



प्रधान आयुक्त का कार्यालय, सीमा शुल्क, अहमदाबाद

“सीमा शुल्क भवन,” पहली मंजिल, पुराने हाईकोर्ट के सामने, नवरंगपुरा, अहमदाबाद – 380 009.

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PREAMBLE

A	फाइल संख्या/ File No.	:	VIII/10-03/SVPIA-D/O&A/HQ/2024-25
B	कारण बताओ नोटिस संख्या-तारीख / Show Cause Notice No. and Date	:	VIII/10-03/SVPIA-D/O&A/HQ/2024-25 dated 03.04.2024
C	मूल आदेश संख्या/ Order-In-Original No.	:	19/ADC/VM/O&A/2024-25
D	आदेश तिथि/ Date of Order-In-Original	:	30.04.2024
E	जारी करनेकी तारीख/ Date of Issue	:	30.04.2024
F	द्वारापारित/ Passed By	:	Vishal Malani, Additional Commissioner, Customs, Ahmedabad.
G	आयातक का नाम औरपता / Name and Address of Importer / Passenger	:	“Whom so ever it may concern” (1) To be pasted on the Notice Board of Custom House, Navrangpura, Ahmedabad – 380 009. (2) To be pasted on the Notice Board of Customs, SVPI Airport, Ahmedabad.
(1)	यह प्रति व्यक्ति के उपयोग के लिए निःशुल्क प्रदान किया जाता है जिन्हे यह जारी किया जाता है।		
(2)	कोई भी व्यक्ति इस आदेश से स्वयं को असंतुष्ट पाता है तो वह इस आदेश के विरुद्ध अपील इस आदेश की प्राप्त किया तारीख के ६० दिनों के भीतर आयुक्त कार्यालय, सीमा शुल्क (अपील), ४वीं मंजिल, हुडको भवन, ईश्वर भुवन मार्ग, नवरंगपुरा, अहमदाबाद में कर सकता है।		
(3)	अपील के साथ केवल पांच (५.००) रुपये पे न्यायलय 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 साथकेवल पांच (५.००) रुपये पे न्यायलय शुल्क टिकिट लगा होना चाहिए।		
(4)	इस आदेश के विरुद्ध अपील करने इच्छुक व्यक्ति को ७.५% अधिकतम १० करोड़ शुल्क हम 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, १९६२ के धरा १२९ के प्रावधानों का अनुपालन नहीं करने के लिए अपील को खारिज कर दिया जायेगा।		

Brief facts of the case :

As part of vigilant measures undertaken, the officers of Air Intelligence Unit, SVPI Airport, Ahmedabad had planned to conduct a surprise search of the toilets near Baggage Belt No. 5 of the Arrival Hall of Terminal 2 of the SVPI Airport, Ahmedabad.

2. Therefore, the officers of AIU, Customs along with 02 independent panchas entered the men's toilet and found it completely vacant. Further, they took the assistance of the BVG cleaning staff present at the spot-on duty viz. Smt. Gauri Bahan, Smt. Joshna Bahan and Shri Ajay. The officers of AIU along with panchas and the BVG staff, started searching the garbage bins kept inside the toilet cabins and also looked for any suspicious items inside the toilet at various spots. During the said search, a pair of underpants was found lying behind the toilet seat cover of one of the toilet cabins. The BVG cleaning staff handed over the underpants to the AIU officers. The officers observed that the waistline of the underpants was unusually thick, and the garment was inexplicably heavy. The AIU officers informed the panchas that it appeared that the waistline contained some semi-solid material which appeared to be suspicious, the underpants were taken to the AIU office for further investigation.

3. Thereafter, in presence of the panchas, the waistline was cut open by the officers and one long strip was recovered which appeared to be containing some semi-solid material. The AIU officers informed that this appeared to be gold and chemical mix and for the exact determination of its contents they need to call the Government Approved Valuer. Then the AIU officer called the valuer and he was informed that an unclaimed strip containing semi-solid substance covered in the waistline of the underwear has been found and he needed to come to the Airport for examination and valuation of the said semi-solid substance. In reply, the Government approved valuer informed the AIU officer that the testing of the said material was possible at his workshop only as metal has to be extracted from such semi-solid substance by melting it and also informed the address of his workshop.

4. In order to ascertain the contents, weight and purity of the substance, the said pouches were taken to the premises of Govt. Approved Valuer (GAV) namely Shri Kartikey Vasantrai Soni, 301, Golden Signature, Behind Ratnam Complex, Nr. National Handloom, C.G. Road, Ahmedabad-380006. The said pouches were weighed by the GAV and weight of the said pouches along with underwear was found to be 972.320 grams. Further, the Government approved valuer removed the covering from the said strip containing semi-solid substance and on weighing the same on his scale without its covering, the weight of the said pouches without underwear covering was found to be 883.460 grams. On physical verification of the substance, the Govt. Approved Valuer opined that it appears to be gold in paste form and recommended for extraction of gold from it. Thereafter, the semi-solid substance contained in the pouches was melted in the furnace. After evaporation of chemical substances contained in the semi-solid substance, the molten metal was poured in a plate and the same was converted into golden coloured solid metal bar. The weightment of the said bar was done, and the weight of the bar was found to be **748.780** grams.

5. Thereafter, the Government Approved Valuer carried out testing and valuation of the said golden coloured bar. It was found that the said bar weighing 748.780 grams was 24 Kt. gold having purity 999.0, having market value of **Rs.46,57,412/-** (Forty-Six Lakhs Fifty-Seven Thousand Four Hundred and Twelve Only) and Tariff Value **Rs.40,35,026/-** (Rupees Forty Lakhs Thirty-Five Thousand and Twenty-Six Only), calculated as per the Notification No. 78/2023 Customs (N.T.) dated 23.10.23 (gold) and Notification No. 76/2023- Customs (N.T.) dated 15.10.2023 (exchange rate). The Govt. Approved Valuer submitted his report dated 24.10.2023. The details of the report submitted by the GAV is as under:

SR. No.	Details of Items	PCS	Net Weight in Gram	Purity	Market value (Rs.)	Tariff Value (Rs.)
1	Gold Bar	1	748.780	999.0 24Kt	46,57,412/-	40,35,026/-

6. As it was not possible to identify as to who was the owner of the said gold and as there was no claimant for the said Gold and it was not possible to identify any proper and legitimate claimant of the same, the gold bar, derived from semi-solid substance, recovered from the toilet near Baggage Belt No. 5, which was being used by the passengers and airport staff was taken into the custody of the AIU officers. Therefore, the said recovered gold bar weighing 748.780 grams derived from semi-solid substance will have to be termed as 'Unclaimed'.

7. Since the gold bar weighing 748.780 Grams was found to be Unclaimed and was recovered without any legitimate import documents inside the toilet, the same fell under the category of Smuggled Goods and liable for confiscation under the Customs Act, 1962. Therefore, the said gold Bar weighing 748.780 Grams having purity 999.0 having market value Rs.46,57,412/- (Forty-six Lakhs Fifty-Seven Thousand Four Hundred and Twelve Only) and Tariff Value Rs.40,35,026/- (Rupees Forty Lakhs Thirty-Five Thousand and Twenty-Six Only), and the tapes and underwear used for concealment were placed under seizure vide Seizure Memo F. No. VIII/10-157/AIU/D/23-24 dated 24.10.2023 on a reasonable belief that the subject Unclaimed Gold is liable for confiscation.

EFFORTS MADE TO IDENTIFY THE ACTUAL OWNER OF THE SEIZED GOLD:

8. Since the said 748.780 Grams gold having purity 999.0 and market value Rs.46,57,412/- and Tariff Value Rs.40,35,026/- were unclaimed and extracted from the semi-solid substance contained in undergarment recovered from the toilet near Baggage Belt No. 5, which was being used by the passengers and airport staff, the same appeared to be imported illegally by any international passenger and hidden in toilet in fear of getting caught.

9. Accordingly, further efforts were made to identify the actual owner of the unclaimed Gold. The BVG staff and other related persons were asked, if they had any information about the person who had

hidden that underwear in the toilet, but all replied in negative. Further, till 31.03.2024 AIU Officers have also not received any claim/ inquiry for the said gold.

10. In view of the above, it appeared that no concrete/ substantial evidence revealed during the investigation which indicate or establish, who was the actual owner of the seized gold. The said seized 748.780 Grams Gold having purity 999.0, derived from the 883.460 grams of semi-solid substance, consisting of the mixture of Gold and some chemical was recovered from the toilet near Baggage Belt No. 5, which was being used by the passengers and airport staff. Further, in absence of the claimant for the said seized Gold, it is not possible to identify the proper and legitimate claimant of the seized Gold and therefore the seized Gold Bars are required to be declared as 'Unclaimed'.

11. The said 748.780 Grams gold having purity 999.0, extracted from the semi-solid substance contained in the waistline of undergarment, recovered from the toilet, near Baggage Belt No. 5, which was being used by the passengers and airport staff. The said gold was intentionally not declared before the Customs Authorities on arrival at SVP International Airport, Ahmedabad and had hidden it behind the toilet seat of the toilet near Baggage Belt No. 5, which was being used by the passengers and airport staff, as the unknown person/ passenger wanted to clear it illicitly and to evade payment of Customs duty. The unknown person/ passenger was fully aware that clearing gold without declaring before the Customs with an intent to evade payment of Customs duty, is an offence, under the provisions of the Customs Act, 1962 and Regulations framed thereunder. Thus, it appears that the unknown person/ passenger had brought the said gold from some foreign country and hidden the same behind the toilet seat in arrival area toilet and not declared the same to Customs with an intention to clear the same illicitly and to evade payment of Customs Duty and thus had tried to smuggle the Gold into India.

12. From the facts and circumstances discussed above, it appears that the unknown person/ passenger had attempted to smuggle 748.780 Grams gold with an intention to evade payment of Customs

duty. The said gold was brought into India by the unknown person/passenger for commercial purpose and cannot be construed as 'bonafide baggage' within the meaning of Section 79 of the Act read with Para 2.26 of the Foreign Trade Policy, 2015-2020. As per Para 2.26 of the Foreign Trade Policy, a passenger is allowed to import bonafide household and personal effects only, as his/ her bonafide baggage. It appears that the import of goods in commercial quantity was with intent to evade customs duty & earn profit and therefore not covered within the ambit of bonafide baggage. Therefore, import of such goods is not permitted through the baggage mode. It also appears that the unknown person/passenger attempted to smuggle the goods without filing the Customs declaration form, which appears to be in contravention of Section 77 of the Act read with the Baggage Rules, 2016 ('Baggage Rules) and Regulation 3 of the Customs Baggage Declaration Regulations, 2013 ('Baggage Regulations). The above act on the part of the unknown person/passenger appears to be amounting to smuggling within the meaning of Section 2(39) of the Act. It also appears that the gold is to be construed as 'Prohibited' in terms of the provisions of Section 2(33) of the Act.

13. It appears that the unknown person/passenger had carried the above gold and hidden the same behind the toilet seats of arrival area toilet. As per Section 123 of the Customs Act, 1962, Gold is notified item. Section 123 (1) of the Customs Act, 1962 is reproduced as under:

"123 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.

Further, sub section (2) of Section 123 of Customs Act, 1962 stipulates that "(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".

14. Thus, it appears that the said gold brought into India by the unknown person/ passenger was liable for seizure under the Customs Act, 1962, on the reasonable belief that these were smuggled goods, and the burden of proof that these goods have been legally imported lies upon the claimant or on the person from whose possession the said goods were recovered. In the instant case, no passenger/ person had produced any documents showing the legitimate import of the said gold into India on payment of duty and through legal channels. Therefore, it appears that the unknown person/ passenger knowingly dealt with the said goods i.e. carrying, keeping, concealing or in any other manner dealing with the goods which he/she knew or had reason to believe that the same were liable for confiscation under the Customs Act. Therefore, it appears that the said gold was smuggled in contravention of the provisions of the Customs Act, 1962 and the same are therefore, liable to confiscation under section 111(d), 111(i), 111(1), and 111(m) of the Customs Act, 1962. Further, black coloured Adhesive tapes used to wrap the said Gold bar is also liable for confiscation under Section 118(a) and 119 of the Customs Act, 1962. From the circumstantial evidences, it appears that the unknown person/ passenger actively involved in the smuggling of the said gold. Hence, the acts of omission and commission on the part of the unknown person/ passenger appears to have rendered himself/ herself liable for penal action under the provisions of Section 112(a) and 112(b) of the Customs Act, 1962.

15. It thus appears that the following provisions of the Customs Act have been contravened in the instant case of smuggling:

Section 77 of the Act as the unknown person/passenger failed to make a declaration of the imported 748.780 Grams gold having purity 999.0 extracted from the semi-solid substance contained in the underwear hidden behind a toilet seat recovered from the toilet near Baggage Belt No. 5, which was being used by the passengers and airport staff;

Section 79 of the Act as the unknown person/passenger had imported the said gold for commercial purpose which were not for his/her bonafide use;

Section 7 of the Foreign Trade (Development & Regulations) Act, 1992 as the unknown person/passenger imported 748.780 Grams gold having purity 999.0 extracted from the semi solid

substance contained in the underwear hidden behind a toilet seat recovered from the toilet near Baggage Belt No. 5, which was being used by the passengers and airport staff for commercial purpose.

Rule 11 of the Foreign Trade (Regulation) Rules, 1993 as the unknown person/passenger failed to declare the value, quantity and description of the gold imported by him/her;

Para 2.26 of the Foreign Trade Policy 2015-2020 as the unknown person/passenger acted contrary to the restrictions imposed and imported non bonafide baggage.

16. The unknown person/ passenger had not filed the baggage declaration form and had not declared that gold, as envisaged under Section 77 of the Act read with the Baggage Rules and Baggage Regulations. It thus appears that the import was for non bonafide purpose. Moreover, gold or silver, in any form, other than ornaments is not allowed free of duty. Further, one kg of gold can also be imported by an eligible passenger as envisaged under Notification No. 50/2017-Cus dated 30/06/2017 (Sr. No 356 read with condition No. 41) wherein an 'eligible passenger' means a passenger of Indian origin or a passenger holding a valid passport, issued under the Passports Act, 1967, who is coming to India after a period of not less than six months of stay abroad; and short visits, if any, made by the eligible passenger during the aforesaid period of six months shall be ignored if the total duration of stay on such visits does not exceed thirty days and such passenger has not availed of the exemption under this notification or under the notification being superseded at any time of such short visits. In the instant case, the unknown person/ passenger had carried the Gold and not declared before the Customs Authority at Ahmedabad Airport and in contrary hide the said Gold under toilet seat with an intent to evade payment of applicable Customs duty. It, therefore, appears that all the above acts of contravention on the part of the unknown person/ passenger have rendered the gold, liable to confiscation, under the provisions of Sections 111(d), 111(l), 111(j) and 111(m) of the Act. It further appears that the 748.780 Grams gold having purity 999.0, extracted from the semi-solid substance, recovered from the underwear hidden behind a toilet seat recovered from the toilet near Baggage Belt No. 5, which was being used by the passengers and airport staff imported by the unknown person/ passenger is to be construed as 'smuggling' within the meaning of

Section 2 (39) of the Act and the said gold also appears to be 'prohibited' within the meaning of Section 2(33) of the Act. By hiding the said Gold behind a toilet seat in a toilet near Baggage Belt No. 5, which was being used by the passengers and airport staff, it appears that the unknown person/ passenger was fully aware that the goods would be of offending nature on its import. It appears that the unknown person/ passenger has involved himself/ herself in carrying, keeping, concealing and dealt with the offending goods in a manner which he/ she knew or had reasons to believe were liable to confiscation under the Act. The underwear and tapes used as packing material of semi-solid substance from which 748.780 Grams of gold having purity 999.0 extracted are also liable for confiscation under Section 118(a) and 119 of the Customs Act, 1962. It, therefore, appears that the unknown person/ passenger has rendered himself/ herself liable for penal action under the provisions of Section 112(a) and 112(b) of the Act.

17. Further, the unknown person/ passenger did not produce any valid declaration for possession of Gold and had brought the 748.780 Grams gold having purity 999.0 having market value Rs.46,57,412/- and Tariff Value Rs.40,35,026/-, as required in terms of Regulation No. 3 of the Customs Baggage Declaration Regulations, 2013, framed under Section 81 of the Customs Act, 1962, with an intention to evade payment of Customs duty. The unknown person/ passenger therefore appears to have rendered himself/ herself liable for penalty under the Customs Act, 1962.

18. The ownership of the 748.780 Grams gold having purity 999.0 has not been claimed by anybody so far. In view of the aforesaid provisions of the Customs Act, 1962, whosoever claims the ownership of the 748.780 Grams gold having purity 999.0 is also liable for penal action under Section 112 of the Customs Act, 1962, for the acts of omission and commission in importing the 748.780 grams gold into the country.

19. Now, therefore, **the unknown passenger/ original importer** of the aforesaid 748.780 grams of the gold and whoever claiming the ownership of the said gold, is hereby called upon to show cause in

writing to the Additional Commissioner of Customs, having his office located at 2nd Floor, Custom House, Near All India Radio, Opp. Old Gujarat High Court, Navrangpura, Ahmedabad 380009, as to why:

- (I) The **748.780** Grams gold having purity 999.0 having market value **Rs.46,57,412/-** (Forty-Six Lakhs Fifty-Seven Thousand Four Hundred and Twelve Only) and Tariff Value **Rs.40,35,026/-** (Rupees Forty Lakhs Thirty-Five Thousand and Twenty-Six Only) recovered from the toilet, near Baggage Belt No. 5, which was being used by the passengers and airport staff, placed under seizure vide panchnama dated 24.10.2023 and Seizure Memo/ order dated 24.10.2023, should not be confiscated under the provisions of Sections 111(d), 111(1), 111(1) and 111(m) of the Customs Act, 1962;
- (II) The packing material i.e. underwear and tapes, which contained the semi-solid substance, from which 748.780 Grams gold was extracted and placed under seizure vide panchnama dated 24.10.2023 and Seizure Memo/ order dated 24.10.2023, should not be confiscated under Section 118(a) & 119 of the Customs Act, 1962;
- (III) Penalty should not be imposed upon unknown passenger/ original importer and whoever claims the ownership of the said gold under Sections 112(a) and 112(b) of the Customs Act, 1962, for the omissions and commissions mentioned hereinabove.

Defense reply and record of personal hearing: -

20. The noticee i.e. unknown person(s)/ passenger(s)/ original importer or any other claimant has not submitted any written submission to the Show Cause Notice issued.

21. The noticee i.e. unknown person(s)/ passenger(s) / original importer or any other claimant has not appeared for personal hearing granted to them on 24.04.2024; 25.04.2024 and 26.04.2024. The letter for personal hearing were served by way of placing on the Notice Board of Customs House Building and SVPI Airport.

Discussion and Findings:

22. I have carefully gone through the facts of this case. Further, after granting sufficient opportunities to be heard in person, no one came forward to claim the goods and did not appear in personal hearing as well as filed any written reply to the Show Cause Notice. I therefore proceed to decide the instant case on the basis of evidences and documents available on record.

23. In the instant case, I find that the main issues that are to be decided is whether the Gold totally weighing 748.780 grams, having Tariff Value of Rs.40,35,026/- (Rupees Fourty Lakhs Thirty-Five Thousand Twenty-Six Only) and Market Value of Rs.46,57,412/- (Rupees Fourty-Six Lakhs Fifty-Seven Thousand Four Hundred Twelve Only) derived from gold paste weighing 972.320 grams recovered from unknown person(s)/passenger(s), which were seized vide Seizure Order/Memo under Panchnama proceedings both dated 24.10.2023 on the reasonable belief that the said goods were smuggled into India, are liable for confiscation under Section 111 of the Customs Act, 1962 (hereinafter referred to as 'the Act') or not; packing materials used for packing and concealment of seized goods is liable for confiscation under the Act and whether the unknown person(s)/passenger(s) is liable for penalty under the provisions of Section 112 of the Act.

24. I find that the panchnama clearly draws out the fact that the gold was recovered from the toilet near Baggage Belt No. 5, on 24.10.2023. As a part of vigilant measures, the officers of Air Intelligence Unit, SVPI Airport, Ahmedabad conducted a surprise search of the toilets near Baggage Belt No. 5 of the Arrival Hall of Terminal 2 of the SVPI Airport, Ahmedabad. Therefore, the officers of AIU, Customs along with 02 independent panchas entered the men's toilet and found it completely vacant. Further, they took the assistance of the BVG cleaning staff present at the spot-on duty viz. Smt. Gauri Bahan, Smt. Joshna Bahan and Shri Ajay. The officers of AIU along with panchas and the BVG staff, started searching the garbage bins kept inside the toilet cabins and also looked for any suspicious items inside the toilet at various

spots. During the said search, a pair of underpants was found lying behind the toilet seat cover of one of the toilet cabins. The BVG cleaning staff handed over the underpants to the AIU officers. The officers observed that the waistline of the underpants was unusually thick, and the garment was inexplicably heavy. The AIU officers informed the panchas that it appeared that the waistline contained some semi-solid material which appeared to be suspicious, the underpants were taken to the AIU office for further investigation.

25. Thereafter, in presence of the panchas, the waistline was cut open by the officers and one long strip was recovered which appeared to be containing some semi-solid material. The AIU officers informed that this appeared to be gold and chemical mix and for the exact determination of its contents they need to call the Government Approved Valuer. Then the AIU officer called the valuer and he was informed that an unclaimed strip containing semi-solid substance covered in the waistline of the underwear has been found and he needed to come to the Airport for examination and valuation of the said semi-solid substance. In reply, the Government approved valuer informed the AIU officer that the testing of the said material was possible at his workshop only as metal has to be extracted from such semi-solid substance by melting it and also informed the address of his workshop.

26. I also find that the government approved valuer weighed the said goods/ material and weight of the said goods was found to be 972.320 grams. It is also on record that the Govt. Approved Valuer extracted gold bar from the said gold paste & chemical mix and after completing, purifying and testing process, the Government Approved valuer certified that, the said gold bar is weighing 748.780 grams of 24 Kt./999.0 purity gold having market value of Rs.46,57,412/- (Rupees Forty Six Lakh Fifty-Seven Thousand Four Hundred Twelve Only) and Tariff Value of Rs.40,35,026/- (Rupees Fourty Lakhs Thirty-Five Thousand Twenty-Six Only), which were seized vide Seizure Memo/Order under Panchnama proceedings both dated 24.10.2023, in the presence of the Panchas.

27. I also find that unknown passenger(s)/ importer, has neither questioned the manner of the panchnama proceedings nor controverted the facts detailed in the panchnama. Every procedure conducted during the panchnama by the Officers was well documented and made in the presence of the panchas. It is found that the unknown passenger had concealed one plastic pouch, which contained the semi-solid substance, from which 748.780 Grams gold was extracted. The gold was recovered from the toilet, near baggage belt No. 5, with an intent to clear it illicitly and evade payment of Customs duty and thereby, contravening the provisions of the Customs Act, 1962 and the Rules and Regulations made under it.

28. I find that, the gold bar recovered after purifying the said semi solid substance weighing 972.320 grams consisting of Gold & Chemical mix, gold bar weighing 748.780 Grams is of 999.0/24 Kt. Purity. Further, I find that the unknown passenger has improperly imported the said gold, by concealing/ hiding it in underpants recovered from the toilet, which contained the semi-solid substance, from which 748.780 Grams gold was extracted. By such an act of improperly importation/ smuggling of gold, the unknown passenger has contravened the provisions of Para 2.26 of the Foreign Trade Policy 2015-20 and section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 read with Section 3(2) and 3(3) of the Foreign Trade (Development and Regulation) Act, 1992 further read in conjunction with Section 11(3) of the Customs Act, 1962 and the relevant provisions of the Baggage Rules, 2016, Customs Baggage Declaration Regulations, 2013 and Notification No. 50/2017-Customs dated 30.06.2017 as amended.

29. From the facts discussed above, it is proved that all the above acts of contravention on the part of the said unknown passenger (s)/original importer has rendered the said Gold weighing 748.780 grams of 24 Kt/999.00 purity having tariff value of Rs.40,35,026/- and market Value of Rs.46,57,412/- placed under seizure under panchnama dated 24.10.2023, liable for confiscation under the provisions of Section 111(d), 111(i), 111(j) and 111(m) of the Customs Act, 1962. By using the modus of concealment of the said gold, it is observed that the unknown passenger(s)/importer(s) was fully aware that the goods are offending in

nature on its import. It is seen that the unknown passenger(s)/importer(s) has involved himself in carrying, keeping, concealing and has dealt with the impugned gold in a manner which he knew were liable to confiscation under the Act. It therefore, proves that the unknown passenger has committed an offence of the nature described in Section 112 (a) & 112 (b) of Customs Act, 1962 making him liable for penalty under Sections 112(a)(i) of the Customs Act, 1962.

30. I find that the said 01 gold bar of 24 Kt., totally weighing 748.780 gms. derived from gold paste carried and concealed in underpants weighing 972.320 grams recovered from the toilet, as discussed above, was to smuggle without declaring it to Customs authorities and by this act, the unknown passenger(s)/importer(s) or any other claimant has held the said goods liable for confiscation. I, therefore, refrain from using my discretion to give an option to redeem the gold on payment of redemption fine, as envisaged under Section 125 of the Customs Act, 1962.

31. Given the facts of the present case before me, the said 01 gold bar of 24 Kt., totally weighing 748.780 gms., concealed in underpants, in form of semi-solid substance, recovered from the toilet, by the unknown passenger is therefore liable to be confiscated absolutely. I therefore hold in unequivocal terms that the said 01 gold bar of 24 Kt., totally weighing 748.780 gms. placed under seizure would be liable to absolute confiscation under Section 111(d), 111(i), 111(j) and 111(m) of the Customs, Act, 1962. Further, the packing materials i.e. underwear and tapes, which contained the semi-solid substance is also liable for absolute confiscation under section 119 of the Customs Act, 1964.

32. The act of concealing the gold, with intention to smuggle the same into India by evading Customs Duty has also rendered the unknown passenger(s)/ importer(s) or any other claimant liable for penalty under Section 112 of the Customs Act, 1962. However, since the passenger/ owner of the imported impugned gold is not known and nobody else has come forward to claim the impugned gold/ goods, I desist from imposing personal penalty under the provisions of Section 112 of the Act on unknown passenger/ person in this case.

33. Accordingly, I pass the following Order.

ORDER

- i. I order absolute confiscation of 1 Gold Bar of 24 Kt./999 purity gold, totally weighing **748.780 grams**, having Market Value of Rs.46,57,412/- (Rupees Fourty Six Lakhs Fifty-Seven Thousand Four Hundred Twelve Only) and Tariff Value of Rs.40,35,026/- (Rupees Forty Lakhs Thirty Five Thousand Twenty-Six Only), recovered for the toilet, near Baggage Belt No. 5, which was used by the passengers and airport staff, under the provisions of Sections 111(d), 111(l) and 111 (j) of the Customs Act, 1962;
- ii. I order absolute confiscation of the packing material i.e. underwear and tapes, which contained semi-solid substance, used for packing and concealment of seized gold, under Section 119 of the Customs Act, 1962.

34. Accordingly, the Show Cause Notice No. VIII/10-03/SVPIA-D/O&A/HQ/2024-25 dated 03.04.2024 stands disposed of.

Vishal
30/4/24

(Vishal Malani)

Additional Commissioner
Customs, Ahmedabad

DIN : 20240471MN000000EAA0
F. No. VIII/10-86/SVPIA/O&A/HQ/2023-24

Date : 30.04.2024

To,

"Whom so ever it may concern"

- 1) To be pasted on the Notice Board of Customs House, Navrangpura, Ahmedabad-380009;
- 2) To be pasted on the Notice Board of Customs, SVPI Airport, Ahmedabad.

Copy to:-

- (i) The Principal Commissioner of Customs, Ahmedabad. (Kind Attn: RRA Section).
- (ii) The Deputy Commissioner of Customs (AIU), SVPIA, Ahmedabad.
- (iii) The Deputy Commissioner of Customs (Task Force), Ahmedabad.
- (iv) The System In-Charge, Customs, HQ., Ahmedabad for uploading on the official web-site.
- (v) Guard File.