

Bindu Govind vs Union Of India & Ors. on 7 April, 2025

Author: Prathiba M. Singh

Bench: Prathiba M. Singh

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 7th April,

+ W.P.(C) 4262/2025

BINDU GOVIND

.....Petitione

Through: Mr. Subash Chandran, Mr. Sharat
Gopal, Mr. Syam Krishnan K, Mr.
Akash Awana and Ms. Meenal
Pandagare, Advocates for Ms. Kavi
K.T., Advocate.

versus

UNION OF INDIA & ORS.

.....R

Through: Mr. Aditya Singla, Sr.
Counsel with Mr. Umang
Siddharth Saxena, Mr. R
and Mr. Rudhesh Akshay
Advocates fo
Respondent/Department.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE RAJNEESH KUMAR GUPTA

Prathiba M. Singh, J.(Oral)

1. This hearing has been done through hybrid mode. CM APPL. 19707/2025 (for exemption)

2. Allowed, subject to all just exceptions. Application is disposed of. W.P.(C) 4262/2025

3. The present petition has been filed by the Petitioner- Bindu Govind under Article 226 of the Constitution of India inter alia seeking issuance of an appropriate writ for setting aside the detention by the Assistant Commissioner of Customs, Terminal-3, Indira Gandhi International Airport, New Delhi which was done vide detention receipt dated 10th April, 2024 bearing No.DR/INDEL4/10.04.2024/0052549, whereby Petitioner's four gold bangles and two gold chains old chains, weighing a total of 159 grams have been seized.

4. A brief background of the present case, as stated in the petition is that the Petitioner is an Indian Passport holder bearing no. Y8799992 having a residency permit issued by the United Arab Emirates (hereinafter 'UAE') bearing I.D. No. 784-1978-7041871-8 having issue date of 27th May, 2024 and expiry date of 27th May, 2026. As per the Petitioner she has her place of residence in India in Thrissur District, Kerala and regularly travels back to India to meet her family and relatives.

5. It is the case of the Petitioner that she and her family arrived at IGI Airport Terminal 3, New Delhi, by flight AI 996 on 9th April, 2024. Despite using the green channel, the Petitioner was intercepted by the Customs Officials and Petitioner's jewellery that she is stated to have been wearing at that time, were detained. Details of the same are as under:

SL. No. DESCRIPTION AND NUMBER OF GROSS WEIGHT IN GOODS GRAMS 1

Two gold chains 41 grams

2. Four gold bangles 118 grams

6. It is further stated by the Petitioner that the above mentioned confiscated jewellery were given to her by her parents as a gift for her remembrance of her family traditions and customary roots. It is submitted that the Petitioner, since her younger days, has regularly been wearing the said gold jewellery and the same has been a part of her attire since then.

7. Issue Notice. Mr. Aditya Singla, ld. SSC accepts notice.

8. Mr. Singla, ld. SSC Counsel submits that in the present case, an Order- in-Original dated 06th December, 2024 bearing No. 2110/0052549/10.04.2024/WH/2024-25 has already been passed by the Office of Commissioner of Customs, I.G.I. Airport, T-3 Terminal, New Delhi. Hence, the Petitioner may avail of the remedies in accordance with law against the said Order-in-Original.

9. A copy of the said Order-in-Original is handed over in Court. The same is taken on record.

10. A perusal of the Order-in-Original dated 06th December, 2024 reveals that no Show Cause Notice was issued upon the Petitioner in the present case with respect to the detention of her seized gold jewellery. Additionally, even an opportunity for personal hearing was not granted to the Petitioner.

11. The order in original also reveals that a statement of the Petitioner under Section 108 of the Customs Act, 1962 has been recorded, dated 10th April, 2024, which clearly does not appear to be a voluntary statement. The relevant portion of the Order-in-Original is set out below:-

"2. The passenger Bindhu Govind (hereinafter referred as 'the Pax') (D.O.B. 14.11.1978) holding Indian passport No. Y8799992 arrived from UAE to IGI Airport Terminal-3, New Delhi by flight AI 916 dated 10.04.2024 and opted for Green Channel. She was intercepted by the Customs Officer after she had already crossed the Green Channel and during her personal & baggage search "02 yellow metal chain and 04 yellow metal kada appearing to made of gold having collective weight 159 grams" were found and the same were detained vide Detention Receipt (DR) No. DR/INDEL4/10.04.2024/0052549 dated 10.04.2024 with remarks "Green Channel Violation"

3. The Pax tendered her statement dated 10.04.2024 under Section 108 of the Customs Act, 1962 in which she admitted that she had arrived from UAE to IGI Airport Terminal-3, New Delhi by the flight AI 916 dated: 10.04.2024; that she was intercepted by the Customs Officer after she had already crossed the Green Channel and during the DFMD the said items i.e. " 02 yellow metal chain and 04 yellow metal kada appearing to be made of gold having collective weight 159 grams" were recovered from her. Also, in her statement dated 10.04.2024, it was submitted by the Pax that the said recovered goods belonged to her; that she admitted the act of omission and commission on her part; that she was well aware of the facts that there was Customs Duty on import of above goods/ gold; that she intentionally had not declared the recovered items; that she would be agreed with the description and quantity assessed by the department and ready to pay the Customs duty along with fine and penalty as applicable. She further stated that she had tendered her statement true and correct, without any duress, pressure or threat. Further, she requested that she did not want Show Cause Notice and Personal Hearing.

4. The pax visited this office and submitted a letter dated 22.5.2024 wherein the pax had inter- alia stated that she had arrived from UAE to IGI Airport Terminal-3, New Delhi on 10.04.2024 and brought "02 yellow metal chain and 04 yellow metal kada appearing to be made of gold having collective weight 159 grams". The Pax has submitted copy of UAE resident ID No 784-1978-7041871-8, issuing date 27.05.2024, expiry date 27.05.2026, issued by United Arab Emirates in her support. She further requested that the said goods may be allowed for re-export as she is ready to pay fine and penalty after taking lenient view as she had brought the gold for her personal use. She submitted that she did not want any show cause notice and personal hearing in the matter."

12. Further, the operative part of the order is extracted herein below:

"i) I deny the 'Free Allowance' if any, admissible to the Pax Ms. Bindu Govind for not declaring the detained goods to the Proper Officer at Red Channel as well to the Customs Officer at Green Channel who intercepted her and recovered the detained goods from her.

ii) I declare the passenger, Ms. Bindhu Govind, is an "eligible Passenger" for the purpose of the Notification No. 50/2017-Customs dated 30.06.2017 (as amended) read with Baggage Rules, 2016 (as amended).

iii) I order confiscation of the "Two gold chain purity 940 having weight 118 grams valued at Rs. 7,52,578/- and four gold bangles purity 937 having weight 41 grams value at Rs.

2,60,654/- (total weight 159 grams and total value at Rs. 10,13,232/-" recovered from the Pax Ms. Bindu Govind and detained vide DR No. DR/INDEL4/10.04.2024/0052549 dated 10.04.2024 under Section 111(d), 111(j) and 111(m) of the Customs Act, 1962;

iv) I give an option to redeem, the goods confiscated, above, on payment of fine of Rs. 1,50,000/- (Rs. One lakh Fifty Thousand Only) under Section 125 of the Customs Act, 1962 and allow the same for re-export from India only by the Pax, since, the passenger is an Indian National having passport No. Y8799992 and has a valid UAE resident ID No 784-1978- 7041871-8, issuing date 27.05.2024, expiry date 27.05.2026, issued by United Arab Emirate. I allow redemption of the detained goods within 120 days of issue of this order under Section 125(3) of the Customs Act, 1962). The redemption is allowed after the completion of legal formalities in this regard and also on fulfillment of any regulatory clearances/ approvals/ payments, as required. The offer of redemption, if accepted, shall be subject to condition that the Passenger shall not dispute the identity and valuation of the goods. The offer of redemption shall cease after 120 days of the receipt of this order.

v) I also impose a penalty of Rs. 1,15,000/- (Rs. One Lakh Fifteen Thousand Only) on the Pax Ms. Bindu Govind under Section 112 (a) and 112 (b) of the Customs Act, 1962."

13. In the opinion of this Court, since no Show Cause Notice was issued to the Petitioner in the present matter and no opportunity for personal hearing was granted, the same is not in accordance with law and would be contrary to the previous decisions of this Court including:

□Amit Kumar v. The Commissioner of Customs (2025:DHC:751-DB); □Mr. Makhinder Chopra v. Commissioner of Customs, New Delhi (2025:DHC:1162-DB).

14. This Court has also pronounced several orders/judgments, following various judgments of the Supreme Court and this Court, wherein it has been held clearly that if the gold items seized are personal jewellery, the same would not be liable to be confiscated. The few orders/judgments passed by this Court in this regard are as under:

□Nathan Narayanswamy v. Commissioner of Customs, [Delhi High Court, W.P.(C) 6855/2023 dated 15th September, 2023] □Farida Aliyeva v. Commissioner of Customs, (2024:DHC:9533-DB). □Rahul Vattamparambil Remesh v. Union Of India & Ors. (2025:DHC:1444-DB).

15. In fact, even in the connected petitions of the family members of the Petitioner, this Court has directed for release of the confiscated articles of the Petitioner on the same grounds of non-issuance of show cause notice and absence of personal hearing to the Petitioner. The said petitions filed by the family members of the Petitioner are:

□Gopika Vennankot Govind v. Union of India & Ors. (W.P.(C) 2784/2025) decided on 10th March,2025:

□Govind Vennankot Chandrasekharan v. Assistant Commissioner of Customs (W.P.(C) 2568/2025) decided on 27th March, 2025.

16. Thus, in the facts and circumstances of this case, the detention of Petitioner's gold jewellery is illegal and the Order-in-Original passed in pursuance to such detention is not sustainable.

17. Hence, the said detention as well as the Order-in-Original dated 06th December, 2024, is set aside. The Petitioner's gold jewellery shall be released within four weeks, either directly to the Petitioner or to an Authorised Representative. Storage charges shall also stand waived of.

18. Accordingly, the petition stands disposed of in above terms. Pending application(s), if any, also stand disposed of.

PRATHIBA M. SINGH JUDGE RAJNEESH KUMAR GUPTA JUDGE APRIL 7, 2025/nd/ss