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

+ **W.P.(C) 13092/2025 & CM APPL. 53630/2025**

UDAY JAIN & ANR.

.....Petitioner

Through: Mr. Satvik Varma, Sr. Adv. with Mr. Abhishek Garg, Mr. Yash Gaiha, Mr. Shantanu Parmar and Mr. Balram, Adv.

versus

ADDITIONAL COMMISSIONER CUSTOMS AIR CARGO AND IMPORT & ANR.

.....Respondents

Through: Mr. Anurag Ojha, SSC.
Mr. Varun Kumar Singh, Deputy Commissioner of Customs.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE SHAIL JAIN

ORDER

% **11.11.2025**

1. This hearing has been done through hybrid mode.
2. The present writ petition has been filed by Mr. Uday Jain, who is the proprietor of M/s Dhoomimal Art Gallery, and his employee Mr. Nixit Kothari. The petition has been filed challenging the impugned order dated 23rd July, 2025 passed by the Office of the Principal Commissioner of Customs.
3. On 28th August, 2025, the Court had heard the submissions made on behalf of the parties and had passed the following directions:

“21. Under such circumstances, prima facie, the Court is of the opinion that since the Petitioner is a well-established art gallery owner in Delhi, the artwork deserves to be released to the Petitioner, subject to certain amounts being deposited with the Customs



Department and subject to further orders of this Court.

22. Accordingly, it is directed that the artwork be released to the Petitioner subject to the following conditions:

(i) The Petitioner shall deposit a sum of Rs.2 Lakhs as an ad-hoc deposit towards differential duty.

(ii) The amount of Rs.30,000/- imposed as redemption fee under Section 125 of the Customs Act, 1962, shall also be deposited by the Petitioner.

23. Upon the said deposits being made, the artwork shall be released to the Petitioner, on or before 10th September, 2025.

24. The above terms shall however, be subject to further orders of this Court.”

4. Thereafter, an application being **CM APPL. 67434/2025** seeking marking of appearance of the Id. Counsel for the Respondent in the order dated 28th August, 2025 was moved in this matter and the same was listed before the Court on 30th October, 2025. On the said date, the application was heard and disposed of.

5. In addition, it was also brought to the notice of the Court by the Id. Sr. Counsel for the Petitioner that despite the order dated 28th August, 2025 having been complied with by the Petitioner, and the amount of Rs. 2 lakhs as an *ad-hoc* deposit and Rs. 30,000/- as the redemption fee being deposited by the Petitioner, in terms of paragraph 22 of the aforesaid order, the artwork has not been released by the Customs Department.

6. It was also submitted by the Id. Counsel for the Petitioner that despite repeated letters having been written by the Petitioner, no response was elicited from the Customs Department. Accordingly, upon hearing the Id. Counsels for both parties, the Court directed as under:

“16. It is clear that Deputy Commissioner of Customs,



ACC Imports, New Customs House, New Delhi is prima facie, in contempt of the orders of this Court.

17. Notice is issued to the Deputy Commissioner of Customs, ACC Imports, New Customs House, New Delhi, as to why contempt action should not be initiated against them. The said official shall remain present in Court on the next date of hearing.

18. It is made clear that the release of the artwork shall not, in any manner, permit the Petitioners to dispose it of. The same shall be preserved in the safe custody of the Petitioners.

19. The Petitioner is at liberty to contact the following official for release of the artwork:

- *Name: Jainendra Jain, Superintendent Group- 5A, C, M and 6, ACC Imports, New Customs House, New Delhi*
- *Mobile No.: 9910057071 ”*

7. An additional affidavit has been tendered today on behalf of Mr. Varun Kumar Singh, Deputy Commissioner of Customs, who is also physically present in Court today. As per the affidavit, the ACC Imports, New Customs House, New Delhi, is stated to have received the letter of the Petitioner seeking release of the painting only on 29th September, 2025.

8. In terms of the order dated 28th August, 2025, the release of the painting had to happen on or before 10th September, 2025.

9. Today, the Court has repeatedly tried to evince the correct information from Mr. Varun Kumar Singh, Deputy Commissioner of Customs, as to why the painting was not released in terms of the order of this Court. It has been finally communicated to the Court that the letter which was written by the Petitioner on 10th September, 2025, along with deposit of all the charges in terms of order of this Court was submitted to the Deputy Commissioner of Customs (Preventive)- Group 2, and not to the ACC Imports, New Customs



House, New Delhi, which is a different Commissionerate.

10. It is observed that since the seizure of the painting was made by the Customs (Preventive), the Petitioner cannot be blamed for having made the payment and the deposit and sought release from the said Commissionerate. There was an obligation upon the Customs (Preventive) to guide the Petitioner properly and to ensure that the order of this Court was complied with. However, the same has not been done.

11. Be that as it may, the chronological chart which has been handed over to the Court as a part of the additional affidavit filed on behalf of Mr. Varun Kumar Singh, Deputy Commissioner of Customs also shows that though the email was received from the legal section ACC (Import) on 9th October, 2025, the draft comments were put up in the e-office for filing of the counter affidavit on 10th October, 2025. Almost 12 days later, *i.e.* on 22nd October, 2025, a letter was written to the legal cell, seeking a legal opinion. On 30th October, 2025, a legal opinion is stated to be received and thereafter, the release of the painting is stated to have been made on 31st October, 2025.

12. Even this submission regarding the release is disputed by Id. Counsel for the Petitioner who submits that the release actually happened on 3rd November, 2025. The affidavit is, therefore, not clear as to when the actual release of the painting took place.

13. In the opinion of this Court, there can be no reason as to why there is a lack of communication between the different Commissionerates of the Customs Department. Despite the receipt of the information for release of the painting, the ACC (Imports) did not take any action for immediate release, though the date for release itself had passed. If the Customs Department needed any further time to release the painting, they ought to have moved an



application before the Court and sought time to release the painting, which they did not do. It was only when the Id. Counsel for the Petitioner mentioned the issue of non-release of the painting on 30th October, 2025, when a miscellaneous application was listed, that this Court was apprised of the said facts and a notice was issued to the Deputy Commissioner of Customs, ACC Imports, New Customs House, New Delhi, as to why contempt action should not be initiated against them.

14. The Court is not convinced with the explanation given by Mr. Varun Kumar Singh, Deputy Commissioner of Customs as to the delay in release of the painting despite the clear directions of the Court. In fact, upon a query by the Court as to when he had communicated the order of this Court to the Customs Department, Id. SSC, Mr. Ojha, has informed the Court that the proceedings before the Court were duly communicated to the Customs Department on 29th August, 2025 *via* a detailed e-mail.

15. The additional affidavit which has been placed on record in fact refers to the e-mail received from Mr. Ojha, Id. SSC.

16. Insofar as this Court is concerned, the Customs Department is one Department and they cannot take refuge under different Commissionerates within their own Department to pass on the responsibility.

17. The order of this Court dated 28th August, 2025 was uploaded on 2nd September, 2025 itself and was easily accessible to the Customs Department.

18. Under these circumstances, let a notice be issued as to why contempt proceedings should also not be initiated against the Assistant Commissioner of Customs (Preventive) Group-2. The said notice shall be served upon Assistant Commissioner of Customs (Preventive) Group-2, Customs Preventive Commissionerate, New Delhi.



19. The said official shall be served on the mobile number given by Mr. Ojha, Id. SSC for the Customs Department. The details of the officer is as under:

Name: Mr. Gopal Lal Meena

Designation: Asstt. Commissioner (Preventive) Group 2, Customs Preventive NCH, New Delhi

Mobile Number : 9911028315

20. The said Assistant Commissioner shall also file an affidavit explaining as to why the order of this Court dated 28th August, 2025 was not given effect to within the stipulated time.

21. The counter affidavit which has been filed on behalf of Customs Department has been returned under objections. Let the same be brought on record. Rejoinder, if any, shall be filed by the Petitioner within two weeks.

22. List on 27th November, 2025 in the supplementary list.

PRATHIBA M. SINGH, J.

SHAIL JAIN, J.

NOVEMBER 11, 2025

jyh/dj/ss