matters proceeding ex-parte as has happened in the present case.*
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> *XXXX*
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> *27. In the opinion of this Court, in order to avoid improper service to parties and to avoid ex-parte proceedings, **it is incumbent that service of notices, communications and orders ought to be effected even through email and on the common portal, in addition to the traditional methods as per Section 153**. Let the present order be communicated to the Chairman, Central Board of Customs and Indirect Taxes by the Ld. Standing Counsel (Customs) so that the mandate of the provision of Section 153(b) and (c) for communication of notices, orders etc., by email as also uploading on the Directorate General of Foreign Trade (DGFT) common portal can henceforth be given effect to"*

7. It is expected that the Customs Department would adhere to the said directions, in terms of Section 153 of the Customs Act, 1962. Since the Petitioner has received the order only today from the ld. Counsel for the Respondent, the Petitioner is given thirty days time to avail of his remedies in accordance with law.

8. The petition is disposed of. The pending application(s), if any, also stands disposed of.

PRATHIBA M. SINGH
JUDGE

RAJNEESH KUMAR GUPTA
JUDGE

MARCH 11, 2025/*nd/ck*