



प्रधान आयुक्तका कार्यालय, सीमा शुल्क ,अहमदाबाद

" सीमाशुल्कभवन , "पहलीमंजिल ,पुरानेहाईकोर्टकेसामने ,नवरंगपुरा ,अहमदाबाद – 380 009.

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SHOW CAUSE NOTICE

(Issued under Section 124 of the Customs Act, 1962)

Shri Suresh Patidar, S/o Shri Dhula Patidar (herein after referred to as the 'passenger/ Noticee') residing at VPO Paraheda, The Garhi, Banswara, PIN - 327022, Rajasthan, India holding Indian Passport bearing No. X2748445 arrived from Kuwait by Indigo Flight No. 6E 1667 at SVP International Airport, Ahmedabad on 29.02.2024. Based on suspicious movement, a Passenger was suspected to be restricted/ prohibited goods and therefore a thorough search of all the baggage of the passenger as well as his personal search was required to be carried out.

2.1 On the basis of suspicious movement of a passenger, the custom batch officers under Panchnama proceedings dated 29.02.2024 [**RUD No. - 01**] in presence of two independent witnesses intercepted (01) Pax that one passenger namely Shri Suresh Patidar S/o Shri Dhula Patidar at Red Channel who was suspected to be carrying high value dutiable goods and therefore a thorough search of all the baggage of the passenger as well as his personal search was required to be carried out. On being asked about his identity by the officers, the passenger identified himself as Shri Suresh Patidar S/o Shri Dhula Patidar, showing his Passport bearing No. X2748445. The Officer thereafter asked the passenger, Shri Suresh Patidar, whether he was carrying any dutiable goods, to which the passenger denied. Thereafter, the officer once again asked the passenger whether he wanted to declare any item, in reply to which the passenger replied that he has nothing to declare. The officer informed the passenger that he along with other officers wished to verify the contents of the baggage carried by the passenger namely Shri Suresh Patidar. The passenger agreed to get his belongings verified and requested the officers to search/ verify his

baggage. The officers scanned the baggage at Baggage Scanning Machine (BSM) situated at Red Channel and observed that suspicious Images seemed to be in one bag. On being asked about the suspicious image, the passenger bring forth 15 Gold cut bars, rolled in tissue paper from the baggage. The baggage of the passenger was rescanned after removing the above said gold bars and nothing objectionable was found.

2.2 Further, the Batch officers handed over the passenger along with 15 Gold cut bars at the Green Channel to the AIU, SVPI, Ahmedabad for further process in presence of panchas. The AIU Officers informed the passenger that they would be conducting his personal search and detailed examination of his baggage. Thereafter, the AIU Officers offered their personal search to the passenger, but the passenger denied saying that he had full trust in the AIU Officers. Thereafter, the AIU officers asked the passenger whether he wanted to be checked in front of an Executive Magistrate or Superintendent of Customs, in reply to which the passenger gave his consent to be searched in front of the Superintendent of Customs. The AIU officers offered their personal search to the passenger, but he denied saying that he was having full trust in the AIU officers. The AIU officers asked the passenger whether he wanted that his baggage to be checked in front of executive magistrate or Superintendent of Customs, in reply to which the said passenger gave his consent for his baggage may be searched in front of the Superintendent of Customs.

2.3 The AIU officers again asked the passenger whether he had anything else dutiable to declare to the Customs authorities, to which the said passenger denied again. Further, The AIU Officers thoroughly checked all items of the baggage of the passenger. Now, the AIU officer asked the passenger again if he had anything dutiable which was required to be declared to the Customs to which the said passenger once again denied. Thereafter, the AIU officers informed the panchas that they doubt that the said passenger is carrying some high value dutiable goods. The AIU officer asked the passenger to walk through the Door Frame Metal Detector (DFMD) machine; prior to passing through the said DFMD, the passenger was asked to remove all the

metallic objects he was wearing on his body/ clothes. Thereafter, the passengers readily removed the metallic substances from his body such as mobile, wallet etc. and kept it on the tray placed on the table and after that officer asked them to pass through the Door Frame Metal Detector (DFMD) machine and while he passed through the DFMD Machine, no beep sound/ alert was generated.

2.4 Further, in front of the Panchas, the officers asked the passenger about the 15 cut gold bars which were found in his baggage, in reply to which he stated that these gold cut bars belonged to him. Therefore, to ensure the correctness of purity, weight and value of the gold recovered from the possession of Shri Suresh Patidar, the Government approved valuer was called. After some time, one person appeared at the AIU office who introduced himself as Shri Soni Kartikey Vasantrai, Government Approved Valuer. In the presence of the panchas, the Government Approved Valuer showed that he had brought his laptop, weighing scale and testing kit.

2.5 After testing the said recovered gold from Shri Suresh Patidar, he confirmed that the said recovered gold contains 15 Gold cut Bars weighing 1300.00 grams having purity 999.0/ 24Kt.

2.6 The Government Approved Valuer informed that the gold recovered from Shri Suresh Patidar was weighing **1300.00** Grams are of 24 KT (999.0 Purity) is having market value of **Rs.83,59,000/-** (Rupees Eighty-Three Lakhs Fifty-Nine Thousand Only) and Tariff Value of **Rs.69,69,573/-** (Rupees Sixty-nine Lakhs Sixty-Nine Thousand Five Hundred Seventy-Three Only). The Market Value is calculated as per the Notification No. 12/2024-Customs (N.T.) dated 15.02.2024 (gold) and Notification No. 13/2024-Customs (N.T.) dated 15.02.2024 (Exchange Rate).

Name of Passenger	Details of Article/ Items	PCS/ NOS	Net Weight (In Grams)	Purity	Market Value (In Rs.)	Tariff Value (In Rs.)
Shri Suresh Patidar	Gold Cut Bars	15	1300.00	999.0 24KT	83,59,000/-	69,69,573/-

3. The said 15 gold cut bars weighing 1300.00 grams have a purity of 999.0/24kt and market value of Rs.83,59,000/- (Rupees Eighty-Three Lakhs Fifty-Nine Thousand Only) and Tariff Value of Rs.69,69,573/- (Rupees Sixty-nine Lakhs Sixty-Nine Thousand Five Hundred Seventy-Three Only). The said gold recovered from the passenger was attempted to be smuggled inside India with intent to evade payment of Customs duty and was a clear violation of the provisions of the Customs Act, 1962. Thus, having a reasonable belief that the said gold totally weighing 1300.00 Grams was attempted to be smuggled by the passenger, were liable for confiscation under the provisions of the Customs Act, 1962; they were placed under seizure vide Panchnama dated 29.02.2024 drawn by the Officer of Customs (AIU) under a reasonable belief that the subject Gold was attempted to be smuggled into India and was liable for confiscation under Section 111 of the Customs Act, 1962 (Seizure Report dated 29.02.2024 - **RUD No. 03**). Further, the gold, recovered from the passenger, was placed under seizure under Section 110 of the Customs Act, 1962 vide Panchnama dated 29.02.2024 drawn by the Officer of Customs, AIU, at SVPI Airport, Ahmedabad.

The following travelling documents and identity documents of the passenger were recovered and withdrawn for further investigation:

- (i) Copy of Passport No. X2748445 issued at Ahmedabad on 30.01.2024 and valid up to 29.01.2026. (**RUD No. 04**)
- (ii) Boarding pass of Indigo Flight number 6E 1667 having seat no. 12F from Kuwait to Ahmedabad dated 28.02.2024. (**RUD No.05**)
- (iii) Passenger Manifest of Indigo Flight number 6E 1667 from Kuwait to Ahmedabad dated 28.02.2024 depicting name of Shri Suresh Patidar (**RUD -No. 6**)

4. A statement of the passenger was recorded on 29.02.2024 under Section 108 of the Customs Act, 1962 (**RUD NO.-07**), wherein he, inter alia, stated that he arrived from Indigo Flight number 6E 1667 on 29.02.2024 having seat no. 12F, having Passport No. X2748445 at Sardar Vallabhbhai Patel International Airport, Ahmedabad. Furthermore, the passenger accepted that the said 15 Gold Cut Bars having weight 1300.00 Grams hidden/ concealed inside check-in

baggage which was carried by him, and these gold bars belonged to his friends who are living in Kuwait they have purchased that gold in Kuwait and given to him for hand over these cut bars to their relatives for making jewellery living in India. These cut bars were carried by him for free of cost for his friends. Under his statement, the passenger admitted that he was aware that the bringing gold by way of concealment to India is illegal and it is an offence. His intention was to help his friends but not do any illegal activity of carrying of gold of 24 Kt. in commercial quantity in India without declaration. However, the quantity brought was clearly meant for commercial purposes and hence does not constitute bonafide baggage within the meaning of Section 79 of the Customs Act, 1962. Further, the said goods were also not declared before the Customs by the pax. He stated that he was aware that smuggling of gold without payment of Customs duty is an offence. Since he had to clear the gold without payment of Customs duty, he did not make any declarations in this regard. He admitted that he had opted for the Green Channel, so that he could attempt to smuggle the Gold without paying Customs duty. Further, he again confirmed the recovery of gold weighing 1300.00 grams of 999.0/ 24 Kt purity valued at Rs.69,69,573/- (Tariff value) and Rs.83,59,000/- (Market value) from him during the course of Panchnama dated 29.02.2024.

5. Therefore, on the basis of facts narrated above, the said gold weighing 1300.00 grams of 999.0/24 Kt purity valued at Rs.69,69,573/- (Tariff value) and Rs.83,59,000/- (Market value), appeared liable for confiscation, was placed under seizure under Panchnama dated 29.02.2024 as said gold totally weighing 1300.00 grams seized under Panchnama dated 29.02.2024 was "smuggled goods" as defined under Section 2(39) of the Customs Act, 1962. It also appeared that the said pax has conspired to smuggle the said gold into India. The offence committed has been admitted by the said passenger in his statement recorded on 29.02.2024 under Section 108 of the Customs Act, 1962. He has committed an offence punishable under Section 135 (1) (a) & (b) of the Customs Act, 1962.

6. In terms of Board's Circulars No. 28/2015-Customs issued from F. No. 394/68/2013-Cus (AS) dated 23/10/2015 and 27/2015-Cus issued from F. No. 394/68/2013-Cus. (AS) dated 23/10/2015, as revised vide Circular No. 13/2022-Customs, 16-08-2022, the prosecution and the decision to arrest may be considered in cases involving outright smuggling of high value goods such as precious metal, restricted items, or prohibited items where the value of the goods involved is Rs.50,00,000/- (Rupees Fifty Lakhs) or more. Since the market value of gold amounted to Rs.83,59,000/-, total weighing 1300.00 grams recovered from Shri Suresh Patidar is more than Rs.50,00,000/-, hence this case is fit for arrest of the said passenger under Section 104 of the Customs Act, 1962. Hence, the passenger was arrested on 29.02.2024.

7. RELEVANT LEGAL PROVISIONS:

A. THE CUSTOMS ACT, 1962:

I) Section 2 - Definitions.—*In this Act, unless the context otherwise requires,—*

(22) "goods" includes-

- (a) vessels, aircrafts and vehicles;
- (b) stores;
- (c) baggage;
- (d) currency and negotiable instruments; and
- (d) any other kind of movable property;

(3) "baggage" includes unaccompanied baggage but does not include motor vehicles;

(33) "prohibited goods" means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with;

(39) "smuggling", in relation to any goods, means any act or omission which will render such goods liable to confiscation under section 111 or section 113;"

II) Section 11A – Definitions -*In this Chapter, unless the context otherwise requires,*

(a) "illegal import" means the import of any goods in contravention of the provisions of this Act or any other law for the time being in force;"

III) "Section 77 – Declaration by owner of baggage. —*The owner of any baggage shall, for the purpose of clearing it, make a declaration of its contents to the proper officer."*

IV) "Section 110 – Seizure of goods, documents, and things.

—(1) *If the proper officer has reason to believe that any goods are liable to confiscation under this Act, he may seize such goods:"*

V) "Section 111 – Confiscation of improperly imported goods, etc.—The following goods brought from a place outside India shall be liable to confiscation: -

(d) any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;

(f) any dutiable or prohibited goods required to be mentioned under the regulations in an arrival manifest or import manifest or import report which are not so mentioned;

(i) any dutiable or prohibited goods found concealed in any manner in any package either before or after the unloading thereof;

(j) any dutiable or prohibited goods removed or attempted to be removed from a customs area or a warehouse without the permission of the proper officer or contrary to the terms of such permission.

(l) any dutiable or prohibited goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77;

(m) any goods which do not correspond in respect of value or in any other particular with the entry made under this Act or in the case of baggage with the declaration made under section 77 in respect thereof, or in the case of goods under transshipment, with the declaration for transshipment referred to in the proviso to sub-section (1) of section 54;"

VI) "Section 112 – Penalty for improper importation of goods, etc.—Any person,-

(a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under Section 111, or abets the doing or omission of such an act, or

(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harboring, keeping, concealing, selling or purchasing or in any manner dealing with any goods which he knows or has reason to believe are liable to confiscation under Section 111, shall be liable to penalty.

VII) "SECTION 119- Confiscation of goods used for concealing smuggled goods – Any goods used for concealing smuggled goods shall also be liable to confiscation.

Explanation. – In this section, "goods" does not include a conveyance used as a means of transport.

VIII) Section 104 of the Customs Act, 1962- The provisions of Section 104 (6) & (7) of the Customs Act, 1962 is reproduced as under:-

(6) Notwithstanding anything contained in the Code of [(6) Criminal Procedure, 1973, (2 of 1974) an offence punishable under section 135 relating to –

(a) evasion or attempted evasion of duty exceeding fifty lakh rupees; or

(b) prohibited goods notified under section 11 which are also notified under sub-clause (C) of clause (i) of sub-section (1) of section 135; or

(c) import or export of any goods which have not been declared in accordance with the provisions of this Act and the market price of which exceeds one crore rupees; or

(d) fraudulently availing of or attempt to avail of drawback or any exemption from duty provided under this Act, if the amount of drawback or exemption from duty exceeds fifty lakh rupees, shall be non-bailable.

(7) Save as otherwise provided in sub-section (6), all other offences under this Act shall be bailable.]

B. THE FOREIGN TRADE (DEVELOPMENT AND REGULATION) ACT, 1992:

- I. **"Section 3(2)** - The Central Government may also, by Order published in the Official Gazette, make provision for prohibiting, restricting or otherwise regulating, in all cases or in specified classes of cases and subject to such exceptions, if any, as may be made by or under the Order, the import or export of goods or services or technology."
- II. **"Section 3(3)** - All goods to which any Order under sub-section (2) applies shall be deemed to be goods the import or export of which has been prohibited under section 11 of the Customs Act, 1962 (52 of 1962) and all the provisions of that Act shall have effect accordingly."
- III. **"Section 11(1)** - No export or import shall be made by any person except in accordance with the provisions of this Act, the rules and orders made thereunder and the foreign trade policy for the time being in force."

C. THE CUSTOMS BAGGAGE DECLARATIONS REGULATIONS, 2013:

- I. **Regulation 3 (as amended)** - All passengers who come to India and having anything to declare or are carrying dutiable or prohibited goods shall declare their accompanied baggage in the prescribed form.

CONTRAVENTION AND VIOLATION OF LAWS

8. It therefore appears that -
 - a. Shri Suresh Patidar improperly imported the 15 gold cut bars weighing 1300.00 grams have purity 999.0/24kt and market value of Rs.83,59,000/- (Rupees Eighty-Three Lakhs Fifty-Nine Thousand Only) and Tariff Value of Rs.69,69,573/- (Rupees Sixty-nine Lakhs Sixty-Nine Thousand Five Hundred Seventy-Three Only) concealed/

hidden inside the baggage (as discussed herein above), without declaring it to the Customs by denying that he has nothing to declare to Customs with a deliberate intention to evade the payment of Customs duty and fraudulently circumventing the restrictions and prohibitions imposed under the Customs Act, 1962 and other allied Acts, Rules and Regulations. The passenger had knowingly and intentionally imported the said gold improperly without declaring the same to the Customs authority under temptation to evade Customs Duty. Therefore, the gold imported by the passenger which was not declared to the Customs on arrival in India cannot be treated as bonafide household goods or personal effects. Shri Suresh Patidar has thus contravened the Foreign Trade Policy 2015-20 and Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 read with Section 3(2) and 3(3) of the Foreign Trade (Development and Regulation) Act, 1992.

- b. The passenger, by not declaring the contents of his baggage which included dutiable and prohibited goods to the proper officer of the Customs has contravened Section 77 of the Customs Act, 1962 read with Regulation 3 of the Customs Baggage Declaration Regulations, 2013.
- c. The improperly imported 15 gold cut bars hidden/concealed inside the baggage by the passenger without declaring it to the Customs is thus liable for confiscation under Section 111(d), 111(i) and 111(j) read with Section 2 (22), (33), (39) of the Customs Act, 1962 and further read in conjunction with Section 11(3) of the Customs Act, 1962.
- d. The passenger, by his above-described acts of omission and commission on his part, has rendered himself liable to penalty under Section 112 of the Customs Act, 1962.
- e. As per Section 123 of the Customs Act, 1962, the burden of proving that the 15 gold cut bars, weighing 1300.00 grams have purity 999.0/24kt and market value of Rs.83,59,000/- (Rupees Eighty-Three Lakhs Fifty-Nine

Thousand Only) and Tariff Value of Rs.69,69,573/- (Rupees Sixty-nine Lakhs Sixty-Nine Thousand Five Hundred Seventy-Three Only) hidden in the baggage by the passenger without declaring it to the Customs, are not smuggled goods, is upon the passenger and the Noticee, Shri Suresh Patidar.

9. Now, therefore, **Shri Suresh Patidar**, resident of Village Rajpur, Dungarpur, Rajasthan holding Indian Passport bearing No. X2748445, is called upon to show cause in writing to the Additional Commissioner of Customs, Ahmedabad having his office at Custom House, Nr. All India Radio, Income Tax Circle, Navrangpura, Ahmedabad, as to why:

- i. The **15 gold cut bars**, weighing **1300.00** grams having purity 999.0 (24KT) having Market Value at **Rs.83,59,000/-** (Rupees Fifty-Four Lakhs Ninety-Eight Thousand Two Hundred Eighty-Seven only) and tariff value at **Rs.69,69,573/-** (Rupees Forty-Seven Lakhs Seven Thousand Two Hundred and Fifty-Four only) placed under seizure under panchnama dated 29.02.2024 and seizure memo order dated 29.02.2024 should not be confiscated under Section 111(d), 111(f), 111(i), 111(j), 111(l) and 111(m) of the Customs Act, 1962;
- ii. The penalty should not be imposed upon the passenger, under Section 112(a) and 112(b) of the Customs Act, 1962.

10. Shri Suresh Patidar is further required to state specifically in his written reply as to whether he wishes to be heard in person before the case is adjudicated. If no specific mention is made about this in his written submissions, it shall be presumed that he does not wish to be heard in person. He should produce at the time of showing cause, all the evidence upon which he intends to rely in support of his defence.


11. The passenger is further required to note that his reply should reach within **30 (thirty) days** from the receipt of this SCN or within such extended period as may be allowed by the adjudicating authority.

If no cause is shown against the action proposed above, within 30 days from the receipt of this SCN or if he does not appear before the adjudicating authority as and when the case is posted for hearing, the case is liable to be decided ex-parte on the basis of facts and evidence available on record.

12. The relied upon documents for the purpose of this notice are listed in the **Annexure-R** and copies thereof are enclosed with this notice.

13. This Show Cause Notice is issued without prejudice to any other action that may be taken against him, under this Act or any other law for the time being in force, or against any other company, person(s), goods and conveyances whether named in this notice or not.

14. The Department reserves the right to amend, modify or supplement this notice at any time prior to the adjudication of the case.


(Vishal Malani)
Additional Commissioner,
Customs, Ahmedabad

F. No. VIII/10-53/SVPIA/O&A/HQ/2024-25 and
F. No. VIII/10-67/SVPIA/O&A/HQ/2024 25
DIN : 20240671MN0000555D09

Date:18/06/2024

BY SPEED POST

To,
Shri Suresh Patidar,
VPO Paraheda, The Garhi, Banswara,
Rajasthan-327022, India.

Copy to:

- i. The Deputy/Assistant Commissioner of Customs (AIU), T-2 Terminal, Sardar Vallabhbhai Patel International Airport, Ahmedabad-380003.
- ii. The System In charge, Customs HQ, Ahmedabad for uploading on official web-site i.e. <http://www.ahmedabadcustoms.gov.in>.
- iii. Guard File.

ANNEXURE – 'R'**LIST OF DOCUMENTS/ RECORDS RELIED UPON FOR THE PURPOSE OF SHOW CAUSE NOTICE ISSUED TO SHRI SURESH PATIDAR**

S. No.	Nature of document	Remarks
1	Panchnama dated 29.02.2024 drawn at SVPI Airport, Ahmedabad	Copy already provided
2	Valuation Report of Government Approved Valuer Shri Kartikey Vasantrai Soni vide his report dated 29.02.2024	Copy enclosed
3	Seizure memo Order dated 29.02.2024 issued under Section 110(1) of the Customs Act, 1962.	Copy enclosed
4	Copy of Passport No. X2748445 issued on 28.02.2024.	Copy available with the Noticee
5	Copy of Boarding Pass showing Seat No.12F of the passenger in Kuwait 6E 1667 from Kuwait to Ahmedabad dated 29.02.2024.	Copy available with the Noticee
6	Passenger Manifest of Kuwait 6E 1667 from Kuwait to Ahmedabad dated 28.02.2024 depicting name of Shri Suresh Patidar.	Copy enclosed
7	Statement of Shri Suresh Patidar recorded on 29.02.2024.	Copy enclosed