

Avadhesh Kumar Matha vs Union Of India & Ors. on 27 March, 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: 27

+ W.P.(C) 2637/2025

AVADHESH KUMAR MATHA

.....Petiti

Through: Mr. Akhil Krishan Maggu, Mr. V
Sareen, Mr. Kunal Prakash, Mr.
Kumar Pandey, Mr. Ayush Mittal
Ms. Manvinder Kaur and Ms. Yas
Advocates.

versus

UNION OF INDIA & ORS.

.....Respon

Through: Mr. Harpreet Singh, SSC with M
Suhani Mathur, Mr. Jai Ahuja a
Akshay Saxena, Advocates.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE RAJNEESH KUMAR GUPTA

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

2. The present petition has been filed by the Petitioner under Article 226/227 of the Constitution of India challenging the impugned Order-in- Original dated 28th January, 2025. The grounds of challenge are that no show cause notice was issued within the prescribed period and no personal hearing was given to the Petitioner. The Customs Commissioner vide the impugned Order-in-Original, has ordered absolute confiscation of one of the goods but has allowed redemption of the other good upon payment of redemption fine and penalty.

3. The case of the Petitioner is that he is a resident of UAE and he got married in India in 2016. He was gifted one gold chain weighing 175 grams and one gold bracelet weighing 117 grams. He left for Dubai on 17th November, 2016.

4. He is said to have travelled back to India in 2019 and while coming back to India he was wearing the said jewellery. However, the same was seized by the Customs in the Indira Gandhi International Airport, T-3 on 12th July, 2024 vide detention receipt bearing number DR/INDEL4/12.07.2024/54383.

5. Ld. Counsel for the Respondents seeks further time to check as to whether the waiver of show cause notice, was obtained in a pre-printed format. He further submits that he is unable to obtain instructions with respect of the waiver.

6. The Order in original in this case has already been passed. The operative portion reads as under:

"i) I deny the 'Free Allowance' if any admissible to the Pax Mr. Avadhesh Kumar Matha for not declaring the detained goods to the Proper Officer at Red Channel as well to the Customs Officer at Green Channel who intercepted him and recovered the detained goods from him.

ii) I declare the passenger, Mr. Avadhesh Kumar Matha an "ineligible 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 detained goods i.e. "(i) One gold chain, having average purity 997, weight 175 grams, valued at Rs. 11,85,210/- (ii) One elongated gold piece, having average purity 997, weight 117 grams, valued at Rs. 7,92,397/-"

(collectively value at Rs. 19,77,607/-) recovered from the Pax Mr. Avadhesh Kumar Matha and detained vide DR No DR/INDEL4/12.07.2024/54383 dt. 12.07.2024, under Section 111(d), 111(i), 111(j) & 111(m) of the Customs Act, 1962;

iv) I order confiscation of detained goods i.e. "(i) One gold chain, having average purity 928, weight 52 grams, valued at Rs. 3,27,803/- (ii) One foldable gold kada, having average purity 760, weight 48 grams, valued at Rs. 2,47,809/-"(collectively valued at Rs 5,75,612/-) recovered from the Pax Mr. Avadhesh Kumar Matha and detained vide DR No. DR/INDEL4/12.07.2024/54383 dt. 12.07.2024, under Section 111(d), 111(i), 111(j) & 111(m) of the Customs Act, 1962;

v) I give an option to redeem, the goods confiscated, above, on payment of fine of Rs. 80,000/- (Rupees Eighty 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 Pax is a holder of valid Resident Identity Card bearing ID Number 784-1986- 1607173-8 bearing issuing date as 12.07.2022 & expiry date as 11.07.2025 issued by United Arab Emirates. 1 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.

vi) I also impose a penalty of Rs.2,50,000/- (Rupees Two lakh fifty thousand Only) on the Pax, Avadhesh Kumar Matha under Section 112(a) & 112(b) of the Customs Act, 1962."

7. After having perused the record, considering the fact that the export certificates were obtained by the Petitioner, and these are jewellery items which are stated to be gifts to the Petitioner by his family members, the Court is inclined to permit release of all the following goods:

(i) One gold chain, having average purity 997, weight 175 grams.

(ii) One elongated gold piece, having average purity 997, weight 117 grams.

(iii) One gold chain, having average purity 928, weight 52 grams.

(iv) One foldable gold kada, having average purity 760, weight 48 grams.

8. Such release shall be made within a period of four weeks, subject to payment of redemption fee of Rs. 80,000/-. The penalty amount is waived.

9. The above is subject to the undertaking that the goods would be re- exported, subject to verification of the credentials of the Petitioner or the Authorized Representative.

10. Accordingly, the petition is disposed of in above terms.

PRATHIBA M. SINGH JUDGE RAJNEESH KUMAR GUPTA JUDGE MARCH 27, 2025/MR/tp