



प्रधान आयुक्तका कार्यालय, सीमाशुल्क, अहमदाबाद

"सीमाशुल्कभवन", पहलीमंजिल, पुरानेहाईकोर्टकेसामने, नवरंगपुरा, अहमदाबाद - 380 009.
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SHOW CAUSE NOTICE

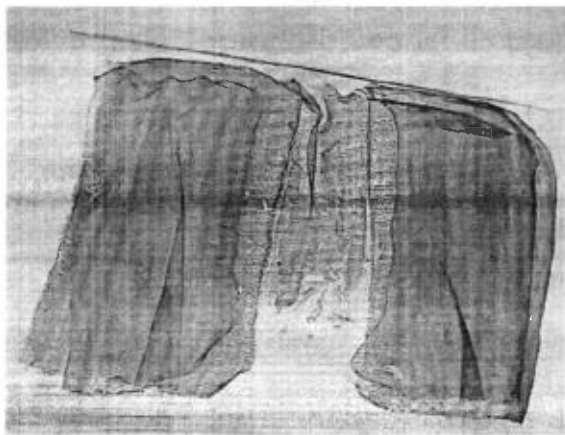
(Issued under Section 124 of the Customs Act, 1962)

Shri Osebhusen Jakirmiya Sindhi, (herein after referred to as the said "passenger/Noticee") aged 32 years (D.O.B. 18.09.1991) residing at 202, Nuri Apartment, Navi Dharti, Nagarwada, Vadodara, Gujarat-390001, holding Passport No. P8958888, arrived from New Delhi to Vadodara on 24.01.2024 by Air India Flight No. AI 819 (Seat No: 26D) at Vadodara Airport, Vadodara, Gujarat. On the basis of intelligence gathered, the passenger was intercepted by the Customs officers of ICD, Varnama, Vadodara while passenger was attempting to exit from Arrival Hall of Vadodara Airport, Vadodara, under Panchnama proceedings dated 24 & 25.01.2024 (**RUD - 01**) in presence of two independent witnesses for passenger's personal search and examination of his baggage.

2. The Customs officers asked the passenger whether he was carrying any contraband goods with him to which he denied. The Customs officers informed the passenger that, they would conducting his personal search and detailed examination of his baggage. The Customs officers offered their personal search to the passenger, but the passenger denied the same politely. Then Customs officers asked the passenger whether he wanted to be checked in presence of the Executive Magistrate or the Superintendent (Gazetted officer) of Customs, in reply to which the passenger gave his consent to be searched in presence of the Superintendent of Customs. Now, the Customs officers asked the said passenger to be checked through the Hand-held Metal Detector, after removing all metallic objects from his body/clothes. Further, the passenger readily removed all the metallic objects such as mobile, wallet, etc. and kept in a plastic tray and is checked through the Hand-held Metal Detector. However, nothing objectionable/dutiable has been found on his body/ clothes. Further,

the Customs officers scanned the checked in baggage of the passenger in the X-Ray baggage scanning machine, which is installed at Arrival Hall, Vadodara Airport, Vadodara but nothing objectionable was found.

3. Thereafter, the passenger Shri Osebhusen Jakirmiya Sindhi was examined thoroughly by the Customs officer in a cabin situated near the Arrival Hall of Vadodara Airport in presence of two independent Panchas. The Customs officers ask the said passenger to change all his clothes in the other cabin and hand over his worn cloths. During examination of his removed clothes, in presence of the Panchas, the Customs officers found that brown coloured underwear of the passenger is unusually heavy. On further examination, it was found that the said underwear had two layers stitched on the inner side. The officers in presence of the Panchas and the passenger cut opened the stitched layer wherein a brown paste like substance was found spread between the two layers of the said underwear. The underwear was then placed in a tray and was scanned in the Scanning Machine. On scanning the same, dark image was seen on the screen of the machine. The scanned image of the underwear was as under:



On being asked, the passenger Shri Osebhusen Jakirmiya Sindhi told the officer that gold had been concealed between the layers of the said underwear which was in form of gold and chemical mix semi-solid paste. In presence of the customs officers and the Panchas, the passenger accepted that the aforesaid gold had been carried by him from Dubai to smuggle the same into India. He informed that he had travelled from Dubai to Vadodara via New Delhi.

4. The Customs officers informed the Panchas and the passenger that the aforesaid concealed semi solid paste is required to be extracted from the said underwear and then the same is to be tested and to be valued by a Government Approved Valuer. As there was no Government Approved Valuer located at Vadodara, the custom officer called a Government Approved Valuer located at Ahmedabad and informed him that brown coloured paste like substance had been detected from the underwear worn by a passenger and the passenger has informed that it was gold in semi-solid paste form and hence, he needed to come to Vadodara Airport for testing and Valuation of the said material. In reply, the Government Approved Valuer informed the Customs officer that the testing of the said material is only possible at his workshop as gold has to be extracted from such semi solid paste form by melting it and also informed the address of his workshop and requested to come at his workshop.

5. Thereafter, the Panchas along with the passenger and the Customs officers reached at the premises of the Government Approved Valuer at 301, Golden Signature, C.G. Road, Ahmedabad at 02:40 AM on 25.01.2024. On reaching the above premises, the Customs officers introduced the Panchas as well as the passenger to one person namely Shri Kartikey Soni Vasantraai, Government Approved Valuer. Here, after weighing the underwear containing semi solid substance on his weighing scale, the Government approved valuer informed that the gross weight of said brown coloured paste like substance along with the underwear is 662.9 grams, photograph of the same is as under :



6. Thereafter, the Government Approved Valuer started to burn the underwear fully in a pot in presence of the Panchas, customs officers and the passenger. After burning the said underwear containing the gold and chemical mix semi-solid paste, the gold paste with ashes of cloth totally weighing 352.800 grams had been obtained. The photograph of the same is as under :



7. Thereafter, the government approved Valuer leaded the Panchas, customs officers and the passenger to the furnace, inside his workshop. Here, he started the process of converting the said paste like substance into solid gold by putting the underwear fully into the furnace and upon heating the said semi solid substance, 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 one bar. After testing the said yellow coloured metals, the Government Approved Valuer confirmed that it is pure gold. After completion of the procedure, Government Approved Valuer informed that the said one Gold bar weighing 344.200 Grams having purity 999.0/24kt are derived from the 662.9 Grams of the underwear containing Semi Solid Substance consisting of Gold paste and chemical mix.

Further, he informed that the said recovered one gold bar having purity 999.0/24kt and net weight **344.200** Grams derived from Semi Solid substance is having total tariff value of **Rs.19,16,306/-** (Rupees Nineteen Lakhs Sixteen Thousand Three Hundred and Six only) and market value of **Rs.22,18,369/-** (Rupees Twenty-Two Lakhs Eighteen

Thousand Three Hundred Sixty-Nine only). The value of the gold bar has been calculated as per the Notification No. 02/2024-Customs (N.T.) dated 15.01.2024 (gold) and Notification No. 04/2024-Customs (N.T.) dated 18.01.2024 (exchange rate). The outcome of the said testing is summerised as under :

Sl. No.	Details of Items	PCS	Net Weight in grams	Purity	Market Value (Rs.)	Tariff Value (Rs.)
1.	Gold Bar	1	344.200	999.0 24Kt.	22,18,369/-	19,16,306/-

Then, the photograph of the recovered gold bar derived from brown Semi Solid substance Material consisting of Gold which is as follows:-



8. The method of purifying, testing and valuation used by Shri Soni Kartikey Vasantrai was done in a perfect manner in presence of the independent Panchas, the passenger and the Customs officers. All were satisfied and agreed with the testing and Valuation Certificate No: 1225/2023-24 dated 25/01/2024 given by Shri Soni Kartikey Vasantrai and in token of the same, the Panchas and the passenger put their dated signature on the said valuation report **(RUD no. 2)**.

9. The following documents produced by the passenger – Shri Osebhusen Jakirmiya Sindhi were withdrawn under the Panchnama as under:

- i) Copy of Passport No. P8958888 issued at Ahmedabad, Gujarat on 18.03.2017 valid up to 17.03.2027. **(RUD No. 5)**
- ii) Boarding pass of Air India Flight No. AI 819 dated 24.01.2024 from New Delhi to Vadodara showing seat no.26D.

iii) Boarding pass of Air India Flight No. AI 930 dated 24.01.2024 from Dubai to New Delhi showing seat no.27G. **(RUD No. 6)**

10. Accordingly, the gold bar of 999.0/24 Kt. totally weighing 344.200 grams, derived from the semisolid paste concealed in the stitched inner layer of underwear worn by the passenger were seized vide Panchnama dated 24 & 25.01.2024, under the provisions of Customs Act 1962, on the reasonable belief that the said gold paste were smuggled into India by the passenger with an intention to evade payment of Customs duty and accordingly same were liable for confiscation under Customs Act 1962 read with Rules and Regulation made thereunder.

11. Statement of Shri Osebhuseen Jakirmiya Sindhi was recorded on 25.01.2024, under section 108 of the Customs Act, 1962 **(RUD No.-03)**, wherein he inter alia stated that –

- (i) he can read, write & understand Gujarati & Hindi and English languages very well and also can read and understand English and studied till 10th Standard and ITI (Electrician Trade);
- (ii) he is married and staying with his wife and two kids in Vadodara;
- (iii) his monthly income is approx. Rs.20,000/-;
- (iv) he visited Dubai on 14.01.2024 for search of job there and stayed there upto 24.01.2024;
- (v) he arrived at Vadodara from Dubai via New Delhi by Air India Flight No. AI 930 dated 24.01.2024 from Dubai to New Delhi and Air India Flight No. AI 819 dated 24.01.2024 from New Delhi to Vadodara;
- (vi) he confessed and accepted that he was carrying gold from Dubai in the semisolid paste form concealed in the stitched inner layer of underwear worn by him;
- (vii) he removed his underwear and handed over to the Customs officials;
- (viii) the gold in semi-solid form was intentionally concealed in the stitched inner layer of underwear worn by him to clear it illicitly.

12. The above said gold bar weighing 344.200 Grams having purity 999.0/24 Kt. recovered and is having total tariff value of Rs.19,16,306/- (Rupees Nineteen Lakhs Sixteen Thousand Three Hundred and Six only) and market value of Rs.22,18,369/- (Rupees Twenty Two Lakhs Eighteen Thousand Three Hundred Sixty Nine only)

recovered from the said passenger was attempted to be smuggled into India with an intent to evade payment of Customs duty by way of concealment in semi-solid form in the stitched inner layer of underwear worn by him, which was clear violation of the provisions of Customs Act, 1962. Thus, on a reasonable belief that the Gold totally weighing 344.200 Grams which was an attempt to smuggle by Shri Osebhuseen Jakirmiya Sindhi, liable for confiscation as per the provisions of Section 111 of the Customs Act, 1962; hence, the above said 344.200 grams of gold was placed under seizure under the provision of Section 110 of the Customs Act, 1962 vide Seizure memo Order dated 25.01.2024. (RUD No. 04).

13. LEGAL PROVISIONS RELEVANT TO THE CASE :

a) 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.

b) 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.

c) 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.

d) 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.

e) 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.

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

g) 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;

h) 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.

i) 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.

j) 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.

k) 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.

l) 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 shall be liable to confiscation under section 111 (d) of the Customs Act 1962.

m) Any dutiable or prohibited goods required to be mentioned under the regulation in an arrival manifest, import manifest or import report which are not so mentioned are liable to confiscation under Section 111 (f) of the Customs Act 1962.

n) Any dutiable or prohibited goods found concealed in any manner in any package either before or after the unloading thereof are liable to confiscation under Section 111 (i) of the Customs Act 1962.

o) Any dutiable or prohibited goods removed or attempted to be removed from a Customs area or a warehouse without the permission of the proper officer or contrary to the terms of such permission are liable to confiscation under Section 111 (j) of the Customs Act 1962.

p) Any dutiable or prohibited goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under Section 77 are liable to confiscation under Section 111(l) of the Customs Act 1962.

q) Any goods which do not correspond in respect of value or in any other particular with the entry made under this Act or in the case of baggage with the declaration made under section 77 in respect thereof, or in the case of goods under transshipment, with the declaration for transshipment referred to in the proviso to sub-section(1) of section 54 are liable to confiscation under Section 111(m) of the Customs Act 1962.

r) As per Section 112 of the Customs Act 1962 any person, (a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under Section 111, or abets the doing or omission of such an act, or (b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harboring, keeping, concealing, selling or purchasing or in any manner dealing with any goods which he knows or has reason to believe are liable to confiscation under Section 111, shall be liable to penalty.

s) As per Section 119 of Customs Act 1962 any goods used for concealing smuggled goods shall also be liable for confiscation.

t) 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.

u) As per Customs Baggage Declaration Regulations, 2013 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.

14. It therefore appears that -

- (a)** The passenger had dealt with and actively indulged himself in the instant case of smuggling of gold into India. The passenger had improperly imported gold weighing 344.200 Grams having purity 999.0/24 Kt. recovered from semi-solid paste concealed the stitched inner layer of underwear worn by him and is having tariff value of Rs.19,16,306/- (Rupees Nineteen Lakhs Sixteen Thousand Three Hundred and Six only) and market value of Rs.22,18,369/- (Rupees Twenty Two Lakhs Eighteen Thousand Three Hundred Sixty Nine only). The said gold paste was semi-solid paste concealed the stitched inner layer of underwear worn by him and not declared to the Customs. The passenger tried to clear the gold by way of concealment and not declare to Customs with 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. Therefore, the improperly imported 344.200 grams gold of 24 Kt. by the passenger by way of concealment in semi-

solid paste kept in the stitched inner layer of underwear worn by him without declaring it to the Customs on arrival in India cannot be treated as bonafide household goods or personal effects. The passenger has thus contravened the Foreign Trade Policy 2015-20 and Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 read with Section 3(2) and 3(3) of the Foreign Trade (Development and Regulation) Act, 1992.

- (b)** By not declaring the value, quantity and description of the goods imported by him, the said passenger violated the provision of Baggage Rules, 2016, read with the section 77 of the Customs Act, 1962 read with Regulation 3 of Customs Baggage Declaration Regulations, 2013.
- (c)** The improperly imported gold by the passenger, Shri Osebhusen Jakirmiya Sindhi, found concealed in his underwear, 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.
- (d)** Shri Osebhusen Jakirmiya Sindhi, by his above-described acts of omission and commission on his part has rendered himself liable to penalty under Section 112 of the Customs Act, 1962.
- (e)** As per Section 123 of Customs Act 1962, the burden of proving that the gold weighing 344.200 Grams having purity 999.0/24 Kt. recovered from kept from the stitched inner layer of underwear worn by him in semi-solid paste in form and is having tariff value of Rs.19,16,306/- (Rupees Nineteen Lakhs Sixteen Thousand Three Hundred and Six only) and market value of Rs.22,18,369/- (Rupees Twenty-Two Lakhs Eighteen Thousand Three Hundred Sixty Nine only) recovered from semi-solid paste concealed in the stitched inner layer of underwear worn by the passenger without declaring it to the Customs, are smuggled goods, is upon the passenger and Noticee, Shri Osebhusen Jakirmiya Sindhi.

15. Now therefore, **Shri Osebhusen Jakirmiya Sindhi**, resident of 202, Nuri Apartment, Navi Dharti, Nagarwada, Vadodara (Gujarat)-390001 and holding an Indian Passport No. P8958888 is called upon to show cause in writing to the Additional Commissioner of Customs, Ahmedabad having his office at 2nd. Floor, Custom House, Opp. Old High Court, Navrangpura, Ahmedabad - 380009 as to why:

- (i) One Gold Bar weighing **344.200** Grams having purity 999.0/24 Kt. recovered from semisolid paste in form of capsule and is having tariff value of **Rs.19,16,306/-** (Rupees Nineteen Lakhs Sixteen Thousand Three Hundred and Six only) and market value of **Rs.22,18,369/-** (Rupees Twenty Two Lakhs Eighteen Thousand Three Hundred Sixty Nine only) which was recovered from the passenger and placed under seizure under Panchnama dated 24 & 25.01.2024 and seizure memo order dated 25.01.2024 should not be confiscated under Section 111(d), 111(f), 111(i), 111(j), 111(l) & 111(m) of the Customs Act, 1962;
- (ii) Penalty should not be imposed on the passenger under Section 112 of the Customs Act, 1962.

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

17. The noticee is further required to note that his reply should reach within **30 (thirty) days** or within such extended period as may be allowed by the adjudicating authority. If no cause is shown against the action proposed above within 30 days from the receipt of this SCN or if he does not appear before the adjudicating authority as and when the case is posted for hearing, the case is

liable to be decided ex-parte on the basis of facts and evidences available on record.

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

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

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


(Vishal Malani)
Additional Commissioner
Customs, Ahmedabad.


F. No: VIII/1-56/Prev/O&A/HQ/2024-25
DIN : 20240571MN0000924604

Date: 29.05.2024

By SPEED POST A.D.

To,
Shri Osebhusen Jakirmiya Sindhi,
202, Nuri Apartment, Navi Dharti,
Nagarwada, Vadodara (Gujarat)-390001.

Copy to:

- (i) The Assistant/Deputy Commissioner of Customs, Preventive, HQ, Ahmedabad.
- (ii) The System In charge, Customs HQ, Ahmedabad for uploading on official web-site.
-  (iii) Guard File.

ANNEXURE – 'A'

LIST OF DOCUMENTS/RECORDS RELIED UPON FOR THE PURPOSE OF SHOW CAUSE NOTICE No. ISSUED TO SHRI OSEBHUSEN JAKIRMIYA SINDHI, RESIDENT OF 202, NURI APARTMENT, NAVI DHARTI, NAGARWADA, VADODARA (GUJARAT)-390001.

Sr. No.	Nature of document	Remarks
1	Panchnama dated 24 & 25.01.2024 drawn at the arrival hall of Vadodara Airport and SVPI Airport, Ahmedabad for recovery of Gold from Shri Osebhusen Jakirmiya Sindhi	Copy enclosed
2	Valuation certificate of Government Approved Valuer Shri Kartikey Vasantraai Soni vide his report dated 25.01.2024	Copy enclosed
3	Statement of Shri Osebhusen Jakirmiya Sindhi recorded on 25.01.2024	Copy enclosed
4	Seizure memo Order dated 25.01.2024 issued under Section 110 of the Customs Act, 1962.	Copy enclosed
5	Copy of Passport No. P8958888 issued at Ahmedabad, Gujarat on 18.03.2017 valid up to 17.03.2027.	Copy enclosed
6	Copies of Boarding Pass showing Seat No. 26D of Air India Flight No. AI 819 dated 24.01.2024 from New Delhi to Vadodara and Boarding Pass showing Seat No.27G of Air India Flight No. AI 930 dated 24.01.2024 from Dubai to New Delhi.	Copy enclosed