OIO No:118/ADC/SRV/O&A/HQ/2026-27
F. No: VIII/10-23/SVPIA-D/O&A/HQ/2026-27

प्रधान आयुक्त का कार्यालय, सीमा शुल्क, अहमदाबाद
"सीमाशुल्कभवन", पहलीमंजिल, पुरानेहाईकोर्टकेसामने, नवरंगपुरा, अहमदाबाद – 380009.
दूरभाष: (079) 2754 4630, **E-mail:** cus-ahmd-adj@gov.in, फैक्स: (079) 2754 2343

DIN: 20261171MN0000745D73

PREAMBLE

A	फ़ाइलसंख्या/ File No.	:	VIII/10-23/SVPIA-D/O&A/HQ/2026-27
B	कारणबताओनोटिससंख्या–तारीख / Show Cause Notice No. and Date	:	VIII/10-23/SVPIA-D/O&A/HQ/2026-27 dated 25.08.2026
C	मूलआदेशसंख्या/ Order-In-Original No.	:	**118/ADC/SRV/O&A/HQ/2026-27**
D	आदेशतिथि/ Date of Order-In-Original	:	**23.11.2026**
E	जारीकरनेकीतारीख/ Date of Issue	:	**23.11.2026**
F	द्वारापारित/ Passed By	:	**Shree Ram Vishnoi**, Additional Commissioner, Customs, Ahmedabad
G	आयातककानामऔरपता / Name and Address of Importer / Passenger	:	1. **Miss Roshani Sanjaybhai Tandel,** 721, Jolly Street, Kakwadi Danti, Valsad, Gujarat, 396385 2. **Shri Valand Priyankkumar Narendrabhai,** 0, Valand, faliyu, Kakachiya,Mahisagar, Gujarat, 389230 E-mail: valandpriyank790@gmail.com 3. **Shri Valand Hirenkumar Narendrabhai,** 153, muvada faliyu, Kakachiya, Mahisagar, Gujarat, 389230 E-mail: hk1758603@gmail.com
(1)	यह प्रति उन व्यक्तियों के उपयोग के लिए निःशुल्क प्रदान की जाती है जिन्हे यह जारी की गयी है।		

(2)	कोई भी व्यक्ति इस आदेश से स्वयं को असंतुष्ट पाता है तो वह इस आदेश के विरुद्ध अपील इस आदेश की प्राप्ति की तारीख के 60 दिनों के भीतर आयुक्त कार्यालय, सीमा शुल्क अपील)चौथी मंज़िल, हुडको भवन, ईश्वर भुवन मार्ग, नवरंगपुरा, अहमदाबाद में कर सकता है।
(3)	अपील के साथ केवल पांच (5.00) रुपये का न्यायालय शुल्क टिकिट लगा होना चाहिए और इसके साथ होना चाहिए:
(i)	अपील की एक प्रति और;
(ii)	इस प्रति या इस आदेश की कोई प्रति के साथ केवल पांच (5.00) रुपये का न्यायालय शुल्क टिकिट लगा होना चाहिए।
(4)	इस आदेश के विरुद्ध अपील करने इच्छुक व्यक्ति को 7.5 % (अधिकतम 10 करोड़) शुल्क अदा करना होगा जहां शुल्क या ड्यूटी और जुर्माना विवाद में है या जुर्माना जहां इस तरह की दंड विवाद में है और अपील के साथ इस तरह के भुगतान का प्रमाण पेश करने में असफल रहने पर सीमा शुल्क अधिनियम, 1962 की धारा 129 के प्रावधानों का अनुपालन नहीं करने के लिए अपील को खारिज कर दिया जायेगा।

Brief facts of the case:

On the basis of the specific information regarding a passenger who was planning to depart by Air Asia Flight no FD145 from Ahmedabad to Don Mueang on 05.03.2026 and waiting at departure hall of SVPI Airport. The officers of Air Intelligence Unit (AIU), SVPIA, Customs Ahmedabad, therefore intercepted a female passenger named **Miss Roshani Sanjaybhai Tandel** (D.O.B. 27.04.2002) (hereinafter referred to as the said "passenger/Noticee"), residing at 721, Jolly Street, Kakwadi, Danti, Valsad, Gujarat, 396385 (address as per passport), holding an Indian Passport No. Y4185819, who was about to fly to Don Mueang from Ahmedabad (AMD) on 05.03.2026 via Air Asia flight no. FD145, from departure hall of the Terminal-2 of SVPIA, Ahmedabad, without making any declaration to the Customs authority. The proceedings relating to her personal search and examination of her baggage was conducted in presence of two independent witnesses, and the proceedings thereof were recorded under the Panchnama dated 05/06.03.2026**.**

2. The Customs officers including a lady officer introduced themselves to the said passenger by showing their identity cards and enquired whether she was carrying any foreign currency or any restricted, prohibited, or

contraband goods under the provisions of the Customs Act, 1962, to which she replied in the negative. Thereafter, the officers requested the passenger to accompany them to the Customs office situated in the Departure Hall, Ground Floor, Terminal-2 of the airport, and informed her that they intended to conduct her personal search as well as the search of her baggage. The passenger was informed of her right to be searched before a Gazetted Officer or a Magistrate, upon which she opted to be searched before a Gazetted Officer. Prior to conducting the search, the lady officers offered themselves for personal search, which the passenger declined, stating that she had full faith in the officers. The Customs officers further enquired whether the passenger had anything to declare before Customs, to which she again replied in the negative.

2.1 During the search of the baggage belonging to the passenger, Miss Roshani Sanjaybhai Tandel, AIU officers examined 01 pink colour trolley bag. The search resulted in the recovery of 354 US Dollar notes of $100, $50 & $20 denomination each, total amounting to $35,040. The said currency notes were found concealed inside the baggage in four separate bundles. Photos showing the foreign currency notes recovered from the possession of Miss Roshani Sanjaybhai Tandel is as under:-



2.2 Thereafter, the AIU officers asked Miss Roshani Sanjaybhai Tandel to remove all the metallic objects on her body and put them in tray placed over there. Then the passenger was requested to pass through the DFMD Machine installed near the AIU Office. While passing through the DFMD machine no beep sound was heard indicating that nothing objectionable items were concealed on her person.

2.3 Thereafter, the Customs officers further informed the passenger that a detailed search and the preparation of an inventory was required to be conducted inside the AIU Office, situated at the Arrival Hall of Terminal-2, SVPI Airport. Accordingly, the passenger was requested to carry her baggage to the said office in an intact condition.

2.4 On reaching the AIU Office at the Terminal-2 building, the officers, in the presence of the passenger and the independent panchas, started the counting of the recovered foreign currency notes and prepared a detailed inventory of the same. During the counting process, it was verified that 354 USD notes of $100, $50 & $20 denomination, totaling $35,040, had been recovered from the baggage of the said passenger. The AIU Officers informed the passenger Miss Roshani Sanjaybhai Tandel as well as the Panchas that the then value of foreign currency in Indian Rupees applying the Exchange rate as per Notification No. 09/2026 w.e.f. 20.02.2026 issued by the CBIC for 35040 USD was Rs. 31,60,608/- (Rs. Thirty-One Lakh Sixty Thousand Six Hundred Eight Only). The details of the same are as:-

Denomination of Foreign Currency seized from Miss Roshani Sanjaybhai Tandel Panchnama dated 05/06.03.2026 while departing via Air Asia flight no. FD145 on 05.03.2026 from Ahmedabad to Don Mueang holding Indian Passport No. Y4185819.						
Sl. No.	Foreign Currency	Foreign Currency Notes (Denomination)	Number of Notes	Exchange Rate of one unit of foreign currency equivalent to Indian Rupees as per Noti.No. 09.2026-Customs (N.T.) dtd.20.02.2026 (taken as per exported goods)	Value equivalent to Indian Currency (taken as per exported goods)	Recovered from
1	US Dollar	100	348	90.20	31,38,960/	pink colour trolley bag
2		50	4		18,040/	
3		20	2		3,608/	
				Grand Total	**31,60,608/**	

					-	

The Custom officers asked the said passenger whether she has any receipt of purchase of foreign currency to which she said she did not have any receipt of purchase of foreign currency.

2.5. Further, below mentioned documents were withdrawn from the passenger Miss Roshani Sanjaybhai Tandel for further investigation which were as:-: -

I. Boarding pass of FD145 (Seat No. 30E) from Ahmedabad to Don Mueang dated 16.11.2025.

II. Copy of Passport No. Y4185819 issued at Surat on 03.07.2024 valid up to 02.07.2034.

III. Copy of Aadhar Card No. 487362985756 of Miss Roshani Sanjaybhai Tandel.

3. SEIZURE OF FOREIGN CURRENCY: -

3.1 The aforementioned foreign currency recovered from the passenger Miss Roshani Sanjaybhai Tandel amounting to 35040 US Dollars which is equivalent to Indian rupees to Rs. 31,60,608/- was carried by her in concealed manner and without declaring the same before Customs Authorities at SVPI Airport, Ahmedabad while attempting to fly to Don Mueang from SVPI Airport, Ahmedabad by Air Asia flight no. FD145 on 05.03.2026. The passenger admitted in her statement that she had not declared the currency and was carrying the same as per instructions of one Shri Priyank. Therefore, it appeared that the foreign currency was found in violation of provisions of Section 77 of Customs Act, 1962 read with Customs Baggage Rules, 2026 and contrary to the prohibition imposed in terms of Notification No. FEMA-6-(R)/RB-2015 dated 29/12/2015 [Foreign Exchange Management (Export and Import Currency) Regulations, 2015 read with provisions of the FEMA, 1999 and the Customs Act, 1962.

3.2 In view of above, the said foreign currency appeared to be falling under the category of 'prohibited goods' in terms of Section 2(33) of Customs Act, 1962 and the act on the part of the said passenger was covered under the definition of 'smuggling' in terms of Section 2(39) of Customs Act, 1962. From above, it further appeared that the subject foreign currency was rendered liable for confiscation under the provisions of Section 113 (d), 113 (e) and 113 (h) of the Customs Act, 1962. Accordingly, the said foreign currency recovered from the passenger Miss Roshani Sanjaybhai Tandel was placed under seizure vide Seizure Memo/Order dated 06.03.2026 issued under the provisions of Section 110(1) and Section 110(3) of the Customs Act, 1962. The foreign currency recovered from Miss Roshani Sanjaybhai Tandel amounting to **35040 US Dollars** which is equivalent to Indian rupees to **Rs. 31,60,608/- (Rs. Thirty-One lakhs Sixty Thousand Six Hundred Eight only)** was seized under the provisions of Section 110 of the Customs Act, 1962 and seized foreign currency notes were packed in a transparent plastic box and sealed with the lac seal in presence of the Panchas as well as Miss Roshani Sanjaybhai Tandel. The seized currency notes were handed over to the Warehouse In-charge, SVPI Airport, Customs Ahmedabad vide **Ware House Entry No. 7960 dated 06.03.2026**.

STATEMENT OF KEY PERSONS:-

4. STATEMENT OF PASSENGER MISS ROSHANI SANJAYBHAI TANDEL: -

Statement of the passenger Miss Roshani Sanjaybhai Tandel was recorded on 06.03.2026 under Section 108 of the Customs Act, 1962, before the Superintendent of Customs (AIU), SVPI Airport, Ahmedabad, in connection with the attempted smuggling/illegal export of foreign currency through SVPI Airport, Ahmedabad on 06.03.2026 wherein she interalia stated that:-

- she is unemployed and totally dependent on her family.
- the flight ticket was booked by Shri Priyank (Mob No.

9099834437). Miss Roshani Sanjaybhai Tandel stated that Shri Priyank handed over the USD 35040 to her and instructed her to hand over the same amount to Shri Hiren in Bangkok. Further she stated that Mobile number of Shri Hiren i.e., 9904834437. She stated that she will get USD 300 after handing over the currency in Bangkok.

- she had been instructed by Shri Priyank and she was not aware about the seller/supplier and source of payment of the said foreign currency recovered from her baggage. She didn't have any transaction related to this foreign currency.
- she is unaware about the residential address of Shri Priyank and provided the mobile number of Shri Priyank i.e 9099834437.
- she had attempted to illegally export the said foreign currency to Bangkok. Therefore, she had not disclosed and declared the foreign currency before the Customs Authorities as per prescribed law/regulation which was concealed in her pink colour trolley bag to smuggle/ illegally export the same out of India.
- she perused the Panchnama dated 05/06.03.2026 and affixed her dated signature thereon in token of having accepted the contents and proceedings recorded therein. Further she was scheduled to return on 08.03.2026 for which there was no instruction given by Shri Priyank.
- she is holding bank accounts with Bank of Baroda having bank account number 15948100000864.

4.1 A letter received from Shri Shubham Jhajharia dated nil along with enclosure of retraction of statement of Miss Roshani Sanjaybhai Tandel wherein inter alia stated that she requested to take the retraction on record and not to rely upon the statement dated 06.03.2026. Accordingly, a statement dated 15.04.2026 of Miss Roshani Sanjaybhai Tandel was recorded under Section 108 of the Customs Act, 1962, wherein inter alia she perused the panchnama dated 05/06.03.2026 drawn at

Terminal-2 of the said and she agreed with the contents of the said panchnama. She further stated that:

- she had carefully gone through her previous statement dated 06.03.2026 and had affixed her dated signature on the same in token of having read and understood its contents. She stated that she wishes to clarify that the foreign currency amounting to USD 35,040 recovered from her possession has been accumulated by her over a long period through personal saving. She stated that due to the gradual nature of these savings she didn't possesses formal documentary evidence, such as bank statements or other records to substantiate the source of fund.
- that in previous statement dated 06.03.2026 you stated that you had deposed about the source and ownership of the said foreign currency she stated that in the night 0f 05/06.03.2026 she was under considerable stress and anxiety and she became afraid of the consequences of bringing foreign currency without declaring before Customs. She stated that she tried to relegate the charges/offence of smuggling on Shri Priyank.
- Shri Priyank has neither pressurized nor allured her to change her previous statement;

4.2 Whereas, Summon dated 11.05.2026, 02.06.2026, and 13.06.2026 were issued to Ms. Roshani Sanjaybhai Tandel, requiring her to provide details of her earning sources, particulars of any borrowed money, details of the exchange from INR to USD, the bank statements used for the transactions, payment details regarding ticket bookings, and the purpose of acquiring a large amount of foreign currency. However, she neither responded nor appeared to submit the aforementioned details and evidence.

5. Miss Roshani Sanjaybhai Tandel in her statement revealed the mobile number of Shri Priyank (Mobile No. 9099834437) who handed over the said foreign currency. Accordingly, letter dated 04.06.2026 was issued to Nodal Officer, telecom operator Viz., Jio/Reliance retail Limited requesting them to provide Customer Application Form (CAF) alongwith KYC documents for the above-mentioned mobile number. In

response, Nodal officer, Jio/Reliance retail Limited send the copy of KYC details along with copy of Aadhar of Shri Valand Ashsihkumar Mohanbhai to whom the said number was allotted. Accordingly, a summons dated 13.06.2026 was issued to the address mentioned in the KYC details. In response to summons, Shri Valand Priyankkumar Narendrabhai appeared before the Customs officers on 20.06.2026 for recording of the statement. Accordingly, statement of Shri Valand Priyankkumar Narendrabhai was recorded under Section 108 of Customs Act, 1962 on 20.06.2026 wherein he inter alia stated that Mobile number 9099834437 pertain to me. Approximately five years ago, he purchased this SIM card. However, due to the non-availability of his document at that time, he requested his friend, Shri Valand Ashishkumar Mohanbhai to provide his document for the issuance of the SIM card. However, the SIM card has been used and operated exclusively by him since its issuance. He further stated that:-

- he has been acquainted with Shri Nirmalkumar Jayantibhai Tandel and Miss Roshani Sanjaybhai Tandel since 2024. His brother, Shri Hiren was working with Shri Nirmalkumar Jayantibhai Tandel and his brother introduced to Shri Nirmalkumar Jayantibhai Tandel. He stated that Miss Roshani Sanjaybhai Tandel's brother requested him to drop them at SVPI, Airport Ahmedabad when she was travelling to Bangkok on 05.03.2026;
- he has not instructed Shri Nirmalkumar Jayantibhai Tandel & Miss Roshani Sanjaybhai Tandel to travel Bangkok on 05.03.2026. Further, he has not given any amount of foreign currency to Miss Roshani Sanjaybhai Tandel.
- there was no such transaction in his bank account with Shri Nirmalkumar Jayantibhai Tandel or Miss Roshani Sanjaybhai Tandel;

- he was not aware of the reasons why Miss Roshani Sanjaybhai Tandel has dragged his name into calming ownership, either directly or indirectly. He has no objection if the department disposes of the seized foreign currency recovered from Miss Roshani Sanjaybhai Tandel under Panchnama dated 05/06.03.2026;
- he didn't arrange or pay the Air ticket of Miss Roshani Sanjaybhai Tandel for their travelling to Bangkok on 05.03.2026.

- he has travelled to Don Mueang and Bangkok approximately 4 to 5 times in total. He visited Don Mueang and Bangkok to meet his brother Shri Hiren as earlier his brother was working in Don Mueang as a Manager in food related company. His last visit to Don Mueang was around four months ago and his last visit to Bangkok was approximately nine months ago. He inter alia stated that he has not visited any country other than the United Arab Emirates (UAE) and Thailand.

6. Further Statement of Shri Valand Hirenkkumar Narendrabhai was recorded under Section 108 of the Customs Act, 1962 on 26.06.2026, wherein he, inter alia, stated that he was acquainted with Shri Nirmalkumar Jayantibhai Tandel & Miss Roshani Sanjaybhai Tandel since 2022. He was earlier working with Shri Nirmalkumar Jayantibhai Tandel in Arab & India Spices L.L.C. at Ajman, Don Mueang and he was living together in same flat in Don Mueang. He further stated that

- he heard through his brother Shri Priyank that foreign currency case was booked against Miss Roshani Sanjaybhai Tandel on 06.03.2026 at SVPI, Airport Ahmedabad.
- he has neither requested nor directed Shri Nirmalkumar Tandel and Miss Roshani Sanjaybhai Tandel to travel Bangkok on

05.03.2026. He stated that he had never received any foreign currency from Shri Nirmalkumar Jayantibhai Tandel or Miss Roshani Sanjaybhai Tandel. Therefore, there was no such transaction in his bank account with Shri Nirmalkumar Jayantibhai Tandel or Miss Roshani Sanjaybhai Tandel.

- he was not aware of the reason why Miss Roshani Sanjaybhai Tandel has dragged his name into claiming ownership, either directly or indirectly. He inter alia stated that he has no objection if the department disposes of the seized foreign currency recovered from Miss Roshani Sanjaybhai Tandel under Panchnama dated 05/06.03.2026.
- he stated that from 24.02.2026 to 08.03.2026 he was in Bangkok. He inter alia stated that he arranged his travel ticket and other expenses from his savings and he was visiting different countries for tourism only.
- Shri Priyank/ Valand Priyankkumar Narendrabvhai is his brother and his mobile number is 9099834437.He is residing with him at 0, Valand faliyu, Kakachiya, Mahisagar, Gujarat, 389230.
- On being enquired to show the whatsapp chat or any other App conversation held between him and Miss Roshani Sanjaybhai Tandel he stated that he had recently changed his phone because his old phone was damaged and in his new phone there was no chat available with Miss Roshani Sanjaybhai Tandel.

7. RELEVANT LEGAL PROVISIONS:

A. THE CUSTOM ACT, 1962:

As per Section 2(3) — "baggage" includes unaccompanied baggage but does not include motor vehicles.

SECTION 2(22): "goods" includes
(a) vessels, aircrafts and vehicles; (b) stores; (c) baggage; (d) currency and negotiable instruments; and (e) any other kind of movable property;

SECTION 2(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;

SECTION 2(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;

Section 11H(a): *"illegal export" means the export of any goods in contravention of the provisions of this Act or any other law for the time being in force;*

Section 11(3): *As per Section 11(3) of the Customs Act, 1962 any prohibition or restriction or obligation relating to import or export of any goods or class of goods or clearance thereof provided in any other law for the time being in force, or any rule or regulation made or any order or notification issued thereunder, shall be executed under the provisions of that Act only if such prohibition or restriction or obligation is notified under the provisions of this Act, subject to such exceptions, modifications or adaptations as the Central Government deems fit.*

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.

Section 110:- *As per Section 110 of Customs Act, 1962 if the proper officer has reason to believe that any goods are liable to confiscation under this Act, he may seize such goods.*

Section 113: Confiscation of goods attempted to be improperly exported, etc.—

The following export goods shall be liable to confiscation: —
(d) *any goods attempted to be exported or brought within the limits of any Customs area for the purpose of being exported, contrary to any prohibition imposed by or under the Act or any other law for the time being in force;*
(e) *any goods found concealed in a package which is brought within the limits of a Customs area for the purpose of exportation;*

(h) *any 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;*

SECTION 114: *Penalty for attempt to export goods improperly, etc.*
.–Any person 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 113, or abets the doing or omission of such an act, shall be liable,-

(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty [not exceeding three times the value of the goods as declared by the exporter or the value as determined under this Act] whichever is the greater;;

Section 117: *Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding four lakh rupees.*

Section 118. Confiscation of packages and their contents.—
(b) Where any goods are brought in a package within the limits of a customs area for the purpose of exportation and are liable to confiscation, the package and any other goods contained therein shall also be liable to confiscation.

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" do not include a conveyance used as a means of transport.*

Further, in terms of provisions under Section 123 of the Customs Act, 1962, it is the responsibility of the person who is in possession of the said gold / silver or the person claiming ownership of the same, to prove that the same were not smuggled gold. Relevant provisions of Section 123 of the Customs Act, 1962 are as under:

Section 123: Burden of proof in certain cases. –

(1) Where any goods to which this section applies are seized under this act in the reasonable belief that they are smuggled goods, the burden of proving that they are not smuggled goods shall be –

(a) In a case where such seizure is made from the possession of any person, -

(i) on the person from whose possession the goods were seized; and

(ii) if any person, other than the person from whose possession the goods were seized, claims to be the owner thereof, also on such other person.

(b) In any other case, on the person, if any, who claims to be the owner of the goods so seized.

(2) This section shall apply to gold and manufactures thereof, watches, and any other class of goods which the Central Government may by notification in the Official Gazette specify.

B. <u>THE FOREIGN EXCHANGE MANAGEMENT ACT, 1999;</u>

SECTION 2. Definitions. -*In this Act, unless the context otherwise requires, -*

(m) "foreign currency" means any currency other than Indian currency;

<u>Section 3:</u> ***Dealing in foreign exchange, etc****.—Save as otherwise provided in this Act, rules or regulations made thereunder, or with the general or special permission of the Reserve Bank, no person shall—*
(a) deal in or transfer any foreign exchange or foreign security to any person not being an authorized person.

C. *FOREIGN EXCHANGE MANAGEMENT (EXPORT AND IMPORT OF CURRENCY) REGULATIONS, 2015*

(Notification No. FEMA-6(R)/RB-2015 dated 29/12/2015):

REGULATION 5: Prohibition on export and import of foreign currency:
Except as otherwise provided in these regulations, no person shall, without the general or special permission of the Reserve Bank, export or send out of India, or import or bring into India, any foreign currency.

REGULATION 7: *Export of foreign exchange and currency notes: -*

(1) An authorized person may send out of India foreign currency acquired in normal course of business,

(2) Any person may take or send out of India, -

a. *Cheques drawn on foreign currency account maintained in accordance with Foreign Exchange Management (Foreign Currency Accounts by a person resident in India) Regulations, 2000;*

b. *foreign exchange obtained by him by drawl from an authorized person in accordance with the provisions of the Act or the rules or regulations or directions made or issued thereunder ;*

c. *currency in the safes of vessels or aircrafts which has been brought into India or which has been taken on board a vessel or aircraft with the permission of the Reserve Bank;*

(3) Any person may take out of India, -

a. *foreign exchange possessed by him in accordance with the Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulations, 2015;*

b. *unspent foreign exchange brought back by him to India while returning from travel abroad and retained in accordance with the Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulations, 2015;*

(4) Any person resident outside India may take out of India unspent foreign exchange not exceeding the amount brought in by him and declared in accordance with the proviso to clause (b) of Regulation 6, on his arrival in India.

D. FOREIGN TRADE POLICY 2023:

As per Para 2.45- Export of Passenger Baggage

(a) Bona-fide personal baggage may be exported either along with passenger or, if unaccompanied, within one year before or after passenger's departure from India. However, items mentioned as restricted in ITC (HS) shall require an Authorisation. Government of India officials proceeding abroad on official postings shall, however, be permitted to carry along with their personal baggage, food items (free, restricted or prohibited) strictly for their personal consumption. The Provisions of the Para shall be subject to Baggage Rules issued under Customs Act, 1962.

E. THE BAGGAGE RULES, 2026:

Rule 8: Currency— *The import and export of currency under these rules shall be governed in accordance with the provisions of the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015, and the notifications issued thereunder.*

VIOLATIONS & CONTRAVENTION OF VARIOUS PROVISIONS AND ROLE PLAYED BY THE CONCERNED PERSONS

8. From facts and evidence gathered, both oral and documentary, available on record, it appears that the passenger Miss Roshani Sanjaybhai Tandel, had attempted to smuggle out the aforesaid foreign currency clandestinely without making a mandatory declaration before the Customs Authority and thereby rendered the said foreign currency in total of 35040 USD, with a market value equivalent to Rs. 31,60,608/- (Rupees Thirty-One Lakh Sixty Thousand Six Hundred Eight only), liable for confiscation under Section 113 of the Customs Act, 1962 and therefore the same was placed under seizure vide Order dated 06.03.2026 issued under the Provisions of Section 110(1) and (3) of the Customs Act, 1962. Further, from the statement of passenger Miss Roshani Sanjaybhai Tandel, it appears that the export of foreign currency was planned by Shri Valand Priyankkumar Narendrabvhai, who instructed her to hand over the same to Shri Valand Hirenkkumar Narendrabhai in Bangkok.

8.1 From the facts narrated in foregoing paras, it appears that the foreign currency was being carried by the said passenger in concealed manner and without declaring the same before Customs Authorities at SVPI Airport, Ahmedabad while she was attempting to fly to Don Mueang from Ahmedabad by Air Asia Flight No. FD145 dated 05.03.2026. Further, she failed to produce any legitimate document of procurement of the said currency through authorized person. Thus, the aforementioned foreign currency brought by him at SVPI Airport, Ahmedabad while flying to Don Mueang from Ahmedabad by Air Asia Flight No. FD145 dated 05.03.2026 appears to be in contrary to the prohibition imposed in terms of Regulation 5 and Regulation 7 of the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015, issued by the Reserve Bank of India under Notification No. FEMA 6(R)/RB 2015 dated 29.12.2015 read with provisions of the FEMA,1999 violating the provisions of Section 77 of the Customs Act, 1962 read with Rule 8 of the Customs Baggage

Rules, 2026. Therefore, the said foreign currency appears to be falling under the category of 'prohibited goods' in terms of Section 2(33) of Customs Act, 1962 and the act on the part of the said passenger is covered under the definition of 'smuggling' in terms of Section 2(39) of Customs Act, 1962. From above, it appears that the subject foreign currency is liable for confiscation under the provisions of Section 113 (d), 113(e) and 113 (h) of the Customs Act, 1962.

8.2 Miss Roshani Sanjaybhai Tandel had neither voluntarily come forward to declare before the Customs Authority about possession of the said foreign currency, nor had any document evidencing a legitimate procurement of the said foreign currency and it came to light only after by the officers of Air Intelligence Unit (AIU), SVPIA, Customs Ahmedabad intercepted her while she was attempting to fly to Don Mueang. It appears that this act of the passenger establishes her mens-rea beyond any doubt that she tried to smuggle out the said foreign currency out of India in illegal and malafide manner.

8.3 Miss Roshani Sanjaybhai Tandel was fully aware that carrying foreign currency under concealment and that was in substantial amount without any legitimate documents and without declaring it before Customs is an offence under the provisions of the Customs Act, 1962 read with FEMA, 1999 and Foreign Exchange Management Regulations, 2015. Further, she neither filed any Declaration Form for declaring foreign currency to Customs, nor produced any legitimate documents regarding procurement of foreign currency from any authorized currency exchanger. She was fully aware that her act of smuggling the currency out of India without making a truthful declaration rendered the said foreign currency liable for seizure and confiscation under the relevant provisions of the Customs Act, 1962 read with the FEMA Regulation, 2015. From above, it appears that the said passenger act as a carrier and had deliberately not

declared the said foreign currency before the Customs Authorities on her departure from SVPI Airport, Ahmedabad, in order to clear the same clandestinely out of India.

8.4 As per Section 123 of Customs Act 1962, the burden of proving that the said seized foreign currency in total of 35040 USD equivalent to Indian Currency of Rs. 31,60,608/- which was concealed inside her pink colour trolley bag and recovered from Miss Roshani Sanjaybhai Tandel while she was attempting to fly to Don Mueang from Ahmedabad by Air Asia Flight No. FD145 dated 05.03.2026 are not smuggled goods, is upon Miss Roshani Sanjaybhai Tandel, who is the Noticee in this case.

8.5 In view of the above, it appears that the smuggled foreign currency amounting to 35040 (348*100 + 4*50+ 2*20) US Dollars which is equivalent to Indian rupees to Rs. 31,60,608/- (Rs. Thirty one lakhs Sixty Thousand Six Hundred Eight only), by Miss Roshani Sanjaybhai Tandel, found concealed inside her trolley bag, for the purpose of the smuggling/illegal export without declaring it to the Customs, have been thus rendered liable for confiscation under Sections **113(d), 113(e), and 113(h)** of the Customs Act, 1962, read with Regulation 5 and Regulation 7 of the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015 issued by the Reserve Bank of India under Notification No. FEMA 6(R)/RB 2015 dated 29.12.2015, and Rule 8 of the Customs Baggage Rules, 2026. Accordingly, it appears that Miss Roshani Sanjaybhai Tandel, by her acts and omissions, has rendered herself liable for penal action under the provisions of Section 114(i) and 117 of the Customs Act, 1962, for having concerned herself in dealing with smuggled goods i.e Foreign Currency.

8.6 Miss Roshani Sanjaybhai Tandel stated in her statement dated 06.03.2026 that Sh. Priyank/Shri Valand Priyankkumar Narendrabhai handed over the said seized currency with an instruction to deliver the same to Shri Valand Hirenkumar Narendrabhai at Don Mueang, Bangkok and for doing that she would get 300 USD.

8.7 From the evidences gathered, both oral and documentary, available on record, Shri Priyank/ Shri Valand Priyankkumar Narendrabhai, played a central and conscious role in the attempting of smuggling of foreign currency in total of 35040 USD equivalent to Indian Currency of Rs. 31,60,608/-. Shri Priyank Valand is known to Miss Roshani Sanjaybhai Tandel and had lured Miss Roshani Sanjaybhai Tandel with monetary benefits to smuggle out the foreign currency from India in collusion with his brother Shri Hirenkumar valand who was already present in Bangkok at the material time and was ultimately receiver of said foreign currency. Shri Priyank Valand had arranged trips of Miss Roshani Sanjaybhai Tandel and on her direction Miss Roshani Sanjaybhai Tandel Concealed and carried the said foreign currency in her baggage and was attempting to smuggle out without declaration before the Customs authorities with clear intent to circumvent the policy restriction imposed by the DGFT/RBI/Customs Act, 1962. From the call records of Shri Nirmal Jayantibhai Tandel, it appears that Shri Valand Priyankkumar Narendrabhai was in regular touch with Shri Nirmal Jayantibhai Tandel and Miss Roshani Sanjaybhai Tandel. He was directly involved in handing over the said foreign currency to the carrier, Miss Roshani Sanjaybhai Tandel, with full knowledge that the currency was being smuggled out of India.

8.8. Shri Priyank/ Shri Valand Priyankkumar Narendrabhai has failed to discharge his onus in terms of Section 123 of the Customs

Act, 1962. His actions clearly demonstrate conscious involvement in smuggling of foreign currency, in violation of the Foreign Trade Policy 2015 20, the Foreign Trade (Development and Regulation) Act, 1992, the Baggage Rules, 2026, and relevant Customs Notifications. By procuring, distributing, and attempting to illegally export foreign currency, Shri Priyank/ Shri Valand Priyankkumar Narendrabhai rendered the seized foreign currency liable for confiscation under Sections 113(d), 113(e) and 113(h) of the Customs Act, 1962 and himself liable to penal action under Section 114(i) and 117 of the Customs Act, 1962 for abetting improper exportation of smuggled goods.

8.9 The evidences available on record in the form of Panchnama dated 05/06.03.2026, statements of Miss Roshani Sanjaybhai Tandel, Shri Priyank Valand and Shri Hiren Valand recorded under Section 108 of the Customs Act, 1962, and other contemporaneous records, it appears that Shri Hiren Valand is known to Miss Roshani Sanjaybhai Tandel. Further, Shri Nirmal Jayantibhai Tandel and Shri Hiren valand works together in Arab & India Spices LLC at Ajman, Dubai. The role of Shri Hiren Valand is specific, as he was going to receive the said foreign currency from Miss Roshani Sanjaybhai Tandel at Bangkok on the instruction of Shri Priyank Valand. He also acted as the international link and the intended receiver in Bangkok.

8.10 Shri Valand Hirenkumar Narendrabhai has failed to discharge his onus in terms of Section 123 of the Customs Act, 1962. By his deliberate acts and omissions, Shri Valand Hirenkumar Narendrabhai rendered the seized foreign currency liable for confiscation under Sections 113(d), 113(e) and 113(h) of the Customs Act, 1962 and himself liable to penal action under Section 114(i) of the Customs Act, 1962 for abetting improper exportation of smuggled goods. Shri Valand Hirenkumar Narendrabhai is also

liable to Penalty under Section 117 of Customs Act, 1962 for non-compliance and for not providing his Bank Statements during investigation in spite of assuring to provide the same, in his statement recorded under Section 108 of Customs Act, 1962 on 26.06.2026.

9. Accordingly, a Show Cause Notice No. VIII/10-23/SVPIA-D/O&A/HQ/2026-27 dated- 25.08.2026 was issued to **(1). Miss Roshani Sanjaybhai Tandel**, residing at 721, Jolly Street, Kakwadi, Danti, Valsad, Gujarat, 396385, **(2). Shri Valand Priyankkumar Narendrabhai** residing at 0, Valand, faliyu, Kakachiya, Mahisagar, Gujarat, 389230 and **(3) Shri Valand Hirenkumar Narendrabhai**, residing at 153, muvada faliyu, Kakachiya, Mahisagar, Gujarat, 389230, as to why:

i. The aforementioned foreign currency amounting to 35040 (348*100 + 4*50+ 2*20) US Dollars which is equivalent to Indian rupees to Rs. 31,60,608/- (Rs. Thirty-One lakhs Sixty Thousand Six Hundred Eight only), attempted to smuggle out of India by Miss Roshani Sanjaybhai Tandel by way of concealment, contrary to the prohibition imposed in terms of Notification No. FEMA-6-(R)/RB-2015 dated 29/12/2015 [Foreign Exchange Management (Export and Import Currency) Regulations, 2015 read with Customs Act, 1962 and Baggage Rules, 2026 which were seized during Panchnama dated 05/06.03.2026 vide Seizure Memo dated 06.03.2026, should not be confiscated under Section 113(d), 113(e) & 113(h) of the Customs Act, 1962 read with the FEMA Regulations and Rule 8 of the Baggage Rules, 2026;

ii. Penalty under Section 114(i) of the Customs Act, 1962 should not be imposed upon them for the omissions and commissions mentioned hereinabove.

iii. Penalty under Section 117 of the Customs Act, 1962

should not be imposed upon them for the omissions and commissions mentioned hereinabove.

Defense reply and record of personal hearing:

10. Defense Reply of Noticee No. 1 i.e **Miss Roshani Sanjaybhai Tandel** - The noticee vide letter dated 05.10.2026 submitted her written submission wherein she denies the allegations contained in the SCN, except to the extent expressly admitted herein. She submitted that she was travelling to Bangkok on 05.03.2026 with the intention of exploring opportunities for starting a clothes-related business and for purchasing clothes and makeup items for the proposed business. The purpose of travel was therefore connected with her proposed business activity and personal/business requirements. She acknowledges that USD 35040 was recovered from her baggage by the Customs officers. She claimed complete ownership on the seized currency and assert that the seized currency represents legitimate money which she accumulates from her personal savings over a period time. She confirmed that she had no formal documentary records such as bank statement or exchange receipt with her at the time of interception and that does not negate her lawful ownership on the seized currency.

She further submitted that she is young and unemployed and was under considerable stress, anxiety and fear during her statement dated 06.03.2026 and due to such fear and anxiety I was taken name of Shri Priyank and Shri Hiren which was I clarified during the subsequent statement dated 15.04.2026 and further stated that USD 35040 was accumulated by her over a period of time.

She further submitted that the foreign currency is not a notified item under Section 123 of Customs Act, 1962. Section 123 dictates that the burden of proving that goods are not smuggled lies on the person from they are seized only for specific notified items like gold. As foreign currency is not notified under Section 123, the burden of proof does not shift on her. It is well settled principle by various judicial forums including the Hon'ble CESTAT, that in cases involving non-notified goods like foreign currency, the entire burden lies squarely on the

Customs Department to prove with positive, tangible evidence that the currency is of smuggled nature or illicit origin. Mere non-production of purchase documents or exchange receipts by a passenger does not discharge the Department's burden of proof, nor does it automatically render the currency liable for absolute confiscation.

She further submitted that Section 114(i) can be invoked only when there is deliberate intent (mens rea) or active abetment to render goods liable for confiscation under Section 113. The Department has not produced any independent, tangible, or corroborative evidence to prove that she was consciously involved in any smuggling conspiracy or acting on behalf of any syndicate. Her travel to Bangkok was for a bona fide purpose to explore opportunities for a clothing and makeup business. Unintentional carrying of personal savings in foreign currency without proper receipts at the time of interception does not constitute deliberate smuggling or abetment. In the absence of positive evidence establishing guilty mind or active abetment, no penalty under Section 114(i) is legally leviable upon her.

She further submitted that Section 117 is a general residual provision applicable only where no express penalty is provided under the Act. The simultaneous invocation of Section 114(i) and Section 117 for the same set of facts is legally impermissible and redundant. There has been no wilful default on her part to attract a general penalty under Section 117. Therefore, the proposal to impose a penalty under Section 117 deserves to be dropped in full.

She further submitted that there is no allegation or evidence that I had

previously committed any Customs offence. I have never previously been arrested in any smuggling case. The allegations in the Show Cause Notice regarding a planned conspiracy should be examined on the basis of independent evidence. The fact that She did not possess formal records concerning the gradual accumulation of my personal savings does not establish that the money represented proceeds of smuggling. She has fully cooperated with the Customs

investigation. Without prejudice to the above, she requested to consider her age, absence of previous Customs offences, purpose of travel, and the entire evidence on record. She prayed for absolute and immediate release of her legitimate seized

currency of USD 35,040, Acknowledge that foreign currency is not covered under Section 123 of the Customs Act, and the Department has failed to prove the illicit origin of my personal savings, drop the proposed penalty under Sections 114(i) and 117 of the Customs Act, 1962 against her and also request for personal hearing before deciding the matter.

10.1 Defense Reply of Noticee No. 2 i.e **Shri Priyankkumar Narendrabhai Valand**:- The noticee vide letter dated 05.10.2026 submitted his written submission wherein he denies the allegations, averments, inferences and proposals contained in the SCN, except to the extent expressly admitted herein. He denied the allegation as false, baseless and unsupported by cogent or independent evidences. He submitted that he has no connection or involvement in alleged attempt to export USD 35040. His limited role was only to drop Ms. Roshni Sanjaybhai Tandel and Shri Nirmalkumar at SVPIA at their request. He neither instructed them to travel to Bangkok nor handed over or arranged any foreign currency. There is no independent or corroborative evidence connecting him with the seized currency. No foreign currency, incriminating documents or other objectionable material was recovered from his person, residence or possession. He further contended that there is no bank transaction or financial dealing between him and Shri Nirmalkumar or Ms. Roshni relating to procurement, financing or transfer of the seized currency. The allegation against him is based upon the initial statement of Ms. Roshni, however in her subsequent statement dated 15.04.2026 she stated that she had made allegation against him due to stress, anxiety and fear of consequences. She further cleared that he had neither pressurized nor allured her to change her statement. The said statement is a material piece of evidence and deserves due consideration. In his statement dated 20.06.2026, he categorically denied of handing over the foreign currency or instructed them

to travel to Bangkok and also denied of arranging or paying for their air ticket. He further submitted that the Mobile number 9099834437 which was used by him does not by itself establishes his involvement in the alleged attempt of export of foreign currency, likewise mere acquaintances or communication with the concerned persons cannot establish conscious participation or abetment. He specifically mentioned that he had no knowledge regarding the seized currency and had no ownership, possession, title or financial interest therein. He further alleged that in the present matter there is no material/evidences establishing his involvement or abetment in any such act and penalty under Section 114(i) applies where a person does or omits to do an act which renders the goods liable to confiscation or abets such act . Merely presence at Airport, acquaintances with the persons concerned or dropping them at Airport cannot, in absence of evidences of conscious knowledge and intentional participation in improper export. Also, penalty under Section 117 is not sustainable merely on the basis of suspicion, conjecture or uncorroborated allegation. No specific contravention attributable to him has been established. He again confirmed and submitted that he has no claim, ownership or interest whatsoever in the seized currency and has no objection to Department dealing with seized currency in accordance with law. He prayed to drop the proceeding initiated against him, to drop the penalties proposed against him in Section 114(i) and Section 117 of Customs Act, 1962 and to exonerated him from all allegations made against him. He further prayed to consider his statement and documents while adjudicating the Show Cause Notice and request for personal hearing in the matter.

10.2 Defense Reply of Noticee No. 2 i.e **Shri Hirenkumar Narendrabhai Valand**:- The noticee vide letter dated 05.10.2026 submitted his written submission wherein he denies the allegations, averments, inferences and proposals contained in the SCN, except to the extent expressly admitted herein. He submitted that the allegations are based on assumptions and are not supported by any direct evidence establishing his involvement in the alleged attempt of export of foreign currency. He denied the allegation of intended receiver of foreign currency at Bangkok. He never requested or

directed Shri Nirmalkumar Tandel and Ms. Roshni Sanjaybhai Tandel to travel to Bangkok on 05.03.2026 and had never received or agreed to receive any foreign currency from them and same was stated in his statement recorded on 26.06.2026. The fact of acquaintances with Ms. Roshni and Shri Nirmalkumar or had earlier worked with Shri Nirmalkumar does not establish any involvement in the alleged transaction. Mere acquaintance or previous employment relationship cannot, by itself, establish knowledge, possession, ownership or abetment in export of foreign currency. The allegation of "international link" or "intended receiver" at Bangkok is not supported by any independent documentary evidence. No foreign currency was recovered from his possession, nor he claimed any ownership on seized foreign currency. He confirmed that he was in Bangkok from 24.02.2026 to 08.03.2026 and his travel and other expenses were borne by him from his personal savings and the purpose of his travel was tourism. Mere his presence at Bangkok during the relevant period by itself, cannot establish that he was present there to receive the seized currency. He denied the allegation of deliberately acted or omitted to act so as to render the foreign currency liable for confiscation. There is no material showing that he procured, possessed, handled, financed, instructed or attempted to export the seized currency. The allegation of abetment under Section 114(i) is therefore denied. His statement itself clearly recorded that he never received any foreign currency from Ms. Roshani or Shri Nirmalkumar and there was no corresponding transaction in his bank account with them. He also denied the allegation under Section 117 of Customs Act, 1962. He appeared before Customs Authority and tendered his statement under section 108 of Customs Act, 1962. The mere allegation regarding non production of bank statement, without establishing any deliberate or wilful contravention attributable to him cannot, itself establish the alleged role in the attempted export of foreign currency. He reserves his right to produce the relevant bank statement /documentary material, if required. He has no objection to the Department dealing with seized foreign currency in accordance with law, as he never claimed any right, title, ownership or possession over the said currency. He prayed to drop the allegations against him, to drop the penalty

under Section 114(i) and Section 117 of Customs Act, 1962, to consider his statement dated 26.06.2026 and to provide an opportunity of personal hearing.

11. To follow the principal of natural justice, personal hearing in the matter were fixed on 13.10.2026 & 26.10.2026. The letters for personal hearings were issued to all three noticees at their recorded address, as well as copies were also emailed to the provided email ID of the noticees. In response to the personal hearing scheduled on 13.10.2026, the authorized representative requested for adjournment. Thereafter, Shri Shubham Jhajharia, Advocate and Authorized Representative, on behalf all three noticees appeared for personal hearing on 26.10.2026 through video conferencing. He re-iterates the written submissions all dated 05.10.2026 in respect of all noticees. He admitted and did not dispute the fact of the seizure of currency from the possession of Shri Nirmalkumar Tandel and Miss Roshani Tandel. He further submitted that the seized currency belonged to his clients, Shri Nirmalkumar Tandel and Miss Roshani Tandel, who had accumulated and saved the amount for their personal use. He clarified that his other two clients, Shri Priyankkumar Valand and Shri Hirenkumar Valand, had no connection whatsoever with the said currency, He further submitted that currency does not fall under the category of prohibited goods, therefore, requested to release the same upon payment of a reasonable redemption fine and a minimum penalty.

Regarding the allegations levelled against Shri Priyankkumar Valand and Shri Hirenkumar Valand, the Authorised Representative stated that apart from the statements recorded, there is no independent or corroborative evidence on record to establish any link between his clients and the seized currency. On being specifically queried as to why Shri Nirmalkumar Tandel and Miss Roshani Tandel had implicated his other clients in their respective statements, or whether any prior personal rivalry existed between them, he stated that the statements of Shri Nirmalkumar Tandel and Miss Roshani Tandel was recorded under pressure/coercion to wrongly implicate his other clients and the said statements were

immediately retracted, he has further submitted that the officers has wrongly implicated his other two clients for reasons best known to them in the statements when they have failed to collect any material evidence showing any direct or indirect connection with the seized currency, he further added that, the department has failed to show any monetary transaction between Shri Nirmalkumar Tandel, Miss Roshani Tandel and his two other clients, and whereas Nirmalkumar Tandel and Miss Roshani Tandel has claimed the ownership of the currency.

Discussion and Findings:

12. I have carefully gone through the case records, the Show Cause Notice, the documents relied upon therein, the statements of the noticees and written submissions as well as submission made during the personal hearing. Further, sufficient opportunities of being heard were provided to all the noticees in accordance with the principles of natural justice.

13. The sole issue for consideration in the present proceedings is whether the foreign currency comprising 35040 USD (348*100 + 4*50+ 2*20), equivalent to Rs. 31,60,608 seized under Section 110 of the Customs Act, 1962, vide Panchnama dated 05/06.03.2026, is liable for confiscation under the Customs Act, 1962, for being attempted to be exported out of India in contravention of Notification No. FEMA 6 (R)/RB-2015 and the Baggage Rules, 2026 or otherwise and further, whether the noticees, Shri Roshani Sanjaybhai Tandel, Shri Priyankkumar Narendrabhai Valand and Shri Hirenkumar Narendrabhai Valand, are liable for personal penalties under Section 114 and Section 117 of the Customs Act, 1962 or otherwise.

14. Before discussing the merits of the allegations levelled in the impugned Show Cause Notice (SCN), it is imperative to address the preliminary contention raised by Miss Roshani Sanjaybhai Tandel in her written submission dated 05.10.2026, as well as by her authorized representative during the Personal Hearing held on 26.10.2026. In her

submissions, she asserted that her initial statement dated 06.03.2026 was incorrect and that, out of fear and anxiety, she had falsely implicated Shri Priyank Valand and Shri Hiren Valand by claiming that the seized currency was handed over to her by Shri Priyank. She contended that she subsequently filed a retraction dated 28.03.2026 and clarified the position during her further statement dated 15.04.2026, wherein she claimed to be the legitimate owner of the seized currency, asserting that it had been accumulated by her gradually over a period of time.

In this regard, I find from the case records that Miss Roshani Sanjaybhai Tandel had explicitly affirmed in her statement dated 06.03.2026 that the said statement was tendered voluntarily, as per her own narration, and without any inducement, threat, coercion, or improper means. In that statement, she categorically admitted that the foreign currency was handed over to her by Shri Priyank Valand for onward delivery to Shri Hiren Valand in Bangkok who was already present there during the relevant period and that she was promised a remuneration of USD 300 for carrying the same. However, subsequently, vide letter dated 28.03.2026, she sought to retract her statement, alleging that she was under considerable stress and anxiety and, fearing legal consequences, had attempted to shift the culpability of smuggling onto Shri Priyank.

Further, in her subsequent statement dated 15.04.2026, she reaffirmed the correctness of the contents of the Panchnama dated 05/06.03.2026, acknowledging that she was present throughout the entire proceedings and had affixed her signature after verifying its accuracy. Moreover, although she claimed ownership of the seized currency in her statement dated 15.04.2026 by asserting that it was accumulated gradually through personal savings, she simultaneously failed to produce any legitimate documentary evidence to substantiate the lawful acquisition or source of the funds.

I further note that the Noticee, through her authorized representative, submitted two parallel letters including the retraction letter dated

28.03.2026 whose contents are irreconcilably self-contradictory. In the first letter (Waiver Request), the Noticee explicitly declares that the officers of the department had patiently explained the relevant provisions of the Customs Act, 1962, to her, and that after fully comprehending the legal mechanics, she was voluntarily requesting a complete waiver of the Show Cause Notice. She further recorded her unconditional willingness to pay the applicable assessed duties and penalties to facilitate the release of the currency. Conversely, in the second letter regarding retraction, the Noticee adopts an entirely conflicting defense, asserting that she is undereducated, entirely unable to read, write, or comprehend the English language, and belongs to an impoverished socio-economic background. He goes on to claim that the hidden USD 35040 constituted her personal savings which she was transporting to Bangkok to purchase goods for commencing her business in India, and that his Section 108 statement was extracted through institutional fear, mental pressure, and raw coercion without being translated into a known language.

The Noticee cannot be permitted to blow hot and cold at the same moment. She cannot validly argue in one breath that she fully understood the intricate statutory provisions of the Customs Act, 1962, to request waiver of SCN, and simultaneously contend in a parallel letter that she was an illiterate victim who signed highly technical documents under blind fear without understanding their implications. These profound contradictions render both documents legally unconvincing and completely unsafe to rely upon.

It is a settled principle of law that the retraction of a statement recorded under Section 108 of the Customs Act, 1962 must be backed by cogent and credible evidence establishing that it was obtained under threat, duress, or inducement and was incorrect. A statement recorded under Section 108 is presumed to be voluntary unless compelling evidence to the contrary is brought on record, as a deponent is under no legal obligation to sign a recorded statement if it is being obtained through coercion. Notably, the retraction was filed belatedly after a lapse of 22 days (on 28.03.2026), which further erodes its credibility as an afterthought. Moreover, during the

recording of her statement dated 06.03.2026, she furnished intricate personal particulars including family details, travel history, bank account details, and employment status that could only have emanated from her exclusive personal knowledge and could not have been invented by the recording officer, thereby reinforcing the voluntary and authentic nature of the statement.

The detailed, sequential admissions made by the noticee are fully supported by the contemporaneous Panchnama, which records the actual physical recovery of the undeclared foreign currency in the presence of independent witnesses. Even post-retraction, she has completely failed to produce any evidence regarding the legitimate procurement or source of the seized USD 35,040, resting her claim solely on an unsubstantiated assertion of gradual personal savings. It is well-settled in Customs jurisprudence that a subsequent, unsubstantiated retraction does not diminish the evidentiary value of a voluntary Section 108 statement when it is duly corroborated by independent physical recoveries.In support of my view, I relied on the following judgements:

(i) Hon'ble Supreme Court in case of Surjeet Singh Chhabra Vs. U.O.I [reported in 1997 (89) E.L.T 646 (S.C)] held that ***evidence- confession statement made before Customs officer, though retracted within six days, in admission and binding, since Customs Officers are not police officers under Section 108 of the Customs Act and FERA***.

(ii) Assistant Collector of Central Excise, Rajamundry Vs. Duncan Agro India Ltd reported in 2000 (120) E.L.T 280 (SC) wherein it was held that ***"Statement recorded by a Customs Officer under Section 108 is a valid evidence"***.

(iii) In 1996 (83) E.L.T 258 (SC) in case of Shri Naresh J Sukhwani V. Union of India wherein it was held that ***"It must be remembered that the statement before the Customs official is not a statement recorded under Section 161 of the Criminal Procedure Code 1973. Therefore, it is material piece of evidence collected by Customs Official under Section 108 of the Customs Act,1962"***

(iv) Hon'ble High Court of Mumbai in FERA Appeal No. 44 of 2007 in case of Kantilal M Jhala Vs. Union of India, held that ***"Confessional Statement corroborated by the Seized documents admissible even if retracted."***

(v) In the case of Rajesh Kumar Vs CESTAT reported at 2016 (333) ELT 256 (Del), the Hon'ble High Court of Delhi has observed as under:

> ***Learned counsel for the appellant strenuously argued that a substantial question of law regarding the admissibility of the confessions allegedly made by the Sh. Kishori Lal and Sh. Rajesh Kumar arises for our consideration. We regret our inability to accept that submission. The statements made before the Customs Officers constitute a piece of evidence available to the adjudicating authority for passing an appropriate order of confiscation and for levy of penalty. Any such confessional statement even if retracted or diluted by any subsequent statement had to be appreciated in the light of other circumstances and evidence available to the adjudicating authority while arriving at a conclusion whether the goods had been cleared without payment of duty, misdeclared or undervalued.***

(vi) The Hon'ble Apex Court in the case of Badaku Joti Svant Vs. State of Mysore reported at 1978 (2) ELT J 323(SC) held as "ln this view of the matter the statement made by the appellant to the Deputy Superintendent of Customs and Excise would not be hit by Section 25 of the Evidence Act and would be admissible in evidence unless the appellant can take advantage of Section 24 of the Evidence Act. As to that it was urged on behalf of the appellant in the High Court that the confessional statement was obtained by threats. This was not accepted by the High Court and therefore, Section 24 of the Evidence Act has no application in the present case. it is not disputed that if this statement is admissible, the conviction of the appellant is correct. As we have held that a Central Excise Officer is not a Police officer within the meaning of those words in Section 25 of the Evidence Act, the appellant's statement is admissible. It is not ruled out by anything in Section 24 of the Evidence Act and so the appellant's conviction is correct and the appeal must be dismissed."

(vii) In the case of **K. P. Abdul Majeed reported at 2017 (51) STR 507 (Ker)**, the Hon'ble High Court of Kerala has observed as under:

Having regard to the legal implications evolved from the aforesaid factual situation, it is clear that confession statement of co-accused can be treated as evidence, provided sufficient materials are available to corroborate such evidence. ***As far as retraction statement is concerned, it is for the person who claims that retraction has been made genuinely to prove that the statements were obtained under force, duress, coercion, etc., otherwise, the materials indicate that statements were given voluntarily.*** *When the statute permits such statements to be the basis of finding of guilt even as far as co-accused is concerned, there is no reason to depart from the said view.*

(viii) The Hon'ble Supreme Court in the case of K.T.M.S. Mohd. v. Union of India - (1992) 3 SCC 178 held as under:

"34. We think it is not necessary to recapitulate and recite all the decisions on this legal aspect. But suffice to say that the core of all the decisions of this Court is to the effect that the voluntary nature of any statement made either before the Custom Authorities or the officers of Enforcement under the relevant provisions of the respective Acts is a sine qua non to act on it for any purpose and if the statement appears to have been obtained by any inducement, threat, coercion or by any improper means that statement must be rejected brevi manu. ***At the same time, it is to be noted that merely because a statement is retracted, it cannot be recorded as involuntary or unlawfully obtained****.* ***It is only for the maker of the statement who alleges inducement, threat, promise etc. to establish that such improper means has been adopted****. However, even if the maker of the statement fails to establish his allegations of inducement, threat etc. against the officer who recorded the statement, the authority while acting on the inculpatory statement of the maker is not completely relieved of his obligations in at least subjectively applying its mind to the subsequent retraction to hold that the inculpatory statement was not extorted. It thus boils down that the authority or any Court intending to act upon the inculpatory statement as a voluntary one should apply its mind to the retraction and reject the same in writing. It is only on this principle of law, this Court in several decisions has ruled that even in passing a detention order on the basis of an inculpatory statement of a detenu who has violated the provisions of the FERA or the Customs Act etc. the detaining authority should consider the subsequent retraction and record its opinion before accepting the inculpatory statement lest the order will be vitiated..."*

(emphasis supplied)

(ix) Further, burden is on the accused to prove that the statement was obtained by threat, duress or promise like any other person as was held in **Bhagwan Singh v. State of Punjab - AIR 1952 SC 214, Para 30**.

15. I find that the legal provisions for Importation and exportation of foreign currency are very clear and does not leave any scope for any ambiguity. If the whole set of incidents is examined, first it is seen that the noticee Miss Roshani Tandel was about to fly to Don Mueang (Bangkok) from Ahmedabad (AMD) on 05.03.2026 via Air Asia Flight No. FD-145, from the departure hall of the Terminal-2 of SVPIA, Ahmedabad, without making any declaration to the Customs authority. The noticee Miss Roshani Tandel was intercepted by the Customs officials in presence of two independent panchas while she was in waiting area and was about to fly. Thus, being an international passenger, the noticee was bound by the Baggage Rules, 2026 framed under the Customs Act, 1962. There cannot be any denial for the applicability of Baggage Rules, 2026 in respect of the passenger. Rule 8 of the Baggage Rules, 2026 Stipulates as under: -

Rule 8. Currency. *-*

The import and export of currency under these rules shall be governed in accordance with the provisions of the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015, and the notifications issued thereunder.

I find that Rule 8 of the Baggage Rules, 2026 is about import and export of currency and it lays down that the import or export of currency is governed by the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015 and notifications issued there under. Thus, I find that there cannot be any denial in respect of the fact that regulations and notifications framed under the said Foreign Exchange Management (Export and Import of Currency) Regulations, 2015 were applicable to the noticee as she was primarily bound to follow Baggage Rules, 2026 as amended.

15.1. Regulation 5 and 7 of the Foreign Exchange Management (Export and Import of Currency) Regulation, 2015 states that no foreign currency can be sent out of Indian and brought into India without permission of RBI. The relevant provisions read as follow: -

Regulation 5. Prohibition on export and import of foreign currency: -
Except as otherwise provided in these regulations, no person shall, without the general or special permission of the Reserve Bank, export or send out of India, or import or bring into India, any foreign currency.

Regulation 7: Export of foreign exchange and currency notes:

(1) An authorised person may send out of India foreign currency acquired in normal course of business,

(2)Any person may take or send out of India, -

a. Cheques drawn on foreign currency account maintained in accordance with Foreign Exchange Management (Foreign Currency Accounts by a person resident in India) Regulations, 2000;

b. foreign exchange obtained by him by drawal from an authorised person in accordance with the provisions of the Act or the rules or regulations or directions made or issued thereunder;

c. currency in the safes of vessels or aircrafts which has been brought into India or which has been taken on board a vessel or aircraft with the permission of the Reserve Bank;

(3) Any person may take out of India, -
a. foreign exchange possessed by him in accordance with the Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulations, 2015;

b. unspent foreign exchange brought back by him to India while returning from travel abroad and retained in accordance with the Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulations, 2015;

(4) Any person resident outside India may take out of India unspent foreign exchange not exceeding the amount brought in by him and declared in accordance with the proviso to clause (b) of Regulation 6, on his arrival in India.

Thus, on a cumulative reading of the above referred regulations it is clear that there is a stringent condition is imposed under the Regulations with regard to export or import of foreign currency and in terms of Regulation 5, a prohibition of export and import of foreign currency except as provided under the regulations. It is observed that the noticee did not make the statutory declaration before Customs authorities since the Forex (35040 USD (348*100 + 4*50+ 2*20)) carried by Miss Roshani Tandel was

much higher than the prescribed limit under the FEMA 1999 as amended read with the Foreign Exchange Management (Export and Import of Currency) Regulation, 2015 and the provisions of Customs Act, 1962. Regulation 5 of the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015, clearly stipulates that in the absence of general or specific permission from the RBI, such currency acquires the nature of **prohibited goods**. Therefore, the noticee as a matter of right is not entitled to import or export in manner as she wishes without complying with the provisions of the regulations.

16. I note that Regulation 5, read with Regulation 7 of the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015, explicitly **"prohibits"** the **export and import of any foreign currency** without the general or special permission of the Reserve Bank of India (RBI). In the present case, the noticee, Miss Roshani Tandel, has failed to produce any documentary evidence from an authorized authority to establish that she was granted special/general permission by the RBI to export the foreign currency recovered from his possession. Miss Roshani Tandel failed to declare the foreign currency in the prescribed format or file the statutory declaration required to prove that the funds were being carried legally. Furthermore, as admitted in her voluntary statement, the noticee deliberately concealed the said foreign currency inside her trolley bag to evade detection by the Customs officers. These acts of omission and commission constitute a clear violation of Rule 8 of the Baggage Rules, 2026 read with Regulations 5 and 7 of the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015. In fact, the authorized representative of the noticee during the personal hearing explicitly admitted the fact of physical carriage of the foreign currency by Miss Roshani Tandel and did not dispute this finding.

I find that Regulation 5 of the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015, imposes a blanket statutory prohibition on the export of foreign currency out of India, subject only to strict, conditional exceptions. Any attempt to export

currency in commercial volumes without authorization violates these statutory conditions and contravenes the law. Secondly, the jurisdictional bridge between the external regulations and Customs authority is securely anchored within the Customs Act, 1962, itself. Section 2(33) of the Act defines "prohibited goods" as any goods whose import or export is restricted or prohibited under the Act or *"any other law for the time being in force"*. Further, Rule 8 of the Baggage Rules, 2026, explicitly mandates that the import and export of currency under these rules shall be governed in accordance with the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015, and the notifications issued thereunder.

Therefore, an unauthorized export in contrary to prohibition imposed under FEMA, 1999 and by RBI automatically satisfies the definition of "**prohibited goods**" under the Customs Act. This makes the currency fully liable to confiscation under Section 113(d) (bringing goods within limits of Customs and contrary to any Prohibition), Section 113(e) (concealment) and Section 113(h) (unreported baggage excess), fully triggering the penal consequences of Section 114 of Customs Act, 1962.

17. Further, the Authorized Representative during the personal hearing mentioned that the seized currency did not fall under the Category of "Contraband /Prohibited Goods". In this regard, I find that Section 2(22) of Customs Act, 1962 defines the term "goods" and include at Section 2(22)(d) of the Customs Act, 1962 the *"currency and negotiable instruments"*. In terms of Section 2(33) of the Customs Act, 1962 *"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. I note that Regulation 5, read with Regulation 7 of the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015, explicitly **"prohibits"** the **export and import of any foreign currency** without the general or special

permission of the Reserve Bank of India (RBI). From the records on file, it is crystal clear that Shri Nirmalkumar Tandel has not any general or specific permission with him for the seized currency, which clearly makes the seized currency as "Prohibited Goods". The effect of interpretation of the words prohibited goods considered in Om Prakash Bhatia Vs. Commissioner of Customs, New Delhi (2003(6) SSC 161) and in the said judgment the supreme court held as follows:-

> *"From the aforesaid definition, it can be stated that (a) if there is any prohibition on import or export of the goods under the Act or any other law for the time being in force, it would be considered to be prohibited goods; and (b) this would not include any such goods in respect of which the conditions, subject to which the goods are imported or exported, have been complied with. This would means that if the conditions prescribed for import or export of goods in not complied with, it would be considered to be prohibited goods"*

Further, in case of Malabar Diamond Gallery P. Ltd. Vs ADG, DRI, Chennai [2016(341) ELT65(Mad.)], the Hon'ble Madras High Court (i.e the Hon'ble jurisdictional High Court) has summarized the position on the issue, specifically in respect of gold, as under:

"64. Dictum of the Hon'ble Supreme Court and High Courts makes it clear that gold, may not be one of the enumerated goods, as prohibited goods, still, if the conditions for such import are not complied with, then import of gold, would squarely fall under the definition "prohibited goods", in Section 2 (33) of the Customs Act, 1962----."

Moreover, the Hon'ble High Court of Delhi in its order dated 23.11.2023 in Writ Petition No. 8976 of 2020 in the matter of Kiran Juneja Vs. Union of India & Ors. has held that *"A fortiori and in terms of the plain language and intent of Section 2(33), an import which is affected in violation of a restrictive or regulatory condition would also fall within the net of "prohibited goods".*

Relying on the proportion of the judgments and regulations stated above, I find that the seized currency brought in customs area for export

out from India by the noticee Miss Roshani Tandel is **"prohibited goods"** under the definition of Section 2(33) of the Customs Act, 1962 and same is liable for confiscation in terms of Section 113 of Customs Act, 1962. Therefore, I rejected the contention of noticee as the same merits no credence.

18. Miss Roshani Sanjaybhai Tandel, through her written submission dated 05.10.2026, claimed that the seized foreign currency belonged to her and had been accumulated gradually over a period of time, contending that the mere absence of formal documentary evidence—such as bank statements or foreign exchange receipts—at the time of interception does not negate her lawful ownership of the seized currency. She further submitted in her reply that she was carrying the said currency to Bangkok for commencing a business in garments and cosmetics. Furthermore, during the Personal Hearing held on 26.10.2026, her authorized representative contended that the currency belonged exclusively to the Noticee, who had accumulated and saved the amount for her personal and business use.

Firstly, this subsequent claim of ownership is completely demolished by the Noticee's own voluntary statement tendered under Section 108 of the Customs Act, 1962 on 06.03.2026, wherein she categorically admitted that she was carrying the currency without any legitimate documents entirely on the instructions of Shri Priyankkumar Valand, who had handed over the currency to her and booked her flight ticket. I find that in her voluntary statement; she explicitly confirmed that the said currency did not belong to her and had been handed over to her solely for the purpose of smuggling it out of India in exchange for a promised remuneration of USD 300. It was only in her subsequent statement dated 15.04.2026 that she abruptly claimed ownership of the seized currency by stating that she had accumulated it gradually over a period of time, while simultaneously admitting that she possessed no formal documentary evidence to substantiate the source of the funds.

Therefore, the shifting stances in the Noticee's submissions and her belated claim of ownership are nothing more than a clear afterthought, entirely unsupported by any documentary proof.

Secondly, the Noticee's defense severely lacks credibility, as she has failed to produce a single piece of documentary evidence—such as proof of a legitimate source of income, authorized foreign exchange receipts, or relevant banking transactions—to substantiate how an admitted unemployed youth could accumulate such a massive commercial volume of foreign currency worth Rs. 31,60,608/-. Moreover, in ordinary course, a resident of India accumulates and saves money in Indian Rupees and not in US Dollar currency notes. The Noticee's assertion that she gradually accumulated USD 35,040 in physical cash over time is wholly implausible on the face of it, given that foreign currency notes are not in general domestic circulation in the Indian economy and cannot be lawfully acquired or stockpiled in cash without routing through an Authorized Person.

Furthermore, even if her version of gradually acquiring and saving the foreign currency notes were to be accepted for the sake of argument, it would constitute a blatant, independent violation of Regulation 3 of the Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulations, 2015, which strictly prohibits resident Indians from retaining foreign currency notes exceeding an aggregate cap of USD 2,000. Additionally, Regulation 7 of the Foreign Exchange Management (Realization, Repatriation and Surrender of Foreign Exchange) Regulations, 2015, issued vide Notification No. FEMA 9(R)/2015-RB dated 29.12.2015, unequivocally mandates that every resident individual in India must surrender to an authorized person any foreign exchange received, realized, unspent, or unused whether in the form of currency notes, coins, or travelers' cheques within a period of 180 days from the date of its receipt, realization, purchase, acquisition, or from the date of return to India, as the case may be. Consequently, the Noticee could not

have lawfully accumulated or retained USD 35,040 in physical cash over an extended period without RBI permission, and any attempt to carry such unlawfully retained currency out of India without declaration renders the goods prohibited under Section 2(33) read with Section 11(3) of the Customs Act, 1962, and squarely liable for confiscation under Section 113 thereof.

Moreover, the noticee did not possess any general or special permission from the Reserve Bank of India (RBI) and actively attempted to take the currency out of the country without making the mandatory declaration to Customs at the point of departure, she has flagrantly violated the restrictions imposed under the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015, read with Rule 8 of the Baggage Rules, 2026. Here, I place reliance upon the landmark judgment of the Hon'ble High Court of Madras in *Commissioner of Customs (AIR), Chennai Vs. Veeracchi Vithayaphalert* [2014 (303) ELT 49 (Mad.)], which upheld the absolute confiscation of foreign currency under identical circumstances of non-declaration and reversed the Hon'ble Tribunal's lenient order [2005 (186) ELT 296 (Tri. Chennai)].

19. It is an undisputed fact on record, corroborated by the Panchnama dated 05/06.03.2026 and admitted by Noticee Miss Roshani Tandel in both her statements (06.03.2026 and 15.04.2026) as well as her written reply, that 354 US Dollar notes totaling USD 35,040 (equivalent to Rs. 31,60,608/-) were recovered from four separate bundles concealed inside her pink-coloured trolley bag while she was attempting to depart for Don Mueang (Bangkok) via Air Asia Flight No. FD145. Furthermore, it is established that when specifically questioned by Customs officers prior to the baggage search, Noticee Miss Roshani Tandel replied in the negative and failed to make a mandatory declaration of the baggage contents under Section 77 of the Customs Act, 1962. Further, the noticee in her written submission contended that "Foreign Currency" is not a notified item under Section 123 of the Customs Act, 1962. Relying on settled judicial principles (including CESTAT rulings), she argued that the burden of

proof does not shift to her and rests squarely on the Department to prove the smuggled nature or illicit origin of the currency with positive, tangible evidence. Examining this contention, I find that while it is an undisputed position of law that foreign currency is not notified under Section 123(2) of the Customs Act, 1962, the non-applicability of Section 123 does not absolve the Noticee from explaining the lawful acquisition and possession of undeclared, concealed foreign currency recovered from her baggage at the time of international departure. Unlike cases involving the seizure of town-recovered goods where the Department must prove smuggled import, the present case pertains to an attempted illegal export intercepted at the Customs frontier.

The Department has duly discharged its initial burden of proof by establishing, through corroborated Panchnama proceedings and voluntary statement recorded under Section 108 of the Customs Act, 1962, that the noticee attempted to take out of India foreign currency exceeding the permissible limits prescribed under the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015, without making any declaration before the Proper Officer as mandated under Section 77 of the Act. Under Section 2(33) of the Customs Act, 1962, any goods attempted to be exported in contravention of any prohibition or restriction imposed under the Act or any other law for the time being in force (including FEMA, 1999) acquire the character of "prohibited goods," rendering them liable to confiscation under Section 113(d),113(e) and 113(h) of the Act.

Once the Department established physical concealment of USD 35,040 inside her baggage and non-declaration at the airport, the factual and evidentiary onus squarely shifted onto the Noticee, as the manner and source of acquiring the currency were facts especially within her exclusive knowledge. Despite being served three summonses (dated 11.05.2026, 02.06.2026, and 13.06.2026), she failed to appear or produce her bank statements, income tax returns, authorized dealer receipts, or any proof regarding the source of funds. A bald assertion by an admitted unemployed young individual that she accumulated Rs. 31,60,608/- in

US Dollar cash through "gradual personal savings" without any banking trail is wholly implausible and unsubstantiated. Guided by settled jurisprudence, I hold that the evidentiary onus shifted onto the Noticee to produce legitimate documentation (such as bank withdrawal slips, RBI permissions, or authorized dealer receipts) to prove lawful possession and compliance with the Foreign Exchange Management Act, 1999 and provisions of Customs Act, 1962. By failing to submit any legitimate documents, the Noticee has completely failed to discharge this onus. Consequently, the seized foreign currency of USD 35,040 (valued at Rs. 31,60,608/-) is held to be legally liable for absolute confiscation under Sections 113(d), 113(e), and 113(h) of the Customs Act, 1962.

20. I further find that the noticee, Miss Roshani Tandel, neither voluntarily came forward to declare her possession of the said foreign currency to Customs nor possessed any document evidencing its legitimate procurement at the time of interception. Rather, the illicit carriage of the currency was unearthed only after she was intercepted and her baggage was examined by the officers of the Air Intelligence Unit (AIU). Moreover, in her voluntary statements recorded under Section 108 of the Customs Act, 1962, the Noticee explicitly admitted to the possession, carriage, concealment, non-declaration, and recovery of the foreign currency a statement that carries high evidentiary value in departmental adjudication proceedings. The fact that the seized foreign currency of USD 35,040 was deliberately concealed in four separate bundles inside her pink-coloured trolley bag coupled with her negative reply when specifically questioned by Customs officers conclusively establishes her *mens rea* and deliberate intention to evade Customs checks. By failing to declare these goods, the Noticee flagrantly contravened Section 77 of the Customs Act, 1962, and failed to fulfill the statutory conditions governing the export of foreign currency.

Given that the Noticee was wholly ineligible to export such a substantial quantity of undeclared foreign currency without Reserve Bank of India permission or authorized dealer documentation, the seized

currency cannot be treated as "bona fide baggage" under Section 79 of the Customs Act, 1962, read with Rule 8 of the Baggage Rules, 2026. Consequently, this illicit attempt to export foreign currency out of India in direct violation of the Customs Act, 1962, read with the Foreign Exchange Management Act (FEMA), 1999, and the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015, renders the currency "prohibited goods" within the meaning of Section 2(33) read with Section 11(3) of the Customs Act, 1962. Therefore, I hold that the covert actions of the Noticee squarely constitute an act of "smuggling" as defined under Section 2(39) of the Customs Act, 1962, thereby rendering the seized foreign currency legally liable for absolute confiscation under Sections 113 of the Customs Act, 1962.

21. Once the seized goods are held to be liable for confiscation, the next question before me to decide is whether to allow the release of the impugned goods on Redemption Fine or order for absolute confiscation of the same. The provisions related to redemption of confiscated goods are stipulated in Section 125 of the Customs Act, 1962; sub-section (1) of the said section 125 says that

> *"Option to pay fine in lieu of confiscation. - (1) whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods or, where such owner is not known, the person from whose possession, or custody such goods have been seized, an option to pay in lieu of confiscation such fine as the said officer thinks fit. It is, amply clear from the said Section that, where the confiscated goods are not prohibited for import or export, the Adjudicating Authority is under obligation to release the same. However, in those cases where the confiscated goods are prohibited for import or export, discretion has been vested in the Adjudicating Authority to decide the issue on the basis of the facts and circumstances involved.*

The authorized representative of noticee Miss Roshani Tandel during personal hearing contended that currency does not warrants absolute confiscation and requested to release the currency on redemption fine and penalty.

21.1. A plain reading of Section 125 shows that while the Adjudicating Authority is bound to give an option of redemption when goods are not subject to any prohibition, there is no absolute bar on allowing redemption of prohibited goods on merits. However, the exercise of such discretion depends on the nature of the goods, the object of the prohibition, and the conduct of the claimant. For instance, spurious drugs, arms, ammunition, hazardous goods, contaminated flora or fauna, or food failing safety standards are inherently harmful to society if allowed into the domestic market. On the other hand, where goods become prohibited solely due to non-compliance with procedural conditions of import or export, the Adjudicating Authority may consider redemption depending on the bona fides of the case. The import and export of currency are governed by the Customs Act, 1962, the Foreign Exchange Management Act (FEMA), 1999, the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015, and the Foreign Trade Policy 2023. From these legal provisions, it is settled that in respect of prohibited goods, redemption under Section 125 is purely discretionary and cannot be claimed as a matter of right.

In light of the landmark judgment of the Hon'ble Supreme Court in *Om Prakash Bhatia v. Commissioner of Customs*, I find that the said currency carried by Miss Roshani Tandel squarely falls under the definition of "Prohibited Goods". It is a settled position of law, laid down by the Hon'ble Supreme Court in the case of Garg Wollen Mills (P) Ltd Vs. Additional Collector Customs, New Delhi [1998 (104) ELT 306(S.C)] *that the option to release 'Prohibited goods' on redemption fine is discretionary*. In the case of Raj Grow Impex (Supra), the Hon'ble Supreme Court has held that *"that when it comes to discretion, the exercise thereof has to be*

guided by law; has to be according to the rules of reason and justice; has to be based on relevant consideration.". Hon'ble Delhi High Court has, in case of Raju Sharma [2020(372) ELT 249 (Del.)] held that *"Exercise of discretion by judicial, or quasi-judicial authorities, merits interferences only where the exercise is perverse or tainted by the patent illegality, or is tainted by oblique motive."* This position was further reinforced by the Hon'ble Delhi High Court in its consolidated order dated 21.08.2023 in W.P. (C) No. 8902/2021 (and connected matters), wherein it held that *"an infraction of any condition attached to the import or export of goods brings those goods within the ambit of Section 2(33) of the Act, thereby making their redemption and release subject to the discretionary power of the Adjudicating Officer*."

21.2. In the instant case, the noticee Miss Roshani Tandel failed to declare the foreign currency of 35040 USD (348*100 + 4*50+ 2*20) which was then equivalent to Indian **Rs.31,60,608/-**, as mandated under Section 77 of the Customs Act, 1962, which were concealed by the noticee in her luggage/trolley bag, hence, the goods are liable for confiscation. Also, the noticee, Miss Roshani Tandel, carried the seized amount of 35040 USD (348*100 + 4*50+ 2*20), equivalent to Indian **Rs.31,60,608/-** without any such general or specific permission. Furthermore, it is pertinent to note that foreign currency cannot be imported or exported without the general or special permission of the Reserve Bank of India (RBI) or an authorized agency. Additionally, she failed to produce legitimate documents verifying the purchase of this foreign currency, offering only a vague explanation that the amount was acquired gradually over a period without explaining the source of money. Therefore, keeping in view the binding judicial pronouncements cited above, the deliberate nature of the concealment, the complete absence of proof regarding lawful ownership or source of funds, and the overall facts and circumstances of the case, ***I am not inclined to exercise my statutory discretion to grant an option to redeem the seized foreign currency on payment of a redemption fine as envisaged***

under Section 125 of the Act. Further, to support my view, I also relied upon the following judgment which are as :-

21.2.1. In case of Rayavarapu Sri Devi vs. Principal Commissioner of Customs (Adjudication-Air), Chennai (2024) 25 Centax 254 (Mad.)/2025 (392) E.L.T. 72 (Mad.) [19-02-2024], Hon'ble High Court of Madras clearly held that carrying of foreign currency in contradiction of any regulation. Para 33 to 37 of the said order is as:-

> ***33.*** *Only an authorised person is entitled to send foreign currency acquired in the normal course of business. Any person other than the authorised person may send out of Indian Foreign Exchange obtained by drawl from an authorised person in accordance with the provisions of the Act or Rules or direction made or issued thereunder.*
>
> ***34.*** *Foreign Trade (Development and Regulation) Act, 1992 r/w Foreign Trade (Regulation) Rules, 1993 read with The Foreign Trade Policy 2015-2020 and the provisions of the Foreign Exchange Management Act, 1999 read with The Foreign Exchange Management (Export and Import of Currency) Regulations, 2015 thus contain restriction on import and export of foreign currency.*
>
> ***35.*** *Section 125 of the Customs Act, 1962 gives a discretion to the Adjudicating Authority to impose fine in lieu of confiscation. There is no doubt that the currency that was attempted to be exported out of country without proper declaration by the petitioner was liable for the confiscation under the provisions of the Customs Act, 1962 and the provisions of the regulations mentioned above framed under the provisions of the Foreign Exchange Management Act, 1999.*
>
> ***36.*** *Therefore, without doubt, it is clear that import or export of foreign currency is prohibited if it is in contradiction of the above Regulation.*
>
> ***37.*** *If import or export of "goods" is prohibited either under the provisions of the Customs Act, 1962, or under any other law time being in force, such goods can be ordered to be confiscated under Section 112 & Section 113 of the Customs Act, 1962.*

21.2.2 In case of Arun Kumar vs. Commissioner of Customs (Preventive), Lucknow (2023) 9 Centax 299 (Tri.-All)/2023 (386) E.L.T. 449 (Tri.-All) [07-08-2023], Hon'ble CESTAT, Regional Bench, Allahabad held that importation of currencies has been made without any declaration to the Customs or any authority the same will be prohibited and would be liable for absolute confiscation under section 111(d) of Customs Act. The relevant paras of the said order are as:-

> ***4.8*** *The Regulation 6 and RBI Circular referred above do permit the importation of the Foreign Currency, the said importation is subject to restrictions to the extent that the appellant was required to make declaration of the Currency which he carries if the same is in excess of US$ 5000/- or equivalent. Appellant has failed to make any such declaration, and hence these currencies have been imported in contravention of the provisions of Regulation 6 read with RBI Circular and have to be held confiscable under section 111 (d) holding the same to be prohibited.*
>
> ***4.9*** *Thus in respect of the currency which is above the value of US $ 5,000/- or equivalent needs to be confiscated by the Authorities. As importation of such currencies has been made without any declaration to the Customs or any authority the same will be prohibited and would be liable for absolute confiscation under section 111(d) of Customs Act.*
>
> ***4.10*** *As the total value of seized Foreign Currency imported in one go exceeds the value of US$ 5000/- the entire currency becomes liable for confiscation. However, currency up to US $ 5,000 (US Dollars Five Thousand only) should have been allowed for redemption under section 125 (2) of the Customs Act.*

21.2.3 Further, Hon'ble Commissioner (Appeals), New Delhi in the matter of Shri Julius Ikebude (2003 (154) E.L.T. 762 (Commr. Appl.)) clearly held that *"Non-declaration of foreign currency at the time of arrival to the proper officer of customs at the Currency Declaration Counter - In accordance with the proviso to Regulation 6(3) of the Foreign Exchange Management (Export & Import of Currency) Regulations, 2000, issued under clause (9) of sub-section (3) of Section 6 of FEMA, 1999 declaration of foreign currency before the customs officer is mandatory and by not doing so, the import of foreign currency is hit by Section 11 ibid - Violation of Section 77 of the Customs Act, 1962 - Statute has not restricted*

the power to order absolute confiscation of goods under the provisions of Customs Act, as confiscation ipso facto includes absolute confiscation and therefore no infirmity in the order of absolute confiscation passed by the Adjudicating Authority - Section 111(m) ibid."

21.2.4 In the case of Samynathan Murugesan [2009 (247) ELT 21 (Mad)], the High Court upheld the absolute confiscation, ordered by the adjudicating authority, in similar facts and circumstances. Further, in the said case of smuggling of gold, the High Court of Madras in the case of Samynathan Murugesan reported at 2009 (247) ELT 21(Mad) has ruled that as the goods were prohibited and there was concealment, the Commissioner's order for absolute confiscation was upheld.

21.2.5 The Hon'ble High Court of Bombay in the matter of Fayaz Gulam Godil Vs. Union of India 2016 (338) E.L.T. 42 (Bom.) held-

"9. On the other hand, in this case we find that the contentions as raised before us were specifically raised duly noted and considered by the Tribunal. The Tribunal found that once this is an admitted case of illegal export of foreign currency from India by concealing the same in baggage and considering the substantial quantum of currency seized, the discretion ought not be exercised so as to allow release of the same by paying redemption fine, then, this is not a case of any perversity or an error of law apparent on the face of the record. Rather, this is a case where the prohibited act was rightly dealt with. This is not a case where any other provision but Section 113 could be applied. In the facts peculiar to this case, the invocation and application of Section 113 also was permissible. The other appeal, namely, Central Excise Appeal No. 75 of 2015 impugns only the imposition of penalty. For the reasons indicated above, that also fails. Additionally, we find that the penalties were rightly imposed on the appellants. Their complicity and involvement in the illegal act is established."

21.2.6. The Hon'ble CESTAT, West Zonal Bench, Mumbai in the matter of Suresh Gangaram Hole Vs. Commissioner of Customs, Airport, Mumbai 2015 (327) E.L.T. 555 (Tri. - Mumbai) has held- *"Illegal export of currency is*

an offence under Foreign Exchange Management Act, 1999 (FEMA) and violation of Reserve Bank of India (RBI) guidelines and as such, impugned currency are 'prohibited goods' as defined in Customs Act, 1962, liable to absolute confiscation."

The said judgment of Hon'ble Tribunal is again affirmed by Hon'ble High Court of Bombay in Suresh Gangaram Hole vs. Commissioner of Customs, Mumbai 2018 (362) E.L.T. 210 (Bom.)

22. Considering the facts of the present case before me and the judgements and rulings cited above, the said foreign currency 35040 USD (348*100 + 4*50+ 2*20), equivalent to Indian **Rs.31,60,608/- (Rupees Thirty One Lakh Sixty Thousand Six Hundred Eight only)**, carried by Miss Roshani Tandel is therefore liable to be confiscated absolutely. **I therefore hold in unequivocal terms that the said seized foreign currency equivalent to Rs. 31,60,608/-, placed under seizure is liable to absolute confiscation under Section 113(d), 113(e) & 113(h) of the Customs Act, 1962 read with Regulation 5 and Regulation 7 of the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015, and Rule 8 of the Baggage Rules, 2026.**

23. I further find that Noticee No. 1, Miss Roshani Sanjaybhai Tandel, in her written submission dated 05.10.2026, has prayed for setting aside the proposed confiscation under Section 113 of the Customs Act, 1962, as well as the proposed penalties under Sections 114(i) and 117 of the Act. However, the deliberate manner of concealment hiding 354 US Dollar notes in four separate bundles inside her pink-coloured trolley bag coupled with her negative declaration when questioned by Customs officers, clearly establishes that she attempted to smuggle the seized foreign currency specifically to evade detection at the airport. Furthermore, no evidence regarding the legitimate procurement or lawful source of this currency was produced either at the time of interception or during the subsequent stages of the investigation despite service of three

summonses. Crucially, the other two Co-Noticees namely, Shri Valand Priyankkumar Narendrabhai (Noticee No. 2) and Shri Valand Hirenkumar Narendrabhai (Noticee No. 3) have denied any connection with the seized currency and have completely disowned the funds, categorically stating that they neither supplied the currency nor claim any ownership, title, or interest therein.

In this context, I find that the noticee, Miss Roshani Tandel, has continuously adopted a shifting, deeply contradictory, and evasive stance throughout the course of these proceedings. In her initial statement dated 06.03.2026, she explicitly admitted that the seized foreign currency of USD 35,040 did not belong to her, and that it had been handed over to her by Shri Priyankkumar Valand to carry out of India for onward delivery to Shri Hirenkumar Valand, who was already present in Bangkok at the material time, in exchange for a promised remuneration of USD 300. • Conversely, in her subsequent statement dated 15.04.2026, she asserted that she had named Shri Priyank Valand and Shri Hiren Valand out of stress and anxiety, claimed they had nothing to do with the seized funds, and asserted that the currency belonged to her as gradual personal savings. She reiterated this claim of absolute ownership in her written submission dated 05.10.2026 as well as during the Personal Hearing held on 26.10.2026.

This oscillating trajectory moving from an initial, fact-specific admission that the currency belonged to someone else to a belated claim of personal ownership in her subsequent statement, written reply, and personal hearing unequivocally demonstrates that her subsequent defense is a calculated afterthought, deployed to evade legal accountability and circumvent statutory consequences under the Act. She has merely altered her version without producing a single supporting document to establish lawful procurement or legitimate source of funds. Thus, she has completely failed to discharge the evidentiary onus cast upon her to prove that the seized currency was lawfully acquired and possessed in compliance with FEMA, 1999.

Therefore, I find and hold that her deliberate acts of omission and commission have directly rendered the seized foreign currency of USD 35,040 (valued at Rs. 31,60,608/-) liable for absolute confiscation under Sections 113(d), 113(e), and 113(h) of the Customs Act, 1962, and have concurrently rendered her liable for penal action under Section 114(i) of the Customs Act, 1962.

24. Based on the foregoing discussion, and upon a holistic evaluation of the submissions made by Noticee No. 1, Miss Roshani Sanjaybhai Tandel, alongside the relevant provisions of the Customs Act, 1962, read with the Foreign Exchange Management Act (FEMA), 1999, and the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015, I find that the Noticee has failed to submit any valid documentary evidence in her defence. Merely claiming ownership of the seized currency without producing any supporting documents appears to be a calculated attempt to derail the investigation and evade the clutches of the law. The Noticee has completely failed to produce any legitimate documents to justify her physical possession and attempted export of the currency, thereby failing to discharge the evidentiary onus cast upon her to establish lawful acquisition and compliance with FEMA, 1999.

Section 114 of the Customs Act, 1962, mandates the imposition of a financial penalty on any person 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 113, or abets the doing or omission of such an act. In determining the appropriate quantum of penalty in the instant case, I place reliance upon the landmark observations of the Hon'ble Supreme Court in the case of *M/s. Hindustan Steel Ltd. Vs. State of Orissa*, wherein the Hon'ble Apex Court observed that :-*"The discretion to impose a penalty must be exercised judicially. A penalty will ordinarily be imposed in case where the party acts deliberately in defiance of law, or is guilty of contumacious or dishonest conduct or act in conscious disregard of its obligation; but not in cases where there is technical or venial breach of the*

provisions of Act or where the breach flows from a bona fide belief that the offender is not liable to act in the manner prescribed by the Statute."

In the present case, the breach is neither technical nor venial. For the export of "prohibited goods" (which this currency represents due to the lack of RBI permissions and absolute concealment), Section 114(i) authorizes a penalty not exceeding three times the value of the goods as declared by the exporter or determined by the proper officer. The noticee, Miss Roshani Tandel, actively engaged in physical acts designed to export the currency illegally. These intentional actions directly caused the goods to become liable for absolute confiscation under Sections 113(d), 113(e), and 113(h) of the Customs Act, 1962. Her acts of omission and commission conclusively establish full personal liability for substantial penalties under Section 114(i) of the Act.

25. Noticee Miss Roshani Tandel specifically argued in her written submission that **Section 117 cannot be invoked simultaneously with Section 114(i)** for the *same set of facts* because Section 117 is a residual provision (*"where no express penalty is elsewhere provided"*). In this regard, I find that Section 117 of the Customs Act, 1962 provides for the imposition of a penalty on any person who contravenes any provision of the Act, or abets such contravention, or fails to comply with any provision of the Act with which it is his duty to comply, where no express penalty is provided elsewhere for such contravention or failure. The maximum penalty prescribed under Section 117, which was originally Rs. 1,00,000/-, was enhanced to Rs. 4,00,000/- with effect from 01.08.2019.

In her written submission dated 05.10.2026, Noticee No. 1, **Miss Roshani Sanjaybhai Tandel**, contended that Section 117 is a residual provision and cannot be invoked simultaneously with Section 114(i) for the same set of facts. While it is settled law that Section 117 cannot be invoked merely as a duplication of Section 114(i) for the substantive act of attempted smuggling, the records of the present case conclusively establish that Noticee No. 1 committed **distinct and independent statutory defaults** during the course of the investigation, separate from the act of carrying

undeclared currency at the airport. Specifically, after claiming ownership of the seized **USD 35,040** in her subsequent statement dated 15.04.2026, Noticee No. 1 was duty-bound to comply with lawful summons issued by the investigating officers under **Section 108 of the Customs Act, 1962**. Despite being served **three summons** (dated 11.05.2026, 02.06.2026, and 13.06.2026) requiring her to appear and produce contemporaneous documentary evidence including her Bank of Baroda statements, earning sources, currency exchange receipts, and ticket payment records, she deliberately neither appeared nor submitted any documents.

Her repeated and wilful non-compliance with summons issued under Section 108 of the Customs Act, 1962 demonstrates a conscious disregard for mandatory statutory obligations cast upon her under the Act. This non-compliance is an independent procedural contravention and is not merely incidental to the confiscation of the seized currency under Section 113 or the penalty for attempted illegal export under Section 114(i). Since no express penalty is provided elsewhere in the Customs Act, 1962 for disobedience of summonses issued under Section 108, the statutory ingredients of Section 117 stand squarely attracted. Accordingly, I hold that this is a fit case for invoking the provisions of **Section 117 of the Customs Act, 1962** against Noticee No. 1, **Miss Roshani Sanjaybhai Tandel**. Having regard to the nature and gravity of her wilful non-compliance with multiple statutory summons, I hold that Miss Roshani Sanjaybhai Tandel is liable for a separate personal penalty under **Section 117 of the Customs Act, 1962**.

26. I shall now proceed to examine the allegations leveled against the noticee, Shri Priyankkumar Valand, in light of his written submission.

26.1 I have carefully examined the role attributed to Noticee No. 2, Shri Valand Priyankkumar Narendrabhai, in light of the allegations made in the Show Cause Notice, the Relied Upon Documents (RUDs), his statement recorded during the investigation, and the defences raised in his written reply.

The record indicates that the name of Shri Valand Priyankkumar Narendrabhai originally emerged from the initial inculpatory statement dated 06.03.2026 tendered under Section 108 of the Customs Act, 1962 by Noticee No. 1, Miss Roshani Sanjaybhai Tandel. In that statement, Miss Roshani Sanjaybhai Tandel alleged that the seized foreign currency, amounting to USD 35,040 (valued at Rs. 31,60,608/-), was handed over to her by Shri Priyank Valand. She further stated that her flight ticket to Bangkok was booked by Shri Priyank Valand, and that she was promised a monetary consideration of USD 300 for carrying the currency to Bangkok for onward delivery to his brother, Shri Valand Hirenkumar Narendrabhai (Noticee No. 3), who was already present in Bangkok at the material time.

Acting on these details and the mobile number (9099834437) provided by Shri Nirmalkumar Tandel, the investigation requisitioned the Customer Application Form (CAF) and KYC documents from the telecom operator. Although the SIM card was registered in the name of a third party, Shri Valand Ashishkumar Mohanbhai, the investigation revealed that the number was being exclusively operated by Shri Priyankkumar Valand. Consequently, a summons dated 13.06.2026 was issued, pursuant to which Shri Priyankkumar Valand appeared before the investigating officers on 20.06.2026 to record his statement under Section 108 of the Act.

26.2 In his statement dated 20.06.2026, Shri Valand Priyankkumar Narendrabhai categorically denied handing over any foreign currency, booking air tickets, or issuing any instructions to Miss Roshani Sanjaybhai Tandel or her brother, Shri Nirmalkumar Jayantibhai Tandel, to travel to Bangkok. While admitting his acquaintance with them since 2024 through his brother Shri Hiren (who had earlier worked with Shri Nirmalkumar Tandel), he explained his presence at the airport by stating that he had merely dropped Miss Roshani Tandel and Shri Nirmalkumar Tandel at SVPI Airport, Ahmedabad on 05.03.2026 as a courtesy upon Shri Nirmalkumar's request. He further stated that there were no financial

transactions in his bank account with either Shri Nirmalkumar Tandel or Miss Roshani Tandel, and expressed no objection to the Department disposing of the seized foreign currency.

I further find that this exculpatory stand is maintained by Noticee Shri Priyankkumar Valand in his written submission dated 05.10.2026. He reiterated that he holds no claim, title, or ownership over the seized USD 35,300 and argued that the department's case against him relies solely on suspicion and uncorroborated assertions. He further pointed out that while his name was initially cited by both passengers, namely Shri Nirmalkumar Tandel and Ms. Roshani Tandel, on 06.03.2026, Ms. Roshani Tandel subsequently tendered a clarifying statement on 15.04.2026. In that subsequent statement, she absolved Shri Priyank Valand of any involvement, claiming that the currency represented her own personal savings accumulated over time, and expressly confirmed that Shri Priyank Valand had neither pressurized nor induced her to change her statement.

26.3 Upon a holistic evaluation of the case records, I find that apart from the initial statements dated 06.03.2026, the department has failed to unearth any independent, tangible, or corroborative evidence to anchor the charge of abetment against Shri Priyankkumar Valand. The investigation has not produced any independent documentary trails, digital evidence, or unexplained financial fluctuations in the one-year bank statement provided by the noticee to prove that he procured, funded, or distributed the seized currency.

It is a well-settled principle of law that while a voluntary statement recorded under Section 108 of the Customs Act, 1962 is admissible in evidence and binding against its maker when corroborated by physical recovery (as held in respect of Noticee No. 1, from whose baggage the currency was physically recovered), the retracted statement of a co-noticee cannot, by itself, form the sole legal basis to penalize another co-noticee in the absence of independent corroborative evidence. Here, Noticee No. 1 retracted her allegation against Noticee No. 2 on 15.04.2026 and asserted

personal ownership over the seized funds in her subsequent statement, written reply dated 05.10.2026, and personal hearing. Although her belated claim of personal ownership has been rejected as unsubstantiated for the purpose of releasing the confiscated currency, her retraction leaves the allegation against Noticee No. 2 completely uncorroborated. It is equally settled in Customs jurisprudence that mere social acquaintance, telephonic contact with a known acquaintance, or dropping a passenger at the airport departure terminal without cogent evidence proving conscious knowledge (mens rea) and an overt act of participation cannot satisfy the legal threshold required to establish abetment under Section 114(i) or a specific statutory contravention under Section 117 of the Customs Act, 1962.

Given that the investigation has not brought forth any corroborative material to sustain the allegations, and noting that Noticee Shri Priyankkumar Valand has disclaimed all interest in the seized currency and submitted an unconditional 'No Objection' to their disposal, the benefit of the doubt must legally extend to him. Accordingly, I hold that the proposals to impose penalties under Sections 114(i) and 117 of the Customs Act, 1962, against Shri Priyankkumar Valand are not sustainable, and are hereby dropped.

27. I shall now proceed to examine the allegations levelled against Noticee No. 3, Shri Valand Hirenkumar Narendrabhai, in light of his statement recorded under Section 108 of the Customs Act, 1962 and his written submission dated 05.10.2026.

27.1. I have carefully examined the role attributed to Noticee No. 3, Shri Valand Hirenkumar Narendrabhai, in light of the allegations made in the Show Cause Notice, the Relied Upon Documents (RUDs), his statement recorded during the investigation, and the defences raised in his written reply dated 05.10.2026.

The Department's case against Shri Valand Hirenkumar Narendrabhai primarily relies on the initial statement dated 06.03.2026 tendered under Section 108 of the Customs Act, 1962 by Noticee No. 1,

Miss Roshani Sanjaybhai Tandel, wherein she stated that Shri Valand Hirenkumar Narendrabhai was the intended recipient of the smuggled foreign currency and the international link in Bangkok, Thailand. Consequently, a summons was issued to Shri Valand Hirenkumar Narendrabhai, and his statement was recorded under Section 108 of the Customs Act, 1962 on 26.06.2026.

I find that in his statement dated 26.06.2026, as well as in his written submission dated 05.10.2026, Shri Valand Hirenkumar Narendrabhai categorically denied all allegations of active abetment or conspiracy. He acknowledged his acquaintance with Miss Roshani Tandel and her brother, Shri Nirmalkumar Jayantibhai Tandel, since 2022, explaining that he had previously worked with Shri Nirmalkumar Tandel at M/s. Arab & India Spices L.L.C. (Ajman / Don Mueang) and had shared a flat with him in Don Mueang. He contended that mere historical acquaintance or past co-employment cannot be stretched to infer mens rea or a shared common intention to smuggle foreign currency. Regarding his travel timeline, he confirmed his presence in Bangkok from 24.02.2026 to 08.03.2026, but asserted that this visit was a bona fide personal trip for tourism, entirely self-funded from his legitimate personal savings. He explicitly stated that he had never directed or requested either Shri Nirmalkumar Tandel or Miss Roshani Tandel to travel to Bangkok or transport any currency, and had no prior knowledge of the USD 35,040 found concealed in Miss Roshani Tandel's baggage.

Upon an objective review of the evidence brought on record by the investigation, I find that the currency in question never departed the shores of India and was intercepted in its entirety at SVPI Airport, Ahmedabad. Crucially, the Department has not produced any independent, tangible corroboration such as retrieved digital logs, WhatsApp conversations (his old phone having been stated to be damaged), or a banking/money trail to prove that Shri Valand Hirenkumar Narendrabhai actively planned, coordinated, or facilitated the procurement and physical movement of the seized currency. Moreover, Noticee No. 1 subsequently retracted her initial statement naming him as

the recipient on 15.04.2026, and Noticee No. 3 has disclaimed any right, title, interest, or ownership over the seized USD 35,040, submitting an unconditional "No Objection" to the Department disposing of the foreign currency in accordance with law. In the absence of an unbroken chain of independent evidence establishing a prior meeting of minds or an overt act of assistance, the charge of active abetment in a smuggling operation under Section 114(i) of the Customs Act, 1962 cannot legally be sustained against him, and he is entitled to the benefit of doubt on this count.

27.2. However, with respect to the proposed penalty under Section 117 of the Customs Act, 1962, it is a matter of record that during his examination under Section 108 on 26.06.2026, Shri Valand Hirenkumar Narendrabhai explicitly assured the investigating officers that he would produce his personal bank account statements to substantiate his financial claims and prove the legitimacy of his self-funded travel to Bangkok. Despite this categorical assurance and ample opportunity over the ensuing months, he deliberately failed to submit those financial records to the investigating officers. Even in his written submission dated 05.10.2026 filed more than three months after his statement he failed to annex the promised bank statements, merely stating in a casual and evasive manner that he "reserves his right to produce the relevant bank statement/documentary material, if required."

This explanation is entirely unacceptable and legally untenable. Under Section 108(3) and Section 108(4) of the Customs Act, 1962, an inquiry before a Gazetted Officer of Customs is deemed to be a judicial proceeding, wherein every summoned person is legally bound to state the truth upon any subject respecting which they are examined and to produce such documents or things as may be required. Having expressly undertaken during his Section 108 statement to furnish his bank statements, his deliberate failure to do so even at the stage of adjudication frustrates the statutory inquiry and constitutes a wilful breach of his legal duty under the Act.

Section 117 of the Customs Act, 1962 operates as a residuary penal provision specifically enacted to penalize any person who contravenes any provision of the Act, or fails to comply with any duty imposed under the Act with which it was their obligation to comply, where no express penalty is provided elsewhere. The intentional withholding of promised bank records by Shri Valand Hirenkumar Narendrabhai is a separate, distinct procedural default that is independent of the substantive charge of abetting smuggling under Section 114(i). Therefore, while extending the benefit of doubt and exonerating him from the charge of abetment under Section 114(i), I hold that the statutory ingredients of Section 117 of the Customs Act, 1962 stand squarely attracted against Noticee No. 3, Shri Valand Hirenkumar Narendrabhai, for his wilful non-compliance with his statutory obligation during the Section 108 inquiry.

28. Accordingly, I pass the following Order:

O R D E R

i.) I order Absolute **Confiscation** of the seized foreign currency, comprising **35040 USD** (348*100 + 4*50+ 2*20), having a cumulative re-determined Indian currency of **Rs. 31,60,608/- (Rs. Thirty-One lakhs Sixty Thousand Six Hundred Eight only)**, which was attempted to smuggle out of India by way of concealing the same in trolley bag by Miss Roshani Sanjaybhai Tandel, contrary to the prohibition imposed in terms of Notification No. FEMA 6 (R)/RB-2015 dated 29/12/2015 [Foreign Exchange Management (Export and Import Currency) Regulations, 2015 read with Customs Act, 1962 and Baggage Rules, 2026 and were seized vide Panchnama dated 05/06.03.2026 and Seizure Memo dated 06.03.2026, under Sections 113(d), 113(e) and 113(h) of the Customs Act, 1962, read with the FEMA Regulations, 2015 and Rule 8 of the Baggage Rules,2026.

ii.) I impose a penalty of **Rs.10,00,000/- (Rupees Ten Lakh Only)** upon the Noticee, **Miss Roshani Sanjaybhai Tandel**, under Section 114(i) of the Customs Act, 1962.

iii.) I impose a penalty of **Rs. 2,00,000/- (Rupees Two Lakh Only)** upon the Noticee, **Miss Roshani Sanjaybhai Tandel**, under Section 117 of the Customs Act, 1962.

iv.) I hereby drop the proposed penalty upon the Noticee, **Shri Priyankkumar Narendrabhai Valand**, under Section 114(i) of the Customs Act, 1962.

v.) I hereby drop the proposed penalty upon the Noticee, **Shri Priyankkumar Narendrabhai Valand**, under Section 117 of the Customs Act, 1962.

vi.) I hereby drop the proposed penalty upon the Noticee, **Shri Hirenkumar Narendrabhai Valand**, under Section 114(i) of the Customs Act, 1962.

vii.) I impose a further penalty of **Rs. 1,00,000/- (Rupees One Lakh Only)** upon the Noticee, **Shri Hirenkumar Narendrabhai Valand**, under Section 117 of the Customs Act, 1962.

29. Accordingly, the Show Cause Notice No. VIII/10-23/SVPIA-D/O&A/HQ/2026-27 dated 25.08.2026 stands disposed of.

Digitally signed by
SHREE RAM VISHNOI
Date: 23-11-2026
17:23:09

(Shree Ram Vishnoi)
Additional Commissioner
Customs, Ahmedabad

F. No. VIII/10-23/SVPIA-D/O&A/HQ/2026-27 Date:23.11.2026

DIN: 20261171MN0000745D73

By SPEED POST A.D.

OIO No:118/ADC/SRV/O&A/HQ/2026-27
F. No: VIII/10-23/SVPIA-D/O&A/HQ/2026-27

To

1. **Miss Roshani Sanjaybhai Tandel,**
   721, Jolly Street, Kakwadi Danti,
   Valsad, Gujarat, 396385

2. **Shri Valand Priyankkumar Narendrabhai**
   0, Valand, faliyu, Kakachiya,
   Mahisagar, Gujarat, 389230
   E-mail: valandpriyank790@gmail.com
3. **Shri Valand Hirenkumar Narendrabhai**
   153, muvada faliyu,
   Kakachiya, Mahisagar, Gujarat, 389230
   E-mail: hk1758603@gmail.com

Copy to :-

1. The Principal Commissioner of Customs, Ahmedabad (Kind Attn: RRA Section)
2. The Deputy Commissioner of Customs (AIU), SVPIA, Ahmedabad.
3. The Deputy Commissioner of Customs, SVPIA, Ahmedabad.
4. The Deputy Commissioner of Customs (Task Force), Ahmedabad.
5. The System In-Charge, Customs, HQ., Ahmedabad for uploading on the official web-site i.e. http://www.ahmedabadcustoms.gov.in.
6. Guard File.