$~94

* IN THE HIGH COURT OF DELHI AT NEW DELHI

\+ **W.P.(C) 2324/2025 & CM APPL. 10985/2025**

MOHD GULSHER .....Petitioner

Through: Mr. Yusuf and Mr. Jatin Sharma, Advocate.

versus

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

Through: Mr. Harpreet Singh, SSC with Ms. Suhani Mathur, Ms. Vanshika Kapoor and Mr. Jai Ahuja, Advocates.
Mr Shubham Tyagi, SSC with Ms Navruti Ojha, R/CBIC.

**CORAM:**
**JUSTICE PRATHIBA M. SINGH**
**JUSTICE RAJNEESH KUMAR GUPTA**

**O R D E R**

**% 21.05.2025**

1. This hearing has been done through hybrid mode.

2. The present writ petition has been filed by the Petitioner under Article 226 of the Constitution of India challenging recovery proceedings initiated by the Customs Department against the Petitioner pursuant to order dated 23rd March, 2015 passed by the Commissionerate of Customs (Exports), New Delhi wherein it had *inter alia* imposed a fine of Rs.4,50,000/- upon the Petitioner.

3. The brief background of the case is that the Petitioner's goods were detained vide detention receipt dated 11th February, 2014 when he travelled from Riyadh to India. The detention proceedings are said to have culminated into an order dated 23rd March, 2015 which imposed a redemption fine of Rs.3 lakhs and a penalty of Rs.1,50,000/-, total amounting to a sum of

Rs.4,50,000/-.

4. In the meanwhile, the Petitioner had challenged the detention receipt dated 11th February, 2014 before this Court in a writ petition, being ***W.P.(C)13077/2019***. According to the Petitioner, the order dated 23rd March 2015 was never served on him and came to his knowledge only when the Customs Department submitted it as an annexure to the counter affidavit in the writ petition. The Court in the said case had passed an order dated 25th August, 2023 wherein the Petitioner had sought to pay the redemption fine along with the penalty and also sought the release of detained goods. The same was accepted by the Customs Department. The said order dated 25th August, 2023 passed by the Coordinate Bench reads as under:

> *"1. Learned counsel for the petitioner submits that prior to instituting the instant writ petition, the petitioner sought liberty to pay the redemption fine along with penalty and the release of the seized articles in terms of the order of 20 March 2015 which has been placed on the record by the respondent along with the counter affidavit.*
> *2. Mr. Kumar. Learned Standing Counsel appearing for the Customs states that subject to verification of all facts and contentions on merits being kept open, if the petitioner complies with all statutory formalities and the conditions imposed in terms of the aforenoted order, any prayer for redemption that may be made shall be duly considered by the competent authority and disposed of in accordance with law. The statement so made is recorded and accepted.*
> *3. In view of the aforesaid, the petition shall stand disposed of on the above terms."*

5. Despite repeated directions issued to the Customs Department by this Court, no affidavit has been filed till date.

6. Ms. Suhani Mathur, ld. Counsel for the Customs Department orally

submits that the detained articles of the Petitioner have already been disposed of.

7. It is surprising how after disposal of the detained goods, any recovery proceedings can be initiated *qua* redemption fine previously imposed upon the Petitioner.

8. Let the Customs Department file a detailed affidavit as to all the steps that were taken prior to disposal of the detained goods, details of intimation of the disposal, if any, given to the Petitioner as well as the amount recovered upon such disposal.

9. It is to be noted that even during the proceedings in ***W.P.(C)13077/2019***, the Department had not informed the Court that the detained goods had been disposed of. In the opinion of this Court, this is a serious matter. Thus, it is directed that the concerned Customs official shall also remain present before the Court on the next date of hearing.

10. List on 24th July, 2025.

**PRATHIBA M. SINGH, J**

**RAJNEESH KUMAR GUPTA, J**

**MAY 21, 2025**
*v/ss*