



## प्रधान आयुक्त का कार्यालय, सीमा शुल्क, अहमदाबाद

“सीमा शुल्क भवन,” पहली मंजिल, पुराने हाईकोर्ट के सामने, नवरंगपुरा, अहमदाबाद – 380009.

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### PREAMBLE

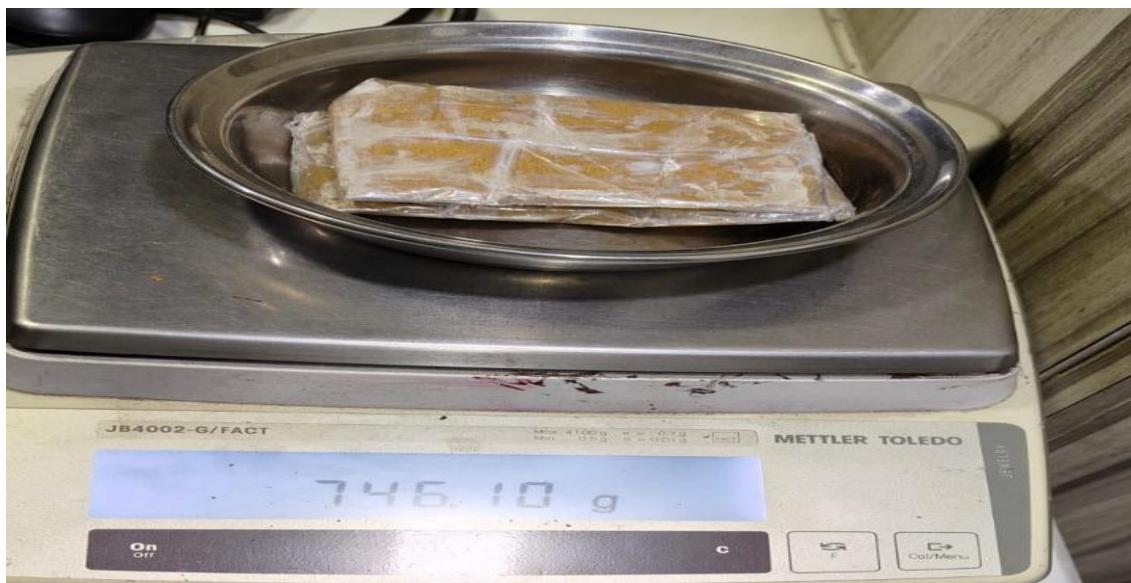
A	फ़ाइल संख्या/ File No.	:	VIII/10-256/SVPIA-A/O&A/HQ/2024-25
B	कारण बताओ नोटिस संख्या-तारीख / Show Cause Notice No. and Date	:	VIII/10-256/SVPIA-A/O&A/HQ/2024-25 dated 07.02.2025
C	मूल आदेश संख्या/ Order-In-Original No.	:	49/ADC/SRV/O&A/2025-26
D	आदेश तिथि/ Date of Order-In-Original	:	19.06.2025
E	जारी करनेकी तारीख/ Date of Issue	:	19.06.2025
F	द्वारापारित/ Passed By	:	<b>Shree Ram Vishnoi,</b> Additional Commissioner, Customs, Ahmedabad
G	आयातक का नाम औरपता / Name and Address of Importer / Passenger	:	<p>“Whom so ever it may concern”</p> <p>(1) To be pasted on the Notice Board of Custom House, Navrangpura, Ahmedabad – 380 009.</p> <p>(2) To be pasted on the Notice Board of Customs, SVPI Airport, Ahmedabad.</p>
(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 मंजिल, हुड़को 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 ऊर्ध्वा 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 :**

The officers of AIU received an information from the cleaning staff at SVPIA Airport indicating that there is some suspicious plastic pouch lying in the dust-bin of the 1<sup>st</sup> toilet from the entry of the male toilets situated near the immigration counter of the arrival hall of the Terminal-2 of the SVPIA, Ahmedabad on 07.09.2024. During the Course of examination, the officers of AIU, Smt. Sujita Mammen, Superintendent, Shri Mayur Joshi, Superintendent, Shri Vinay Arora, Superintendent, Shri R.C. Meena, Superintendent, Shri Nimit Dosi, Inspector, Shri Arun Singh, Inspector and Shri Vikram Sinha, Inspector of Customs, SVPI Airport, Ahmedabad found 2 plastic pouches containing some golden-brown contents under the polythene bag kept in the dust-bin of the 1<sup>st</sup> toilet from the entry of the male toilets situated near the immigration counter of the arrival hall of the Terminal-2 of the SVPIA. The proceedings were recorded under Panchnama dated 07.09.2024.

**2.** Thereafter the said officers returned to the AIU office located at the baggage Belt No.1 and 2 Arrival Hall of Terminal 2, SVPI Airport, Ahmedabad and the said packet was opened in the presence of the Panchas and it was found to be containing golden brown paste like substance which felt heavy and suspected to be the gold paste.

**2.1** The photograph of the plastic pouches containing some golden-brown contents under the polythene bag were taken which is as under:



**2.2** Thereafter, the AIU officer called Government Approved Valuer and informed him that two packets of semi solid substance wrapped in transparent plastic pouch had been recovered during the examination of

the male toilet of the Arrival Hall of the Terminal-2 of the SVPIA, Ahmedabad and the said pouches seemed to contain semi solid gold in paste form and hence, the officer requested the said valuer to come to the AIU office for testing and Valuation of the said material. In reply, the Government Approved Valuer informed the AIU officer that the testing of the said material was only possible at his workshop as gold had to be extracted from such semi solid paste form by melting it and also informed the address of his workshop.

**2.3** Thereafter, the panchas along with the AIU officer left the Airport premises in a Government Vehicle and reached the premises of the Government Approved Valuer located at 301, Golden Signature, Bh. Ratnam Complex, C.G. Road, Ahmedabad-380006. On reaching the above referred premises, the AIU officer introduced the panchas to one person named Mr. Kartikey Vasantrai Soni, Government Approved Valuer. After weighing the said semi solid substance on his weighing scale, Mr. Kartikey Vasantrai Soni informed that the total gross weight of the said two packets containing semi solid paste was 746.100 grams. Thereafter, Mr. Kartikey Vasantrai Soni started the process of melting the said semi solid substance at his furnace. The said substance was put into the furnace and upon heating the said semi solid substance, it turned into liquid material. The said substance in liquid state was taken out of furnace, and poured in a bar shaped plate and after cooling for some time, it became yellow coloured solid metal in form of bar. After completion of the procedure, Government Approved Valuer informed that Gold bar weighing 650.930 grams having purity 999.0 was derived from the 746.100 grams of Semi Solid Substance consisting of Gold and Chemical mix. The photograph of the Gross weight and Net Weight of the said gold bar at the weighing scale had also been taken which is as under:





3. Thereafter, Shri Kartikey Soni, the Government Approved Valuer submitted Valuation Report No. 820/2024-25 dated 07.09.2024 in (Annexure-A) and (Annexure-B) the details of which are as under:

Sl. No.	Details of Items	PCS	Net Weight In Gram	Purity	Market value (Rs)	Tariff Value (Rs)
1	GOLD BAR	1	650.930	999.0 24Kt	47,96,703/-	44,44,745/-

**3.1** Further, as per the said Valuation Report, recovered gold bar of 24 k purity weighing 650.930 grams derived from semi solid substance consisting of Gold & Chemical mix having gross weight 746.100 grams was having market value of Rs. 47,96,703/- (Rupees Forty Seven Lakh Ninety Six Thousand Seven Hundred and Three Only) and Tariff Value of Rs. 44,44,745/- (Rupees Forty Four Lakh Forty Four Thousand Seven Hundred Forty Five Only), which had been calculated per the Notification No. 56/2024-Customs (N.T.) dated 30.08.2024 and Notification No. 45/2024-Customs (N.T.) dated 20.06.2024.

**Seizure of the above gold bar of 24 k purity weighing 650.930 grams derived from semi solid substance consisting of Gold & Chemical mix having gross weight 746.100 grams:**

4. As the said gold in the form of semi solid paste was found/recovered from dust-bin of male toilets situated near the Immigration in the arrival hall of the SVPIA, Ahmedabad and it was not

possible to identify as to who was the owner of the recovered said gold therefore as there was no claimant for the said gold and it was not possible to identify any proper and legitimate claimant of the gold and therefore the recovered gold was termed as 'unclaimed'.

**5.** Since the recovered gold bar weighing 650.930 grams was found to be unclaimed but was recovered without any legitimate import documents inside the Customs Area, the same falls under the category of smuggled goods and stands liable for confiscation under the Customs Act, 1962. Therefore, the said gold bar weighing 650.930 grams having purity 999.0, having market value of Rs. 47,96,703/- (Rupees Forty Seven Lakh Ninety Six Thousand Seven Hundred and Three Only) and Tariff Value of Rs. 44,44,745/- (Rupees Forty-Four Lakh Forty-Four Thousand Seven Hundred Forty-Five Only) was placed under seizure vide order dated 07.09.2024 issued under the provisions of Section 110(1) and (3) of the Customs Act, 1962 under reasonable belief that the subject unclaimed Gold is liable for confiscation under Section 111 of the Customs Act, 1962.

**6.** From the investigation conducted in the case, it appeared that the aforesaid gold was imported into India in violation of the provisions of The Baggage Rules, 1998, as amended, in as much as gold or silver in any form, other than ornaments is not allowed to be imported free of duty. In the instant case, a gold bar of 650.930 grams derived from semi solid substance consisting of Gold & Chemical mix having gross weight 746.100 grams having purity of 24 KT/999.0 was recovered from dust-bin of the 1st toilet from the entry of the male toilets situated near the immigration counter of the arrival hall of the Terminal-2 of the SVPIA Ahmedabad on 07.09.2024. Further, the said quantity of gold bar is more than the permissible limit allowed to a passenger under the Baggage Rules, and for these reasons alone it cannot be considered as a bonafide baggage under the Customs Baggage Rules 1998. According to Section 77 of the Customs Act, 1962, the owner of any baggage, for the purpose of clearing it, is required to make a declaration of its contents to the proper officer. In the instant case, no passenger had declared the gold bar of 650.930 grams derived from semi solid substance consisting of Gold & Chemical mix having gross weight 746.100 grams having purity of 24 KT/999.0 because of malafide intention and thereby contravened the provision of Section 77 of the Customs Act, 1962. It therefore, appears

that the gold bar of 650.930 grams derived from semi solid substance consisting of Gold & Chemical mix having gross weight 746.100 grams having purity of 24 KT/999.0 derived from the 2 plastic pouches under the polythene bag kept in the dust-bin is attempted to be smuggled into India with an intention to clear the same without discharging duty payable thereon. It, therefore, appears that the said gold bar of 650.930 grams derived from semi solid substance consisting of Gold & Chemical mix having gross weight 746.100 grams having purity of 24 KT/999.0 is liable for confiscation under the provision of Section 111 of the Customs Act, 1962. Consequently, the gold bar of 650.930 grams derived from semi solid substance consisting of Gold & Chemical mix having gross weight 746.100 grams having purity of 24 KT/999.0 and Market value of Rs. 47,96,703/- (Rupees Forty Seven Lakh Ninety Six Thousand Seven Hundred and Three Only) and Tariff Value of Rs. 44,44,745/- (Rupees Forty Four Lakh Forty Four Thousand Seven Hundred Forty Five Only), in the dust-bin of the 1st toilet from the entry of the male toilets situated near the immigration counter of the arrival hall of the Terminal-2 of the SVPIA ,Ahmedabad were placed under seizure vide Panchanama dated 07.09.2024 and Seizure order dated 07.09.2024 by the AIU Officers of Customs under the reasonable belief that the subject Unclaimed Gold is liable for confiscation.

#### **7. Summation:**

The aforementioned proceedings indicates that some unknown person/s had attempted to smuggle the aforesaid gold into India and thereby rendered the aforesaid gold having Market value of Rs. 47,96,703/- (Rupees Forty Seven Lakh Ninety Six Thousand Seven Hundred and Three Only) and Tariff Value of Rs. 44,44,745/- (Rupees Forty Four Lakh Forty Four Thousand Seven Hundred Forty Five Only), liable for confiscation under the provisions of Section 111 of the Customs Act, 1962 and therefore the same were placed under Seizure.

#### **8. Legal provisions relevant to the case:**

##### **Foreign Trade Policy 2015-20 (as amended) and Foreign Trade (Development and Regulation) Act, 1992**

8.1 As per Customs Baggage Declaration (Amendment) Regulations, 2016 issued vide Notification no. 31/2016 (NT) dated 01.03.2016, all passengers who come to India and

having anything to declare or are carrying dutiable or prohibited goods shall declare their accompanied baggage in the prescribed form under Section 77 of the Customs Act, 1962.

- 8.2 All dutiable goods imported into India by a passenger in his baggage are classified under CTH 9803. As per Section 77 of the Customs Act, 1962, the owner of the baggage shall for the purpose of clearing it, make a declaration of its contents to the proper officer. As per Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992, no export or import shall be made by any person except in accordance with the provisions of Foreign Trade (Development and Regulation) Act, 1992, the Rules and Order made thereunder and the Foreign Trade Policy for the time being in force.
- 8.3 In terms of Para 2.26 (a) of the Foreign Trade Policy 2015-20, only bona fide household goods and personal effects are allowed to be imported as part of passenger baggage as per limits, terms and conditions thereof in Baggage Rules notified by the Ministry of Finance. Gold can be imported by the banks (Authorized by the RBI) and agencies nominated for the said purpose under Para 4.41 of the Chapter 4 of the Foreign Trade Policy or by eligible passenger as per the provisions of Notification no. 50/2017-Customs dated 30.06.2017 (Sr. No. 356). As per the said notification "Eligible Passenger" means passenger of Indian Origin or a passenger holding valid passport issued under the Passport Act, 1967, who is coming to India after a period of not less than 6 months of stay abroad.
- 8.4 As per Rule 5 of the Baggage Rules, 2016, a passenger residing abroad for more than one year, on return to India, shall be allowed clearance free of duty in his bona-fide baggage of jewellery upto weight, of twenty grams with a value cap of Rs. 50,000/- if brought by a gentlemen passenger and forty grams with a value cap of one lakh rupees, if brought by a lady passenger.

8.5 As per Notification no. 49/2015-2020 dated 05.01.2022, gold in any form includes gold in any form above 22 carats under Chapter 71 of the ITC (HS), 2017, Schedule-1 (Import Policy) and import of the same is restricted.

8.6 Further, as per 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 goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with, implying that any goods imported in violation of the conditions subject to which the goods are permitted to be imported are nothing but prohibited goods. Hence the abovesaid gold weighing 650.930 grams are in contravention to the Foreign Trade Policy 2015-20 read with the relevant notification issued under the Customs Act, 1962 and Rules made thereunder, shall have to be treated as prohibited, by not being in conformity with the conditions imposed in the said regulations.

8.7 Notification No. 50 /2017 -Customs New Delhi, the 30th June, 2017 G.S.R. (E).-  
In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962) and sub-section (12) of section 3, of Customs Tariff Act, 1975 (51 of 1975), and in supersession of the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 12/2012 -Customs, dated the 17th March, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 185 (E) dated the 17th March, 2017, except as respects things done or omitted to be done before such supersession, the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts the goods of the description specified in column (3) of the Table below or column (3) of the said Table read with the relevant List

appended hereto, as the case may be, and falling within the Chapter, heading, sub-heading or tariff item of the First Schedule to the said Customs Tariff Act, as are specified in the corresponding entry in column (2) of the said Table, when imported into India,- (a) from so much of the duty of customs leviable thereon under the said First Schedule as is in excess of the amount calculated at the standard rate specified in the corresponding entry in column (4) of the said Table; and (b) from so much of integrated tax leviable thereon under sub-section (7) of section 3 of said Customs Tariff Act, read with section 5 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) as is in excess of the amount calculated at the rate specified in the corresponding entry in column (5) of the said Table, subject to any of the conditions, specified in the Annexure to this notification, the condition number of which is mentioned in the corresponding entry in column (6) of the said Table:

S.N.	Chapter or Heading or sub-heading or tariff item	Description of goods	Standard rate	Condition No.
356.	71 or 98	(i) Gold bars, other than tola bars, bearing manufacturer's or refiner's engraved serial number and weight expressed in metric units, and gold coins having gold content not below 99.5%, imported by the eligible passenger (ii) Gold in any form other than (i), including tola bars and ornaments, but excluding ornaments studded with stones or pearls	10%	41

**Condition no. 41 of the aforesaid :**

If,- 1. (a) the duty is paid in convertible foreign currency; (b)

the quantity of import does not exceed ten kilograms of gold and one hundred kilograms of silver per eligible passenger; and 2. the gold or silver is,- (a)carried by the eligible passenger at the time of his arrival in India, or (b) the total quantity of gold under items (i) and (ii) of Sr. No. 356 does not exceed one kilogram and the quantity of silver under Sr. No. 357 does not exceed ten kilograms per eligible passenger; and (c ) is taken delivery of from a customs bonded warehouse of the State Bank of India or the Minerals and Metals Trading Corporation Ltd., subject to the conditions 1 ; Provided that such eligible passenger files a declaration in the prescribed form before the proper officer of customs at the time of his arrival in India declaring his intention to take delivery of the gold or silver from such a customs bonded warehouse and pays the duty leviable thereon before his clearance from customs. Explanation.- For the purposes of this notification, "eligible passenger" means a passenger of Indian origin or a passenger holding a valid passport, issued under the Passports Act, 1967 (15 of 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.

- 8.8 As per para 2.26 of Foreign Trade Policy 2015-20 Bona-fide household goods and personal effects may be imported as part of passenger baggage as per limits, terms and conditions thereof in Baggage Rules notified by Ministry of Finance.
- 8.9 As per Section 3(2) of the Foreign Trade (Development and Regulation) Act, 1992 the Central Government may by Order make provision for prohibiting, restricting or otherwise regulating, in all cases or in specified classes of cases and subject to such exceptions, if any, as may be made by or under the Order, the import or export of goods or services or technology.
- 8.10 As per Section 3(3) of the Foreign Trade (Development and Regulation) Act, 1992 all goods to which any Order under sub-section (2) applies shall be deemed to be goods the import or

export of which has been prohibited under section 11 of the Customs Act, 1962 (52 of 1962) and all the provisions of that Act shall have effect accordingly.

- 8.11 As per Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 no export or import shall be made by any person except in accordance with the provisions of this Act, the rules and orders made thereunder and the foreign trade policy for the time being in force.
- 8.12 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.
- 8.13 As per Section 2(3) – “baggage includes unaccompanied baggage but does not include motor vehicles.
- 8.14 As per Section 2(22), of Customs Act, 1962 definition of 'goods' includes-
  - (a) vessels, aircrafts and vehicles;
  - (b) stores;
  - (c) baggage;
  - (d) currency and negotiable instruments; and
  - (e) any other kind of movable property;
- 8.15 As per Section 2(33) of 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.
- 8.16 As per Section 2(39) of the Customs Act 1962 '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 of the Customs Act 1962.
- 8.17 As per Section 77 of the Customs Act 1962 the owner of baggage shall, for the purpose of clearing it, make a declaration of its contents to the proper officer.
- 8.18 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.

**8.19 Section 111. Confiscation of improperly imported goods, etc.:**

The following goods brought from a place outside India shall be liable to confiscation:

- (d) Any goods which are imported or attempted to be imported or brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force.
- (e) Any dutiable or prohibited goods found concealed in any manner in any conveyance.
- (i) Any dutiable or prohibited goods found concealed in any manner in any package either before or after the unloading.

**8.20 Section 112. Penalty for improper importation of goods etc.:**

any person,

- (a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under Section 111, or abets the doing or omission of such an act, or
- (b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harboring, keeping, concealing, selling or purchasing or in any manner dealing with any goods which he know or has reason to believe are liable to confiscation under Section 111, shall be liable to penalty.

**8.21 As per Section 119 of Customs Act 1962 any goods used for concealing smuggled goods shall also be liable for confiscation.****8.22 As per Section 123 of Customs Act 1962,**

- (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.

**9** From the above paras, it appears that during the period relevant to this case, import of gold in any form (gold having purity above 22 kt.) was restricted as per DGFT notification and import was permitted only by nominated agencies. Further, it appears that import of goods whereas it is allowed subject to certain conditions are to be treated as prohibited goods under section 2(33) of the Customs Act, 1962 in case such conditions are not fulfilled. As such import of gold is not permitted under Baggage and therefore the same is liable to be held as prohibited goods.

### **Contravention and violation of Laws**

**10.** It therefore appears that:

(i) Some unknown passenger(s)/person(s) had attempted to smuggle/improperly import the said gold bar of 650.930 grams derived from semi solid substance consisting of Gold & Chemical mix having gross weight 746.100 grams having purity 24KT /999.0 and having market value of Rs. 47,96,703/- (Rupees Forty Seven Lakh Ninety Six Thousand Seven Hundred and Three Only) and Tariff Value of Rs. 44,44,745/- (Rupees Forty Four Lakh Forty Four Thousand Seven Hundred Forty Five Only) derived from plastic pouch lying in the dust-bin of the 1st toilet from the entry of the male toilets situated near the immigration counter of the arrival hall of the Terminal-2 of the SVPIA, with a deliberate intention to evade the payment of customs duty and fraudulently circumventing the restrictions and prohibitions imposed under the Customs Act 1962 and other allied Acts, Rules and Regulations. The unknown passenger(s)/person(s) had knowingly and intentionally smuggled the said gold in form of semi solid substances consisting of gold and chemical mix wrapped in two

plastic pouch lying in the dust-bin of the 1st toilet from the entry of the male toilets situated near the immigration counter of the arrival hall of the Terminal-2 of the SVPIA, to clear it illicitly to evade payment of the Customs duty. Therefore, the improperly imported gold by the unknown passenger(s)/person(s) by way of concealment without declaring it to the Customs on arrival in India cannot be treated as bonafide household goods or personal effects. The unknown passenger(s)/person(s) has/have thus contravened the Foreign Trade Policy 2015-20 and Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 read with Section 3(2) and 3(3) of the Foreign Trade (Development and Regulation) Act, 1992, as amended.

- (ii) The unknown passenger(s)/person(s) who is/are claiming the ownership, by not declaring the contents of the baggage which included dutiable and prohibited goods to the proper officer of the Customs has contravened Section 77 of the Customs Act, 1962 read with Regulation 3 of Customs Baggage Declaration Regulations, 2013.
- (iii) The improperly imported/smuggled gold by unknown passenger(s)/person(s) who is/are claiming the ownership, concealed in a plastic pouch lying in the dust-bin of the 1<sup>st</sup> toilet from the entry of the male toilets situated near the immigration counter of the arrival hall of the Terminal-2 of the SVPIA, Ahmedabad for the purpose of the smuggling without declaring it to the Customs is thus liable for confiscation under Section 111(d), 111(f), 111(i), 111(j), 111(l) and 111(m), read with Section 2 (22), (33), (39) of the Customs Act, 1962 and further read in conjunction with Section 11(3) of Customs Act, 1962.
- (iv) The unknown passenger(s)/person(s) who is/are claiming the ownership, by the above-described acts of omission/commission and/or abetment has/have rendered themselves liable to penalty under Section 112 of Customs Act, 1962.
- (v) As per Section 123 of Customs Act 1962, the burden of proving that the said the said gold bar of 650.930 grams derived from semi solid substance consisting of Gold & Chemical mix having gross weight 746.100 grams having purity 24KT /999.0 and having

market value of Rs. 47,96,703/- (Rupees Forty Seven Lakh Ninety Six Thousand Seven Hundred and Three Only) and Tariff Value of Rs. 44,44,745/- (Rupees Forty Four Lakh Forty Four Thousand Seven Hundred Forty Five Only) derived from semi solid substances consisting of gold and chemical mix in two transparent plastic pouch lying in the dust-bin of the 1st toilet from the entry of the male toilets situated near the immigration counter of the arrival hall of the Terminal-2 of the SVPIA, Ahmedabad are not smuggled goods, is upon the said unknown passenger(s)/person(s) who is/are claiming the ownership of the said gold, who are the Noticee(s) in this case.

**11.** Accordingly, a Show Cause Notice was issued to the unknown passenger/original importer and/or any other claimant of the aforesaid Gold Bar weighing 650.930 Grams retrieved from semi solid substances consisting of gold and chemical mix in two transparent plastic pouches having gross weight 746.100 grams lying in the dust-bin of the 1<sup>st</sup> toilet from the entry of the male toilets situated near the immigration counter of the arrival hall of the Terminal-2 of the SVPIA Ahmedabad, as to why:

- (i) The 01 Gold Bar weighing 650.930 Grams having purity 24KT /999.0 and having Tariff Value of Rs. 44,44,745/- (Rupees Forty Four Lakh Forty Four Thousand Seven Hundred Forty Five Only) and Market Value of Rs. 47,96,703/- (Rupees Forty Seven Lakh Ninety Six Thousand Seven Hundred and Three Only) derived from semi solid substances consisting of gold and chemical mix in two transparent plastic pouches having gross weight 746.100 grams lying in the dust-bin of the 1<sup>st</sup> toilet from the entry of the male toilets situated near the immigration counter of the arrival hall of the Terminal-2 of the SVPIA Ahmedabad placed under seizure under panchnama proceedings dated 07.09.2024 and Seizure Memo Order dated 07.09.2024, should not be confiscated under the provision of Section 111(d), 111(f), 111(i), 111(j), 111(l) and 111(m) of the Customs Act, 1962;
- (ii) Penalty should not be imposed upon the unknown passenger(s)/person(s) who is/are claiming the ownership of the

said gold, under Sections 112 of the Customs Act, 1962, for the omissions and commissions mentioned hereinabove.

**Defense reply and record of personal hearing: -**

**12.** The noticee i.e. unknown person(s)/ passenger(s)/ original importer or any other claimants have not submitted any written submission to the Show Cause Notice issued.

**13.** The noticee i.e. unknown person(s)/ passenger(s) / original importer or any other claimant/s have not appeared for personal hearing granted to them on 05.05.2025, 16.05.2025 & 02.06.2025. The letter for personal hearing were served by way of affixing on the Notice Board of Customs House Building in term of Section 153 of Customs Act, 1962. In the instant case, the noticee(s) has been granted sufficient opportunity of being heard in person for three times but no body come forward to attend PH. I am of the opinion that sufficient opportunities have been offered to the Noticee(s)/unknown passenger in keeping with the principle of natural justice and there is no prudence in keeping the matter in abeyance indefinitely.

**13.1** Before, proceeding further, I would like to mention that Hon'ble Supreme Court, High Courts and Tribunals have held, in several judgments/decision, that ex-parte decision will not amount to violation of principles of Natural Justice.

In support of the same, I rely upon some the relevant judgments/orders which are as under-

**a)** The Hon'ble Supreme Court in the matter of JETHMAL Versus UNION OF INDIA reported in 1999 (110) E.L.T. 379 (S.C.), the Hon'ble Court has observed as under;

*“7. Our attention was also drawn to a recent decision of this Court in A.K. Kripak v. Union of India - 1969 (2) SCC 340, where some of the rules of natural justice were formulated in Paragraph 20 of the judgment. One of these is the well known principle of audi alteram partem and it was argued that an ex parte hearing without notice violated this rule. In our opinion this rule can have no application to the facts of this case where the appellant was asked not only to send a written reply but to inform the Collector whether he wished to be heard in person or through*

*a representative. If no reply was given or no intimation was sent to the Collector that a personal hearing was desired, the Collector would be justified in thinking that the persons notified did not desire to appear before him when the case was to be considered and could not be blamed if he were to proceed on the material before him on the basis of the allegations in the show cause notice. Clearly he could not compel appearance before him and giving a further notice in a case like this that the matter would be dealt with on a certain day would be an ideal formality."*

**b).** Hon'ble High Court of Kerala in the case of UNITED OIL MILLS Vs. COLLECTOR OF CUSTOMS & C. EX., COCHIN reported in 2000 (124) E.L.T. 53 (Ker.), the Hon'ble Court has observed that;

*Natural justice - Petitioner given full opportunity before Collector to produce all evidence on which he intends to rely but petitioner not prayed for any opportunity to adduce further evidence - Principles of natural justice not violated.*

**c)** Hon'ble High Court of Calcutta in the case of KUMAR JAGDISH CH. SINHA Vs. COLLECTOR OF CENTRAL EXCISE, CALCUTTA reported in 2000 (124) E.L.T. 118 (Cal.) in Civil Rule No. 128 (W) of 1961, decided on 13-9-1963, the Hon'ble court has observed that;

*Natural justice - Show cause notice - Hearing - Demand - Principles of natural justice not violated when, before making the levy under Rule 9 of Central Excise Rules, 1944, the Noticee was issued a show cause notice, his reply considered, and he was also given a personal hearing in support of his reply - Section 33 of Central Excises & Salt Act, 1944. - It has been established both in England and in India [vide N.P.T. Co. v. N.S.T. Co. (1957) S.C.R. 98 (106)], that there is no universal code of natural justice and that the nature of hearing required would depend, inter alia, upon the provisions of the statute and the rules made there under which govern the constitution of a particular body. It has also been established that where the relevant statute is silent, what is required is a minimal level of hearing, namely, that the statutory authority must 'act in good faith and fairly listen to both sides' [Board of Education v. Rice, (1911) A.C. 179] and, "deal with the question referred to them without bias, and give to each of the parties the*

*opportunity of adequately presenting the case" [Local Govt. Board v. Arlidge, (1915) A.C. 120 (132)]. [para 16]*

**d)** Hon'ble High Court of Delhi in the case of SAKETH INDIA LIMITED Vs. UNION OF INDIA reported in 2002 (143) E.L.T. 274 (Del.). The Hon'ble Court has observed that:

*Natural justice - Ex parte order by DGFT - EXIM Policy - Proper opportunity given to appellant to reply to show cause notice issued by Addl. DGFT and to make oral submissions, if any, but opportunity not availed by appellant - Principles of natural justice not violated by Additional DGFT in passing ex parte order - Para 2.8(c) of Export-Import Policy 1992-97 - Section 5 of Foreign Trade (Development and Regulation) Act, 1992.*

**e)** The Hon'ble CESTAT, Mumbai in the case of GOPINATH CHEM TECH. LTD Vs. COMMISSIONER OF CENTRAL EXCISE, AHMEDABAD-II reported in 2004 (171) E.L.T. 412 (Tri. - Mumbai), the Hon'ble CESTAT has observed that;

*Natural justice - Personal hearing fixed by lower authorities but not attended by appellant and reasons for not attending also not explained - Appellant cannot now demand another hearing - Principles of natural justice not violated. [para 5]*

**f).** The Hon'ble High Court of Jharkhand in W.P.(T) No. 1617 of 2023 in case of Rajeev Kumar Vs. The Principal Commissioner of Central Goods and Service Tax & The Additional Commissioner of Central GST & CX, 5A Central Revenue Building, Main Road, Ranchi pronounced on 12.09.2023 wherein Hon'ble Court has held that

*"Accordingly, we are of the considered opinion that no error has been committed by the adjudicating authority in passing the impugned Order-in-Original, inasmuch as, enough opportunities were provided to the petitioner by issuing SCN and also fixing date of personal hearing for four times; but the petitioner did not respond to either of them.*

*8. Having regard to the aforesaid discussions and admitted position with regard to non-submission of reply to the SCN, we failed to appreciate the contention of the petitioner that principle of natural justice has not been complied in the instant case. Since there is*

*efficacious alternative remedy provided in the Act itself, we hold that the instant writ application is not maintainable.*

*9. As a result, the instant application stands dismissed. Pending I.A., if any, is also closed."*

**Discussion and Findings:**

**14.** 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. The adjudication proceedings cannot wait until the Noticee(s)/Unknown Passenger/claimant/s makes it convenient to file his/their submissions and appear for the personal hearing. I therefore proceed to decide the instant case on the basis of evidences and documents available on record.

**15.** In the instant case, I find that the main issues that are to be decided is whether the Gold weighing 650.930 grams, having Tariff Value of Rs.44,44,745/- (Rupees Forty Four Lakh Forty Four Thousand Seven Hundred Forty Five Only) and Market Value of Rs. 47,96,703/- (Rupees Forty Seven Lakh Ninety Six Thousand Seven Hundred and Three Only) derived from semi solid substances consisting of gold and chemical mix in two transparent plastic pouches having gross weight 746.100 grams lying in the dust-bin of the 1<sup>st</sup> toilet from the entry of the male toilets situated near the immigration counter of the arrival hall of the Terminal-2 of the SVPIA Ahmedabad and was seized vide Seizure Order/Memo under Panchnama proceedings both dated 07.09.2024, is liable for confiscation under Section 111 of the Customs Act, 1962 (hereinafter referred to as 'the Act') or not; whether the unknown person(s)/passenger(s) is liable for penalty under the provisions of Section 112 of the Act.

**16.** I find that the Panchnama clearly draws out the fact that while cleaning of 1<sup>st</sup> toilet from the entry of the male toilets situated near the immigration counter of the arrival hall of the Terminal-2 of the SVPIA, Ahmedabad or nearby area, the cleaning staff informed the officers of AIU that some suspicious plastic pouch lying in the dust-bin of the 1<sup>st</sup> toilet from the entry of the male toilets situated near the immigration counter of the arrival hall of the Terminal-2 of the SVPIA, Ahmedabad. During the examination of said of pouches, some golden-brown contents under the

polythene bag appeared heavy and suspected to be the gold paste. The proceedings were recorded under Panchnama dated 07.09.2024 in presence of two independent panchas.

**17.** It is on the record that the government approved valuer weighed the said goods/ material and reported the weight as 746.100 grams. It is also on record that the Govt. Approved Valuer vide certificate no. 820/2024-25 dated 07.09.2024 certified that, gold recovered from the paste was of 24 Kt./999.0 purity, weighing 650.930 grams having market value of Rs.47,96,703/- (Rupees Forty Seven Lakh Ninety Six Thousand Seven Hundred and Three Only) and Tariff Value of Rs.44,44,745/- (Rupees Forty Four Lakh Forty Four Thousand Seven Hundred Forty Five Only), which were seized vide Seizure Memo/Order under Panchnama proceedings both dated 07.09.2024 , in the presence of the Panchas. The details of which are as under: -

Sl. No.	Details of Items	PCS	Net Weight In Gram	Purity	Market value (Rs)	Tariff Value (Rs)
1	GOLD BAR	1	650.930	999.0 24Kt	47,96,703/-	44,44,745/-

**18.** 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 the said gold in semi solid paste form in two transparent pouches while arriving from abroad and left the same in the dustbin of 1<sup>st</sup> toilet from the entry of the male toilets situated near the immigration counter of the arrival hall of the Terminal-2 of the SVPIA, Ahmedabad. The said derived gold bar weighing 650.930 grams which was found in paste form in two transparent pouches and put in dustbin of 1<sup>st</sup> toilet near immigration counter of the arrival hall of Terminal-2 of SVPIA, Ahmedabad clearly indicates the intention of the unknown person/s 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.

**19.** I find that, the said gold bar, total weighing 650.930 Grams having purity 999.0/24 Kt. was found concealed in two transparent plastic pouches, having gold in semi solid paste form, which was improperly imported by unknown person/s by concealment while arriving from the abroad and hide in the dustbin of 1<sup>st</sup> toilet from the entry of the male toilets situated near the immigration counter of the arrival hall of the Terminal-2 of the SVPIA, Ahmedabad. 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.

**20.** With respect to the prohibition of the goods, it is to submit that the Hon'ble Apex Court in case of M/s. Om Prakash Bhatia Vs. Commissioner of Customs Observed the following: -

“Further, Section 2(33) of the Act defines “Prohibited Goods” as under: - Prohibited goods means any goods import or export of which subject to any prohibition under this Act or any other law for time being in force but does not include any such goods in respect of which conditions subject to which the goods are to be permitted to be imported or exported have been complied with.” From the aforesaid definition, it can be stated that (a) if there is any prohibition of import or export of goods under the Act or any other law for 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 mean that if the conditions prescribed for import or export of the goods are not complied with, it would be considered to be prohibited goods. This would also be clear from the Section 11 of Customs Act, 1962 which empowers the Central Government to prohibit either ‘absolutely’ or ‘subject to such conditions’ to be fulfilled before or after clearance, as may be specified in the Notification, the import or export of the goods of any specified description. The notification can be issued for the purpose specified in sub section (2). Hence, prohibition of importation or exportation could be subject to certain prescribed conditions to be fulfilled before after

clearance of goods. If the conditions are not fulfilled, it may amount to prohibited goods. This is also made clear by this court in Sheikh Mohd. Omer vs. Collector of Customs, Calcutta and others [(1970) 2 SSC 728] wherein it was contended that the expression 'prohibited' used in Section 111 (d) of the Customs Act, 1962 must be considered as a total prohibition and the expression does not fall within its fold the restriction imposed in clause (3) of import control order, 1955. The Court negatived the said contention and held thus:- "... what clause (d) of Section 111 says is that any goods which are imported or attempted to be imported contrary to" any prohibition imposed by any law for the time being in force in this country is liable to be confiscated. "Any prohibition" referred to in that section applies to every type of "prohibition". That prohibition may be complete or partial. Any restriction on import or export is to an extent a prohibition. The expression "any prohibition" in section 111(d) of the Customs Act, 1962 includes restriction. Merely because section 3 of import or export (control) act, 1947 uses three different expressions 'prohibiting', 'restricting' or 'otherwise controlling', we cannot cut down the amplitude of the word "any prohibition" in Section 111(d) of Customs Act, 1962. "Any prohibition" means every prohibition. In other words, all types of prohibition. Restriction is one type of prohibition. Hence, in the instant case, Gold brought was under restriction/prohibition. Relying on the ratio of the judgment stated above, I find that the goods brought by the unknown person(s), are "Prohibited Goods" under the definition of Section 2(33) of the Customs Act, 1962.

**21.** 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 have rendered the said gold weighing 650.930 grams of 24 Kt/999.00 purity having tariff value of Rs.44,44,745/- and market Value of Rs. 47,96,703/- placed under seizure under Panchnama dated 07.09.2024, liable for confiscation under the provisions of Section 111(d), 111(l) and 111(m) of the Customs Act, 1962. By using the modus of concealment of the said bar, 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/they knew was liable to confiscation under the Act.

**22.** It is seen that for the purpose of customs clearance of arriving passengers, a two-channel system is adopted i.e Green Channel for passengers not having dutiable goods and Red Channel for passengers having dutiable goods and all passengers have to ensure to file correct declaration of their baggage. I also find that the definition of "eligible passenger" is provided under Notification No. 50/2017- Customs New Delhi, the 30th June, 2017 wherein it is mentioned as - *"eligible passenger" means a passenger of Indian origin or a passenger holding a valid passport, issued under the Passports Act, 1967 (15 of 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.* It is also observed in the instant case that the imports were also for non-bonafide purposes. Therefore, the said improperly imported gold weighing 650.930 grams derived from semi solid paste in two transparent pouches, brought by unknown passenger and hiding the same in 1<sup>st</sup> toilet near male toilets situated near the immigration counter of the arrival hall of the Terminal-2 of the SVPIA, Ahmedabad, cannot be treated as bonafide household goods or personal effects. The noticee(s)/passenger(s)/Unknown Person(s) has thus contravened the Foreign Trade Policy 2015-20 and Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 read with Section 3(2) and 3(3) of the Foreign Trade (Development and Regulation) Act, 1992.

**23.** I find that the manner of concealment, in this case clearly shows that the unknown person/passenger/s had attempted to smuggle the seized gold to avoid detection by the Customs Authorities. Further, nobody has come forward to claim the ownership on the said seized gold. Thus, the unknown person/passengers failed to discharge the burden placed on them in terms of Section 123. In view of Judgment of Supreme Court in case of Om Prakash Bhatia, it is clear that gold may not be one of the enumerated goods, as prohibited goods, still if the condition for such import are not complied with, then import of gold, would squarely fall under the definition of "Prohibited Goods". I find that it is settled by the judgment of 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." Also, in the judgment the Hon'ble Delhi High Court in its order dated 21.08.23 in W.P (C) Nos. 8902/2021, 9561/2021, 13131/2022, 531/2022 & 8083/2023 held that "---- an infraction of a condition for import of goods would also fall within the ambit of Section 2(33) of the Act and thus their redemption and release would become subject to the discretionary power of Adjudicating Officer." Therefore, keeping in view the judicial pronouncement above and nature of concealment alongwith the facts of the case, ***I am therefore, not inclined to use my discretion to give an option to redeem the gold on payment of redemption fine, as envisaged under Section 125 of the Act.***

**24.** In the case of ***Samynathan Murugesan [ 2009 (247) ELT 21 (Mad)], the Hon'ble 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 has ruled that as the goods were prohibited and there was concealment, the Commissioner's order for absolute confiscation was upheld.***

**25.** Further I find that in a case decided by the ***Hon'ble High Court of Madras reported at 2016-TIOL-1664-HC-MAD-CUS in respect of Malabar Diamond Gallery Pvt Ltd***, the Court while holding gold jewellery as prohibited goods under Section 2(33) of the Customs Act, 1962 had recorded that "restriction" also means prohibition. In Para 89 of the order, it was recorded as under;

"89. While considering a prayer for provisional release, pending adjudication, whether all the above can wholly be ignored by the authorities, enjoined with a duty, to enforce the statutory provisions, rules and notifications, in letter and spirit, in consonance with the objects and intention of the Legislature, imposing prohibitions/restrictions under the Customs Act, 1962 or under any other law, for the time being in force, we are of the view that all the authorities

are bound to follow the same, wherever, prohibition or restriction is imposed, and when the word, "restriction", also means prohibition, as held by the Hon'ble Apex Court in Om Prakash Bhatia's case (cited *supra*)."

**26.** The *Hon'ble High Court of Madras in the matter of Commissioner of Customs (AIR), Chennai-I Vs. P. Sinnasamy [2016 (344) E.L.T. 1154 (Mad.)]* has held-

*Tribunal had arrogated powers of adjudicating authority by directing authority to release gold by exercising option in favour of respondent - Tribunal had overlooked categorical finding of adjudicating authority that respondent had deliberately attempted to smuggle 2548.3 grams of gold, by concealing and without declaration of Customs for monetary consideration - Adjudicating authority had given reasons for confiscation of gold while allowing redemption of other goods on payment of fine - Discretion exercised by authority to deny release, is in accordance with law - Interference by Tribunal is against law and unjustified -*

*Redemption fine - Option - Confiscation of smuggled gold - Redemption cannot be allowed, as a matter of right - Discretion conferred on adjudicating authority to decide - Not open to Tribunal to issue any positive directions to adjudicating authority to exercise option in favour of redemption.*

**27.** In [2019 (370) E.L.T. 1743 (G.O.I.)], before the Government of India, Ministry of Finance, [Department of Revenue - Revisionary Authority]; Ms. Mallika Arya, Additional Secretary in Abdul Kalam Ammangod Kunhamu vide Order No. 17/2019-Cus., dated 7-10-2019 in F. No.375/06/B/2017-RA stated that it is observed that C.B.I. & C. had issued instruction vide Letter F. No. 495/5/92-Cus. VI, dated 10-5-1993 wherein it has been instructed that "in respect of gold seized for non-declaration, no option to redeem the same on redemption fine under Section 125 of the Customs Act, 1962 should be given except in very trivial cases where the adjudicating authority is satisfied that there was no concealment of the gold in question".

**28.** The Hon'ble High Court of Delhi in the matter of Rameshwar Tiwari Vs. Union of India (2024) 17 Centax 261 (Del.) has held-

*"23. There is no merit in the contention of learned counsel for the Petitioner that he was not aware of the gold. Petitioner was carrying the packet containing gold. The gold items were concealed inside two pieces of Medicine Sachets which were kept inside a Multi coloured zipper jute bag further kept in the White coloured zipper hand bag that*

*was carried by the Petitioner. The manner of concealing the gold clearly establishes knowledge of the Petitioner that the goods were liable to be confiscated under section 111 of the Act. The Adjudicating Authority has rightly held that the manner of concealment revealed his knowledge about the prohibited nature of the goods and proved his guilt knowledge/mens-reas."*

**24.....**

**25.....**

**"26. The Supreme Court of India in State of Maharashtra v. Natwarlal Damodardas Soni [1980] 4 SCC 669/1983 (13) E.L.T. 1620 (SC)/1979 taxmann.com 58 (SC) has held that smuggling particularly of gold, into India affects the public economy and financial stability of the country."**

**29.** Given the facts of the present case before me and the judgements and rulings cited above, I find that the manner of concealment, in this case clearly shows that the unknown passenger (s) had attempted to smuggle the seized gold to avoid detection by the Customs Authorities. Further, no one has come forward to claim the ownership of the seized goods and /or has submitted any documents, whatsoever in support of legal acquisition and/or importation of said gold. Thus, the unknown passenger (s) has failed to discharge the burden placed on him in terms of Section 123. Further, from the facts of Panchnama, I find that the manner of concealment of the gold is **ingenious** in nature, as the same was concealed in two transparent plastic pouches in semi solid paste form, found hidden in the dustbin with intention to smuggle the same into India and evade payment of customs duty. Therefore, the gold weighing 650.930 grams of 24Kt./999.0 purity in form of gold bar, retrieved from two transparent pouches containing gold in paste form and found hidden in the dustbin of 1<sup>st</sup> toilet near immigration counter of SVPIA, Ahmedabad, is therefore, liable to be **confiscated absolutely. I therefore hold in unequivocal terms that the gold weighing 650.930 grams of 24Kt./999.0 purity, placed under seizure would be liable to absolute confiscation under Section 111(d), 111(f), 111(i), 111(j), 111(l) and 111(m) of the Act.**

**30.** 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, therefore, I desist from

imposing personal penalty under the provisions of Section 112 of the Act on unknown passenger/ person in this case.

**31.** Accordingly, I pass the following Order.

**ORDER**

- i. I order absolute confiscation of **01 Gold Bar** of 24 Kt./999 purity, totally weighing **650.930** grams, having Market Value of **Rs.47,96,703/-** (Rupees Forty Seven Lakh Ninety Six Thousand Seven Hundred and Three Only) and Tariff Value of **Rs.44,44,745/-** (Rupees Forty Four Lakh Forty Four Thousand Seven Hundred Forty Five Only), derived from semi solid substances consisting of gold and chemical mix in two transparent plastic pouches having gross weight 746.100 grams lying in the dust-bin of the 1<sup>st</sup> toilet from the entry of the male toilets situated near the immigration counter of the arrival hall of the Terminal-2 of the SVPIA Ahmedabad and placed under seizure under panchnama proceedings dated 07.09.2024 and Seizure Memo Order dated 07.09.2024 under the provisions of Sections 111(d), 111(f), 111(i), 111(j), 111(l) and 111(m) of the Customs Act, 1962;
- ii. I refrain from imposing the penalty on unknown person(s)/passenger(s)/or other claimant under Section 112 of Customs Act, 1962.

**32.** Accordingly, the Show Cause Notice No. VIII/10-256/SVPIA-A/O&A/HQ/2024-25 dated 07.02.2025 stands disposed of.

**(Shree Ram Vishnoi)**  
Additional Commissioner  
Customs, Ahmedabad

DIN: 20250671MN0000111D79  
F. No. VIII/10-256/SVPIA-A/O&A/HQ/2024-25      Date: 19.06.2025

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.

OIO No: 49/ADC/SRV/O&A/2025-26  
F. No: VIII/10-256/SVPIA-A/O&A/HQ/2024-25

**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.