

(2025) 03 DEL CK 1048

In the Delhi High Court

Case No : Writ Petition (C) No. 3002 Of 2025

Amirhossein Alizadeh

APPELLANT

Vs

Commissioner Of Customs & Ors

RESPONDENT

Date of Decision : 10-03-2025

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2025) 03 DEL CK 1048

Hon'ble Judges : Prathiba M. Singh, J;Rajneesh Kumar Gupta, J

Bench : Division Bench

Advocate : Mohammed Ather Ansari, Harpreet Singh

Final Decision : Disposed Of

Judgement

Prathiba M. Singh, J

1. This hearing has been done through hybrid mode.
2. The present writ petition has been filed under Article 226 and 227 of the Constitution of India seeking unconditional release of the gold ornaments of the Petitioner detained vide Detention receipt bearing No. 51431 dated 7th May 2022.
3. The case of the Petitioner is that he is the Iranian national seeking release of the goods which were detained on 7th May, 2022 vide Detention receipt bearing No. 51431 by the Customs Authorities. The Petitioner was travelling from Iran to New Delhi by flight No. W-5-0071 and was intercepted at the IGI Airport, New Delhi on the said date. The goods which were seized are as under:
"04 Silver coated metal chains of Gold weighing 255.74 grams"
4. After the detention, the Petitioner is stated to have made a visit to the Customs Office at the IGI Airport seeking appraisalment. The appraisalment was also done.
5. However, it is alleged that an Order-in-Original is claimed to have been passed

against the Petitioner without issuing a Show Cause Notice to him. As per the Petitioner, neither was the Order in Original served upon him. Accordingly, the Petitioner had filed a writ petition seeking a copy of the Order in Original. The said petition i.e., W.P.(C) 14840/2024 was disposed of on 22nd October, 2024 with the following directions:

"1. The petitioner has filed the present petition inter alia praying that directions be issued to the respondent to provide a copy of the order in original, if any, passed in respect of the goods i.e. gold chain (hereafter jewellery) which was detained under detention receipt no. 51431 dated 07.05.2022.

2. The petitioner prays that directions be issued to the respondent to pay the storage charges to Central Warehousing Corporation where the petitioner's jewellery has been stored or in the alternative, waive off the said charges. However, the learned counsel for the petitioner does not press the said relief and has confined the petition to praying that the copy of the order be furnished to the petitioner to avail of his remedies. The petitioner claims that he is a foreign national and had arrived in Delhi at Terminal No. 3, Indira Gandhi International Airport by Flight No. W50071 on 06.05.2022. He was found carrying a gold chain, which was detained.

3. Mr. Ojha, the learned counsel for the Revenue appears on advance notice and submits that the concerned officer shall forward a copy of any order that may have been passed in respect of the jewellery to the petitioner.

4. To obviate any further objection in this regard, it is directed that the concerned officer shall forward a copy of any order that may have been passed in connection with or in relation to the jewellery to the petitioner's addresses, as set out in the present petition, as well as to the learned counsel for the petitioner, within a period of four weeks from date.

5. In the event that any order has already been sent to the petitioner, the concerned officer shall also communicate the details of the manner in which the order was communicated to the petitioner.

6. The petition is disposed of in the aforesaid terms along with pending application."

6. As per the above order in W.P.(C) 14840/2024, the Customs Department was directed to forward a copy of the Order-in-Original that may have been passed in respect of the detained goods. However, till date, no order has been served upon the Petitioner. Hence, this petition seeking release of the detained goods.

7. Issue notice. Mr. Harpreet Singh accepts notice. The prescribed period of six months for issuance of a Show Cause Notice has already elapsed. No personal hearing was also granted to the Petitioner and as directed in the above order in the previous writ petition, no order-in-original has been served upon the Petitioner till date. After the passing of an order by the Division Bench in the earlier writ petition, the Customs department had an obligation to ensure that

the order-in-original is served or intimated to the Petitioner. There has been no compliance of the direction passed by this Court.

8. Under such circumstances, the Petitioner cannot be forced to repeatedly approach the Court to even obtain a copy of the order.

9. Accordingly, it is a fit case for directing the release of goods. The detention is, accordingly, quashed. The goods shall be released to the Petitioner. Warehouse charges shall be waived.

10. In case the goods are disposed of, the market value of the detained goods, as per the market rate prevalent today shall be paid to the Petitioner within a period of four weeks. If the same is paid in four weeks, no interest would be payable. If the same is not paid, interest at the statutory rate would be payable from date of detention.

11. Petition is disposed of in these terms. All pending applications, if any, are also disposed of.