सीमाशुल्क(अपील) आयुक्तकाकार्यालय,

OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS),अहमदाबाद AHMEDABAD,

चौथी मंज़िल 4th Floor, हडकोभवनHUDCO Bhavan, ईश्वर भुवन रोड़ IshwarBhuvan Road,

नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009

दूरभाषक्रमांक Tel. No. 079-26589281

DIN - **20260371MN0000333F07**

क	फ़ाइलसंख्या FILE NO.	S/49-46/CUS/AHD/2025-26
ख	अपीलआदेशसंख्या ORDER-IN-APPEAL NO. (सीमाशुल्कअधिनियम, 1962 कीधारा 128ककेअंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962) :	AHD-CUSTM-000-APP-768-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	30.03.2026
ङ	उद्भूतअपीलआदेशकीसं. वदिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	259/ADC/SRV/O&A/2024-25, dated 18.02.2025
च	अपीलआदेशजारीकरनेकीदिनांक ORDER-IN-APPEAL ISSUED ON:	30.03.2026
छ	अपीलकर्ताकानामवपता NAME AND ADDRESS OF THE APPELLANT:	Mr. Prakashbhai Dalabhai Chaudhari, 44, Chitrakut Bunglows, Ramosana Chowkdi, Mehsana-384002.

1.	**यहप्रतिउसव्यक्तिकेनिजीउपयोगकेलिएमुफ्तमेंदीजातीहैजिनकेनामयहजारीकियागयाहै.** This copy is granted free of cost for the private use of the person to whom it is issued.
2.	**सीमाशुल्कअधिनियम 1962 कीधारा 129 डीडी (1) (यथासंशोधित) केअधीननिम्नलिखितश्रेणियोंकेमामलोंकेसम्बन्धमेंकोईव्यक्तिइसआदेशसेअपनेकोआहतमहसूसकरताहोतोइसआदेशकीप्राप्तिकीतारीखसे 3 महीनेकेअंदरअपरसचिव/संयुक्तसचिव (आवेदनसंशोधन) ,वित्तमंत्रालय, (राजस्वविभाग)**

	संसदमार्ग,नईदिल्लीकोपुनरीक्षणआवेदनप्रस्तुतकरसकतेहै.	
	Under Section 129 DD(1) of the Customs Act, 1962 (as amended), in respect of the following categories of cases, any person aggrieved by this order can prefer a Revision Application to The Additional Secretary/Joint Secretary (Revision Application), Ministry of Finance, (Department of Revenue) Parliament Street, New Delhi within 3 months from the date of communication of the order.	
	निम्नलिखितसम्बन्धितआदेश/Order relating to :	
(क)	बैगेज़केरूपमेंआयातितकोईमाल.	
(a)	any goods imported on baggage.	
(ख)	भारतमेंआयातकरनेहेतुकिसीवाहनमेंलादागयालेकिनभारतमेंउनकेगन्तव्यस्थानपरउतारेनगएमालयाउसगन्तव्य स्थानपरउतारेजानेकेलिएअपेक्षितमालउतारेनजानेपरयाउसगन्तव्यस्थानपरउतारेगएमालकीमात्रामेंअपेक्षितमालसे कमीहो.	
(b)	any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination.	
(ग)	सीमाशुल्कअधिनियम, 1962 केअध्यायX तथाउसकेअधीनबनाएगएनियमोंकेतहतशुल्कवापसीकीअदायगी.	
(c)	Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.	
3.	पुनरीक्षणआवेदनपत्रसंगतनियमावलीमेंविनिर्दिष्टप्रारूपमेंप्रस्तुतकरनाहोगाजिसकेअन्तर्गतउसकीजांचकीजाएगी औरउसकेसाथनिम्नलिखितकागजातसंलग्नहोनेचाहिए :	
	The revision application should be in such form and shall be verified in such manner as may be specified in the relevant rules and should be accompanied by :	
(क)	कोर्टफीएक्ट,1870केमदसं.6 अनुसूची 1 केअधीननिर्धारितकिएगएअनुसारइसआदेशकी 4 प्रतियां,जिसकीएकप्रतिमेंपचासपैसेकीन्यायालयशुल्कटिकटलगाहोनाचाहिए.	
(a)	4 copies of this order, bearing Court Fee Stamp of paise fifty only in one copy as prescribed under Schedule 1 item 6 of the Court Fee Act, 1870.	
(ख)	सम्बद्धदस्तावेज़ोंकेअलावासाथमूलआदेशकी 4 प्रतियां,यदिहो	
(b)	4 copies of the Order-in-Original, in addition to relevant documents, if any	
(ग)	पुनरीक्षणकेलिएआवेदनकी 4 प्रतियां	
(c)	4 copies of the Application for Revision.	
(घ)	पुनरीक्षणआवेदनदायरकरनेकेलिएसीमाशुल्कअधिनियम, 1962 (यथासंशोधित) मेंनिर्धारितफीसजोअन्यरसीद,फीस,दण्ड,जब्तीऔरविविधमदोंकेशीर्षकेअधीनआताहैमेंरु. 200/- (रूपएदोसौमात्र)यारु.1000/-(रूपएएकहज़ारमात्र),जैसाभीमामलाहो,सेसम्बन्धितभुगतानकेप्रमाणिकचलानटी.आर.6 कीदोप्रतियां. यदिशुल्क,मांगागयाब्याज,लगायागयादंडकीराशिऔररूपएएकलाखयाउससेकमहोतोऐसेफीसकेरूपमेंरु.200/- औरयदिएकलाखसेअधिकहोतोफीसकेरूपमेंरु.1000/-	
(d)	The duplicate copy of the T.R.6 challan evidencing payment of Rs.200/- (Rupees two Hundred only) or Rs.1,000/- (Rupees one thousand only) as the case may be, under the Head of other receipts, fees, fines, forfeitures and Miscellaneous Items being the fee prescribed in the Customs Act, 1962 (as amended) for filing a Revision Application. If the amount of duty and interest demanded, fine or penalty levied is one lakh rupees or less, fees as Rs.200/- and if it is more than one lakh rupees, the fee is Rs.1000/-.	
4.	मदसं. 2 केअधीनसूचितमामलोंकेअलावाअन्यमामलोंकेसम्बंन्धमेंयदिकोईव्यक्तिइसआदेशसेआहतमहसूसकरताहोतोवेसी माशुल्कअधिनियम 1962 कीधारा 129 ए (1) केअधीनफॉर्मसी.ए.-3 मेंसीमाशुल्क,केन्द्रीयउत्पादशुल्कऔरसेवाकरअपीलअधिकरणकेसमक्षनिम्नलिखितपतेपरअपीलकरसकतेहैं	
	In respect of cases other than these mentioned under item 2 above, any person aggrieved by this order can file an appeal under Section 129 A(1) of the Customs Act, 1962 in form C.A.-3 before the Customs, Excise and Service Tax Appellate Tribunal at the following address :	
	सीमाशुल्क, केंद्रीयउत्पादशुल्कवसेवाकरअपीलियअधिकरण,पश्चिमीक्षेत्रीयपीठ	**Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench**

	दूसरीमंज़िल,बहुमालीभवन,निकटगिरधरनगरपुल,असार वा,अहमदाबाद-380016	2nd Floor, BahumaliBhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
5.	**सीमाशुल्कअधिनियम, 1962 कीधारा 129 ए (6) केअधीन,सीमाशुल्कअधिनियम, 1962 कीधारा 129 ए(1)केअधीनअपीलकेसाथनिम्नलिखितशुल्कसंलग्नहोनेचाहिए-**	
	Under Section 129 A (6) of the Customs Act, 1962 an appeal under Section 129 A (1) of the Customs Act, 1962 shall be accompanied by a fee of -	
(क)	**अपीलसेसम्बन्धितमामलेमेंजहांकिसीसीमाशुल्कअधिकारीद्वारामांगागयाशुल्कऔरव्याजतथालगायागयादंडकीरकमपाँचलाखरूपएयाउससेकमहोतोएकहज़ाररुपए.**	
(a)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;	
(ख)	**अपीलसेसम्बन्धितमामलेमेंजहांकिसीसीमाशुल्कअधिकारीद्वारामांगागयाशुल्कऔरव्याजतथालगायागयादंडकीरकमपाँचलाखरूपएसेअधिकहोलेकिनरुपयेपचासलाखसेअधिकनहोतो;पांचहज़ाररुपए**	
(b)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees ;	
(ग)	**अपीलसेसम्बन्धितमामलेमेंजहांकिसीसीमाशुल्कअधिकारीद्वारामांगागयाशुल्कऔरव्याजतथालगायागयादंडकीरकमपचासलाखरूपएसेअधिकहोतो;दसहज़ाररुपए.**	
(c)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees	
(घ)	इसआदेशकेविरुद्धअधिकरणकेसामने,मांगेगएशुल्कके 10% अदाकरनेपर,जहांशुल्कयाशुल्कएवंदंडविवादमेंहैं,यादंडके 10%अदाकरनेपर,जहांकेवलदंडविवादमेंहै,अपीलरखाजाएगा।	
(d)	An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.	
6.	**उक्तअधिनियमकीधारा 129 (ए) केअन्तर्गतअपीलप्राधिकरणकेसमक्षदायरप्रत्येकआवेदनपत्र- (क) रोकआदेशकेलिएयागलतियोंकोसुधारनेकेलिएयाकिसीअन्यप्रयोजनकेलिएकिएगएअपील : - अथवा (ख) अपीलयाआवेदनपत्रकाप्रत्यावर्तनकेलिएदायरआवेदनकेसाथरुपयेपाँचसौकाशुल्कभीसंलग्नहोनेचाहिए.**	
	Under section 129 (a) of the said Act, every application made before the Appellate Tribunal- (a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or (b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.	

ORDER-IN-APPEAL

Mr. Prakashbhai Dalabhai Chaudhari, 44, Chitrakut Bunglows, Ramosana Chowkdi, Mehsana-384002 (hereinafter referred to as "the appellant") has filed the present appeal in terms of Section 128 of the Customs Act, 1962 against Order in Original No. 259/ADC/SRV/O&A/2024-25, dated 18.02.2025 (hereinafter referred to as "the impugned order") passed by Additional Commissioner, Customs, Ahmedabad (hereinafter referred to as "the adjudicating authority").

2. Briefly stated, facts of the case are that the appellant, on the basis of specific information provided by DRI and profiling, holding Indian Passport No. V1506985, had arrived from Dubai to Sardar Vallabhbhai Patel International Airport, Ahmedabad by Emirates Flight No. EK 540 on 02.03.2024 was intercepted by the officers of Directorate General of Revenue Intelligence (DGRI), Ahmedabad Zonal Unit, and officers of Air Intelligence Unit (AIU), Sardar Vallabhbhai Patel International Airport, Ahmedabad. He was intercepted under Panchnama proceedings dated 02.03.2024. In the presence of the panchas, the DRI and AIU Officers asked the appellant if he has anything to declare to the Customs, to which he denied. The officers, in presence of the panchas carried out scanning of the trolley bag carried by the appellant in the scanner installed near the exit gate of the arrival hall of SVPI Airport, Ahmedabad, however, nothing suspicious was observed. Thereafter, the appellant on the direction of customs officers readily removed the metallic substances from his body such as belt, mobile, wallet etc. and kept it on the tray placed on the table and passed through the Door Frame Metal Detector (DFMD) machine and while he passed through the DFMD Machine, no beep sound/ alert was generated. Thereafter, the AIU Officers in presence of panchas, asked the appellant whether he has concealed any substance in his body, to which the replied in negative. Then, after thorough interrogation by the Officers, in presence of panchas, the appellant confessed that he carried gold in paste form (viz three strips covered with white tape containing gold paste concealed into the waist band of his jeans). In presence of the Panchas and the DRI/ AIU Officers checks the jeans removed by the appellant and detected that in the area waist of the jeans, some white strips are concealed. In presence of we the panchas and DRI/ AIU officers separate the strips from the jeans.

2.1 The Government approved valuer after testing confirmed vide Valuation Certificate No. 1452/2023-24 dtd 02.03.2024 that the semi-solid substance consisting of Gold and Chemical mix weighing 557.690 grams (gross weight), recovered from appellant was converted into one gold bar weighing 483.850 grams having purity 999.0/24 Kt., having market value of Rs.31,68,734/- and having tariff value of Rs.26,54,914/-. The value of the gold bar has been calculated as per the Notification No. 16/2024-Customs (N.T.) dated 29.02.2024 (gold) and Notification No. 13/2024-Customs (N.T.) dated 15.02.2024 (exchange rate).

2.2 Accordingly, the said gold bar having purity 999.0/24 Kt. weighing 483.850 grams, derived from semi-solid substance consisting of Gold and Chemical mix, recovered from the appellant, having market value of Rs.31,68,734/- and having tariff value of Rs.26,54,914/- which were attempted to smuggle gold into India with an intent to evade payment of Customs duty which is a clear violation of the provisions of Customs Act, 1962, was seized vide Panchnama dated 02.03.2024, vide Seizure Memo dated 02.03.2024, under the provisions of Section 110(1) & (3) of Customs Act, 1962.

2.3 Statement of the appellant was recorded on 02.03.2024 under Section 108 of the Customs Act,1962, wherein he, inter-alia, stated that he is an Ex-serviceman and had completed his graduation. He is living with his wife, son and daughter. His daughter is studying in Canada and son is studying in Mehsana; that his monthly income is Rs.40,000/-. He further stated that he went to Dubai on 09th February, 2024 in search for the Job and he returned on 02.03.2024 by Flight No. EK 540 from Dubai to Ahmedabad. There, he purchased the gold in the paste form hidden in the waist of his jeans, on the suggestion of his friend; that the price of Gold in Dubai is cheaper as compared to India, hence to get the monetary benefit he decided to sell the Gold in India. He arranged the money from his personal savings and borrowings from his relatives residing in Dubai. He stated that the gold items of 483.850 grams are found in his possession and belongs to him. He also stated that he was never indulged in smuggling of gold in past. This is the first time he has brought Gold into India concealing the same in the clothes worn by him. He further confirmed the facts mentioned in the panchnama dated 02.03.2024.

2.4 The appellant had dealt with and actively indulged himself in the instant case of smuggling of gold Into India. The appellant had improperly imported gold bar weighing 483.850 Grams having purity 999.0/24 Kt. by way of three strips wrapped with white tape containing gold paste concealed into the waist band of his jeans involving market value of Rs.31,68,734/- and having tariff value of Rs.26,54,914/-, not declared to the Customs. The appellant opted green channel to exit the Airport 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 483.850 Grams of gold bar of purity 999.0/24 Kt. by the appellant, which was concealed in three strips wrapped with white tape containing gold paste into the waist band of his jeans, without declaring it to the Customs on arrival in India cannot be treated as bonafide household goods or personal effects. The appellant 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. By not declaring the value, quantity and description of the goods imported by him the appellant 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.

2.5 The improperly imported gold bar by the appellant, which was concealed in three strips wrapped with white tape containing gold paste into the waist band of his jeans, without declaring it to the Customs is thus liable for confiscation under Section 111(d), 111(f), 111(1), 111(1), 111(1) 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 the Customs Act, 1962. The appellant, 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. As per Section 123 of the Customs Act, 1962, the burden of proving that the gold bar weighing 483.850 Grams having purity 999.0/24 Kt. and having market value of Rs.31,68,734/- and having tariff value of Rs.26,54,914/-, which was concealed in Three strips waist band of his jeans, without declaring it to the Customs, are not smuggled goods, is upon the appellant.

2.6 A show cause notice was issued to the appellant proposing confiscation of one Gold Bar weighing 483.850 Grams having purity 999.0/24 Kt. and having market value of Rs.31,68,734/- and having tariff value of Rs.26,54,914/-, concealed in Three strips in waist band of his jeans, which was placed under seizure under panchnama proceedings dated 02.03.2024 and Seizure Memo Order dated 02.03.2024, under the provision of Section 111(d), 111(f), 111(1), 111(1), 111(1) and 111(m) of the Customs Act, 1962. The show cause notice also proposed confiscation of packing material i.e. white tape in which three strips were wrapped under seizure on the reasonable belief that the same was used for packing and concealment of the above-mentioned gold bar under Section 119 of the Customs Act, 1962 and for imposition of penalty under Section 112 of the Customs Act, 1962.

2.7 The Adjudicating authority, vide the impugned order, has ordered for absolute confiscation of one gold bar weighing 483.850 Grams having purity 999.0/24 Kt. and having market value of Rs.31,68,734/- and having tariff value of Rs.26,54,914/-, derived from semi solid paste in three strips covered with white tape containing gold paste concealed in waist band of his jeans, under the provision of Section 111(d), 111(f), 111(i), 111(j), 111(l) and 111(m) of the Customs Act, 1962. The Adjudicating authority, vide the impugned order, has also ordered for absolute confiscation of the packing material i.e. white tape in which three strips were wrapped which was used for packing and concealment of the above-mentioned gold bar under Section 119 of the Customs Act, 1962. The adjudicating authority has also imposed penalty of Rs 8,00,000/- on the appellant under Section 112(a)(i) and 112(b)(i) of the Customs Act,1962.

3. Being aggrieved with the impugned order, the appellant has filed the present appeal and mainly contended that;

- The Appellant candidly admits that he committed an error in not declaring the gold in question at the time of his arrival in India, as required under the Baggage Rules and Customs formalities. However, it is respectfully submitted that the said lapse was not born out of any malafide intent or deliberate act of concealment, but rather arose from a lack of awareness of the legal implications involved. The Appellant, an ex-serviceman by background, was visiting Dubai for the first time and was influenced by the significantly lower market prices of gold prevailing there. The gold was not procured for any commercial or resale purpose but was intended solely for personal use. The Appellant further submits that he has extended full cooperation to the customs authorities at every stage of the inquiry. From the time of interception at the airport, he did not resist or obstruct the search process, and voluntarily disclosed the concealment of gold upon being questioned. It is also an undisputed fact that he did not attempt to abscond, flee the premises, or indulge in any conduct suggestive of a professional smuggler or carrier. Most importantly, there is nothing on record to indicate that the Appellant is a repeat offender or that he has been involved in any prior instance of customs evasion or smuggling. His conduct is devoid of any aggravating circumstances such as misdeclaration in writing, use of false documents, or association with organized smuggling syndicates. The present case must therefore be viewed in the light of his personal background,

कार्यालय आयुक्त (अपील), सीमा शुल्क, अहमदाबाद

unblemished past, and the absence of mens rea, all of which warrant a sympathetic and balanced consideration of the matter.

- It is respectfully submitted that the Hon'ble Courts and Tribunal have, in a consistent line of decisions, held that absolute confiscation of gold is not warranted in cases where the goods in question are not prohibited per se but are only subject to payment of customs duty. It is a settled principle that import of gold by passengers is not prohibited under law, but is merely regulated, and permissible upon compliance with certain conditions including payment of applicable duty. In the present case, the Appellant was, at the relevant time, not aware that import of gold was permissible upon payment of customs duty and that such duty could have been voluntarily discharged upon arrival. It was only after the initiation of proceedings that the Appellant became fully aware of the said legal position. Immediately upon understanding the same, the Appellant expressed his willingness to pay the applicable customs duty and regularise the import. However, no opportunity was extended to the Appellant to make such payment, nor was the statutory option of redemption under Section 125 of the Customs Act, 1962 offered to him, despite there being no legal bar on granting such relief. It is submitted that denial of such an opportunity, particularly in the absence of aggravating circumstances or a history of smuggling, is contrary to the well-settled principle that gold imported without declaration, though liable for confiscation, is not required to be absolutely confiscated unless it falls within the category of prohibited goods or is imported under a deliberate and organised modus operandi. The impugned order, in proceeding straightaway confiscation without offering redemption, has therefore acted contrary to the settled legal position as well as the intent underlying Section 125 of the Act. to absolute
- This issue has been considered by the Government of India in the case of In Re: Surya Babbar reported in 2018 (364) ELT 1196, wherein after considering series of decisions rendered prior thereto, the Government of India has held that option of redemption should always be extended to the noticee on payment of appropriate Custom Duty. It is submitted that import of gold is not prohibited but is permitted on payment of customs duty. Despite this, the Appellant was not offered the option of redeeming the goods upon payment of duty and fine. It is submitted that the law does not envisage that the gold should be absolutely confiscated, it is

submitted that in recent decisions of the Appellate Tribunal and Government of India involving instances of passengers carrying gold. In all such cases, the adjudicating authority held that the gold items were liable for absolute confiscation. Such orders were challenged before the Appellate Authorities and such orders have been consistently set aside holding and declaring that the gold carried by passengers are not prohibited items but amenable to payment of customs duty. In such circumstances, the said gold items should not be absolutely confiscated and should be permitted to be released on payment of customs duty and penalty/fine, if any considering the facts and circumstances of the case. Reference may be made to decisions of the Appellate Tribunal in the case of Lookman Mohamed Yusuf Vs. Commissioner, Ahmedabad reported in 2024 (17) CENTAX 4 (Tri-AMD) and Waqar vs. Commissioner reported in 2023 (11) Centax 123 (Tri-All).

- However, despite the aforesaid submissions, the Ld. Additional Commissioner proceeded to order absolute confiscation of the seized gold and imposed a penalty of Rs. 8,00,000/- on the Appellant. It is submitted that the Appellant has no prior criminal antecedents and the gold in question was purchased from his own personal savings, partly comprising borrowings from relatives. It is pertinent to note that the Appellant is an ex-serviceman and not a habitual offender or a professional carrier engaged in a premeditated smuggling operation. The Appellant has expressed genuine remorse for his actions and has consistently shown willingness to comply with the authorities. At no stage did the Appellant attempt to evade detection, flee from the airport, or obstruct the officers of the Customs Department. On the contrary, he fully cooperated with the authorities during the inquiry.
- Given these mitigating factors, it is submitted that the Respondent Authority ought to have taken a more lenient view by affording the Appellant the option of redeeming the goods on payment of redemption fine and imposing only a token penalty. Instead, the order of absolute confiscation passed by the Respondent Authority is disproportionate and contrary to the well-settled legal position.
- It is respectfully submitted that the gold seized from the Appellant cannot, by any stretch, be regarded as having been imported in commercial quantity or for commercial purposes. The total weight of the gold recovered 483.850 grams falls well within the range typically associated with personal carriage by individual passengers and does not reflect any bulk or repetitive movement indicative of

trade. The Appellant, an ex-serviceman, had purchased the gold in Dubai from his personal savings and borrowings from family members, and the same was intended solely for personal use, as also evident from the manner of its concealment and absence of any resale arrangement. It is further submitted that the Appellant is neither a habitual offender nor part of any organized or coordinated smuggling operation. There is no material on record to suggest any past instance of violation or a modus operandi that would equate his conduct with that of professional carriers or commercial smugglers. In such circumstances, the parameters and severity of treatment that are typically applied in cases involving commercial quantities or professional smuggling should not have been invoked in the present matter. The facts warrant an individualized, contextual appreciation of the Appellant's background, intent, and scale of import. The failure to distinguish the Appellant's case from those involving habitual or large-scale offenders renders the impugned order disproportionate and legally unsustainable.

- The Ld. Adjudicating Authority has further erred in law and on facts in holding that the goods in question were "prohibited" and thus not entitled to redemption under Section 125 of the Customs Act, 1962. It is respectfully submitted that import of gold is not per se prohibited. It is a restricted item which can be brought into India by eligible passengers on payment of applicable customs duty. The mere fact that the Appellant did not comply with procedural formalities under the Baggage Rules or failed to declare the gold does not alter the character of the goods. At best, the import is "improper" or "unauthorised" but not "prohibited" within the meaning of Section 2(33) of the Act. It is well settled that redemption cannot be denied in respect of non-prohibited goods. The impugned order, in treating the goods as prohibited and denying redemption solely on that ground, suffers from serious misdirection in law.
- The Ld. Adjudicating Authority has also failed to appreciate that the power under Section 125 of the Customs Act, 1962 is not absolute and is required to be exercised judiciously, bearing in mind the principles of proportionality and reasonableness. The Appellant is an ex-serviceman with no prior record of similar infractions and has not acted in a manner indicative of habitual smuggling. He voluntarily disclosed the presence of gold, fully cooperated with the authorities, and was neither evasive nor obstructive. The order of absolute confiscation, in such circumstances, is unduly harsh and

disproportionate. It is submitted that even if the import is found to be improper, the Appellant should have been extended the option to redeem the goods on payment of appropriate fine and customs duty. The denial of such an option renders the impugned order vulnerable to challenge.

- The impugned order also erroneously proceeds to impose a penalty of Rs. 8,00,000/- under Section 112(a)(i) and 112(b)(i) of the Customs Act, 1962 without recording any cogent finding as to the justification for imposition of such a huge penalty. The Appellant is an ex-serviceman with no past antecedents and was not acting as a conduit for any organised smuggling activity. The gold in question was purchased from his own personal funds and borrowings from close relatives, and was not meant for trade or profit. It is further submitted that the Appellant has co-operated fully with the Customs authorities, did not obstruct the investigation, and voluntarily disclosed the presence of gold during the course of search. The Appellant's conduct does not reflect any element of deliberate evasion or calculated concealment warranting imposition of such a severe penalty. It is a settled principle of law that penalty under Section 112 is not automatic and must be guided by considerations of proportionality and the presence or absence of mens rea. In the absence of aggravating factors, the penalty imposed must reflect a balance between deterrence and fairness. The impugned order, in awarding the maximum permissible penalty without recording any finding on willful intent or repetitive conduct, has acted mechanically and failed to exercise discretion in a reasoned manner. In view of the mitigating circumstances and the Appellant's bonafide conduct, the penalty imposed is liable to be set aside or substantially reduced.
- The appellant finally prayed to Quash and set aside and/or modify the impugned Order-in-Original dated 18.02.2025 with all consequential reliefs and benefits.

4. Ms. Prabhdeep Kaur, Advocate, appeared for personal hearing in virtual mode on 24.02.2026 on behalf of the appellant. She reiterated the submissions made in the appeal memorandum. The advocate during personal hearing submitted that the appellant is an ex-serviceman and not a repeat offender, and that the gold in question was purchased for personal use out of his personal savings and borrowings from relatives. She further relied upon various recent decisions rendered by this office in the case of Shri Navnit Sevak (OIA No. AHD-CUSTM-000-APP-167-25-26 dated 07.8.2025), Shri Maheboobkhan Kureshi (OIA No. AHD-CUSTM-000-APP-

465-25-26 dates 01.12.2025) and Shri Prakash Tewani (OIA No. AHD-CUSTM-000-APP-118-25-26 dated 30.06.2025) wherein a lenient view was taken in similar matters and penalty was found to be harsh and excessive. It is therefore, submitted that considering the fact that he is an ex-serviceman and not a repeat offender, a lenient view be adopted and the penalty be reduced accordingly.

5. Before going into the merits of the case, I find that the appeal filed by the appellant, have been filed beyond normal period of 60 days but within the condonable period of 30 days as stipulated under Section 128(1) of the Customs Act, 1962. Appellant has requested for condoning the delay in filing the said appeal on the ground that he was unwell because of which necessary steps for filing of the present appeal could not be taken. Consequently, causing delay in filing the appeal. Therefore, taking a lenient view to meet the ends of justice, I allow the appeal, as admitted condoning the delay in filing the appeal beyond the normal period of 60 days under proviso to the Section 128(1) of the Customs Act, 1962.

6. I have gone through the facts of the case available on record, grounds of appeal and submission made by the appellant at the time of personal hearing. It is observed that the issues to be decided in the present appeal are as under;

(a) Whether the impugned order directing absolute confiscation of one gold bar weighing 483.850 Grams having purity 999.0/24 Kt. and having market value of Rs.31,68,734/- and having tariff value of Rs.26,54,914/-, derived from semi solid paste in three strips covered with white tape containing gold paste concealed in waist band of his jeans, without giving option for redemption under Section 125(1) of Customs Act, 1962, in the facts and circumstances of the case, is legal and proper or otherwise;

(b) Whether the quantum of penalty amounting to Rs. 8,00,000/- imposed on the appellant, under Section 112(a)(i) and 112(b)(i) of the Customs Act, 1962, in the facts and circumstances of the case, is legal and proper or otherwise.

6.1 It is observed that the appellant, on the basis of specific information provided by DRI and profiling, holding Indian Passport No. V1506985, had arrived from Dubai to Sardar Vallabhbhai Patel International Airport, Ahmedabad by Emirates Flight No. EK 540 on 02.03.2024 was intercepted by the officers of Directorate General of Revenue Intelligence (DGRI), Ahmedabad Zonal Unit, and officers of Air Intelligence Unit (AIU), Sardar Vallabhbhai Patel International Airport, Ahmedabad. He was intercepted under Panchnama proceedings dated 02.03.2024. In the presence of the panchas, the DRI and AIU Officers asked the appellant if he has anything to declare to the Customs, to which he denied. The appellant on direction readily removed the metallic substances from his body such as belt, mobile, wallet etc. and kept it on the tray placed on the table and passed through the Door Frame Metal Detector (DFMD) machine and while he passed through the DFMD Machine, no beep sound/ alert was generated. Thereafter, the AIU Officers in presence of panchas, asked the appellant whether he has concealed any substance in his body, to which the replied in negative. Then, after thorough interrogation by the Officers, in presence of panchas, the appellant confessed that he carried gold in paste form (viz three strips covered with white tape containing gold paste concealed into the waist band of his jeans). In presence of the Panchas and the DRI/ AIU Officers checks the jeans removed by the appellant and detected that in the area waist of the jeans, some white strips are concealed. In presence of we the panchas and DRI/ AIU officers separate the strips from the jeans. The Government approved valuer after testing confirmed vide Valuation Certificate No. 1452/2023-24 dtd 02.03.2024 that the semi-solid substance consisting of Gold and Chemical mix weighing 557.690 grams (gross weight), recovered from appellant was converted into one gold bar weighing 483.850 grams having purity 999.0/24 Kt., having market value of Rs.31,68,734/- and having tariff value of Rs.26,54,914/-. The said articles were seized under the provisions of the Customs Act, 1962, under Panchnama proceedings dated 02.03.2024. The appellant did not declare the said gold before Customs with an intention to escape payment of duty. These facts have also been confirmed in the statement of the appellant recorded under Section 108 of the Customs Act, 1962 on the same day. There is no disputing the facts that the appellant had not declared possession of gold in paste form concealed in waist band of his jeans worn by him the time of his arrival in India. Thereby, he has violated the provisions of Section 77 of the Customs Act,1962 read with Regulation 3 of the Customs Baggage Declaration Regulations, 2013. These facts are not disputed.

6.2 I find that it is undisputed that the appellant had not declared the seized gold in paste form concealed in waist band of his jeans worn by him to the Customs on his arrival in India. Further, in his statement, the appellant had admitted the knowledge, possession, carriage, concealment, non-declaration and recovery of gold in paste form concealed in waist band of his jeans worn by him. The appellant had, in his confessional statement, accepted the fact of non-declaration of gold before Customs on arrival in India. Therefore, the confiscation of gold by the adjudicating authority was justified as the applicant had not declared the same as required under Section 77 of the Customs Act, 1962. Since the confiscation of the seized gold is upheld, the appellant had rendered himself liable for penalty under Section 112(a) of the Customs Act, 1962.

6.3 I have also perused the decisions of the Government of India passed by the Principal Commissioner & ex officio Additional Secretary to the Government of India in similar issues and other decisions also. I find that the Revisionary Authority has in all these cases taken similar view that failure to declare the gold and failure to comply with the prescribed condition of import has made the impugned gold "prohibited" and therefore they are liable for confiscation and the appellant are consequently liable for penalty. Thus, it is held that the undeclared one gold bar weighing 483.850 Grams having purity 999.0/24 Kt. and having market value of Rs.31,68,734/- and having tariff value of Rs.26,54,914/-,are liable to confiscation under Section 111(d) of the Customs Act, 1962 and the appellant is also liable to penalty under Section 112(a) ibid.

6.4 In this regard, I also rely the judgement of the Hon'ble Supreme Court in the case of Om Prakash Bhatia Vs Commissioner of Customs, Delhi 2003 (155) E.L.T. 423 (SC) wherein it is held that;

> *"..............(a) if there is any prohibition of import or export of goods under the Act or any other law for the time being in force, it would be considered to be prohibited goods; and (b) this would not include any such goods in respect of which the conditions, subject to which the goods are imported or exported, have been complied with. This would mean that if the conditions prescribed for import or export of goods are not complied with, it would be considered to be prohibited goods. This would also be clear from Section 11 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 purposes specified in sub-section (2). Hence, prohibition of importation or exportation could be subject to certain prescribed conditions to be fulfilled before or after clearance of goods. If conditions are not fulfilled, it may amount to prohibited goods........."*

Thus, it is clear that even though gold is not enumerated as prohibited goods under Section 11 of the Customs Act, 1962, but it is to be imported on fulfilment of certain conditions, still, if the conditions for such import are not complied with, then import of gold will fall under prohibited goods. Hence, I find no infirmity in the impugned order on this count.

6.5 It is further observed that the adjudicating authority in the instant case had relying on the decisions of Hon'ble Supreme Court in the case of Om Prakash Bhatia Vs Commissioner of Customs, Delhi 2003 (155) E.L.T. 423 (SC), Hon'ble Kerala High Court in the case of Abdul Razak [2012 (275) ELT 300 (Ker), Hon'ble High Court of Madras in the case of Samynathan Murugesan [2009 (247) ELT 21 (Mad)], Malabar Diamond Gallery Pvt. Ltd [2016-TIOL-1664-HC-MAD-CUS], Hon'ble High Court of Madras in the case of P Sinnasamy [2016 (344) ELT 1154 (Mad)] and Order No 17/2019-Cus dated 07.10.2019 in F. No. 375/06/B/2017-RA of Government of India, Ministry of Finance, Department of Revenue – Revisionary Authority in the case of Abdul Kalam Ammangod Kunhamu discussed in the impugned order, had held that smuggling of gold was done by the appellant and had ordered for absolute confiscation of undeclared one gold bar weighing 483.850 Grams having purity 999.0/24 Kt. and having market value of Rs.31,68,734/- and having tariff value of Rs.26,54,914/-.

6.6 It is also observed from the facts and records of the present case that the appellant had ingeniously concealed gold in paste form in waist band of his jeans worn by him with an intention to smuggle the same without payment of duty. The gold in paste form was detected during personal search and sustained interrogation of the appellant. The appellant in his statement recorded under Section 108 of the Customs Act, 1962 on 02.03.2024 had admitted that he was carrying the said gold and intendent to clear the same without paying Customs duty from the SVPIA, Ahmedabad as he has not declared the gold to the customs officer when asked to declare. Thus, the present case is not of simple non declaration of gold but an act of smuggling as the gold was concealed ingeniously in paste form. Therefore, the case laws relied upon by the appellant in the appeal memorandum are not applicable in the instant case.

6.7 I rely upon the decision of the Hon'ble Tribunal, Bangalore in the case of V.K. MOHAMMAD ALI Versus COMMISSIONER OF CUSTOMS, COCHIN [2019 (369) E.L.T. 1538 (Tri. - Bang)], whereinthe Hon'ble Tribunal has upheld the decision of adjudicating authority for absolute confiscation of undeclared seized gold. The relevant paras are as under:

> ***6.*** *The brief issue for consideration in the case is to decide whether the adjudicating authority as a discretion to release the gold confiscated or the seized gold requires allowing to be redeemed on payment of fine in*

lieu of confiscation in terms of Section 125 of the Customs Act, 1962. Section 125 of the Customs Act reveals as under:

"(1) Whenever confiscation of any goods is authorized by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods or, where such owner is not known, the person from whose possession or custody such goods have been seized, an option to pay in lieu of confiscation such fine as the said officer thinks fit :

Provided that, without prejudice to the provisions of the proviso to sub-section (2) of Section 115, such fine shall not exceed the market price of the goods confiscated, less in the case of imported goods the duty chargeable thereon.

(2) Where any fine in lieu of confiscation of goods is imposed under sub-section (1), the owner of such goods or the person referred to in sub-section (1), shall, in addition, be liable to any duty and charges payable in respect of such goods."

6.1 *A plain reading of the above provision gives understanding that while the adjudging officer may permit the redemption of goods on payment of fine in lieu of confiscation of goods which are prohibited in nature, he shall, in the case of other goods, 'may' permit redemption on payment of fine in lieu of confiscation.*

6.2 *There are two situations which emerge out of the legal position which needs to be addressed; firstly, whether the impugned goods are in the nature of prohibited goods wherein the adjudicating authority has an option to permit the goods to be redeemed on payment of fine in lieu of confiscation. Secondly, whether the adjudging officer has a discretion so as to allow or not such goods to be redeemed on payment of fine in lieu of confiscation.*

6.3 *For an appreciation of the same, it is required to see what are prohibited goods is Section 2(33) of the Customs Act, 1962 defines prohibited goods as follows :*

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

In view of the above, for the goods to acquire a nature of being prohibited who either be prohibited under Customs Act or any other law for the time being in force or the goods should have been imported wherein the conditions subject to which the goods are permitted to be imported are not complied with. Admittedly, the impugned gold is not prohibited either under Customs Act or any other law for the time being in force at the material time. As per the records of the case, the appellant have not submitted anything to show on record that the goods have been properly imported. It is to be inferred that the impugned gold has *been imported without following the due process of law that is to say without following the procedures thereof. Therefore, it is to be held that the impugned goods have acquired the nature of being prohibited goods in view of Section 2(33) of the Customs Act, 1962.*

***6.4** Having found that the impugned goods have acquired the nature of prohibited goods, the issue which remains to be decided as to whether the adjudicating authority can exercise [its] discretion to allow the goods to be redeemed. Going by the wordings of Section 125, it is clear that in such circumstances i.e. whether the goods are prohibited, the adjudicating authority 'may' permit the redemption. That being the case the Tribunal cannot sit in judgment over the discretion exercised by the competent authority duly empowered under the statute. We find that as submitted by the Learned DR, the Hon'ble High Court of Madras has categorically held that: "When a prima facie case of attempt to smuggle the goods is made out, it is not upon the Tribunal, the issue not give positive directions to the adjudicating authority, to exercise option in favour of the respondents". We also find that this Bench of the Tribunal (supra) in a case involving identical circumstances has upheld the absolute confiscation of gold biscuits of foreign origin seized from a passenger who claimed that the same were purchased in Mumbai.*

***7.** In view of the above, we find that the Order-in-Appeal does not require any intervention and as such the appeals are rejected*

6.8 I also rely upon the decision of the Hon'ble Tribunal, Bangalore in the case of Ismail Ibrahim Versus Commissioner of Customs, Bangalore [2019 (370) ELT 1321 (Tri Bang)], wherein the Hon'ble Tribunal following the decisions of Hon'ble High Court of Kerala in the case of Ambali Karthikeyan [2000 (125) ELT 50 (Ker)] and Hon'ble High Court of Karnataka in the case of K. Abdulla Kunhi Abdul Rahaman [2015 (330) ELT 148 (Kar)] had upheld the absolute confiscation of gold in case where two gold bars weighing 2000.14 grams were concealed discreetly in the baggage wrapped in white paper and kept in plastic pouch. In present case also, substantial quantity of gold i.e. 557.690 grams in paste form (Net weight 483.850 Grams) was concealed discreetly in waist band of his jeans worn by him.

6.9 I further rely upon the recent decision of the Hon'ble Revisionary Authority vide Order No. 217/2024-Cus, dated 16.10.2024 on identical issue i.e. attempt to bring undeclared gold in paste form in the case of Riswan Kochupurayil Nazeer, has upheld the absolute confiscation of 788.940 grams of gold extracted from gold paste weighing 874.760 grams valued at 30,29,931/- (Assessable Value) and Rs 34,99,286/- (market value). The penalty imposed was also upheld. The relevant paras are reproduced as under:

"8. The Government has examined the matter. It is observed that the Applicant has not declared the possession of impugned gold in his Customs declaration form and it was only through persistent enquiry and examination of the Applicant, that the body concealment of the impugned gold in paste form came to light. The Appellate Authority has also observed that the Applicant in his voluntary statement dated 04.01.2021 under Section 108 of the Customs Act, 1962 admitted that he knew that importing of gold without payment of duty is an offence; that he had committed an offence by concealing the gold and not declaring the same to evade payment of Customs duty; that the impugned gold was handed over to him by a person at Dubal with instructions to smuggle the same to India and promised the Applicant a remuneration of Rs. 30,000/- in return. The Applicant in his second voluntary statement recorded on 16.01.2021 reiterated his earlier statement. The Appellate Authority in para (11) of the said O-I-A, has also noted that, on 11.07.2022, the Authorised representative of the Applicant, Shri Nazeer, who is the father of the Applicant, has admitted to his son's offence and has also stated the Applicant has committed this offence knowingly for financial gains. The impugned gold items smuggled into India via ingenious body concealment cannot be considered as bonafide baggage. The entire proceedings have also been covered under a Mahazar in presence of independent witnesses which also corroborates the sequence of events.

9. As per Section 123 of the Act, ibid, in respect of the gold and manufactures thereof, the burden of proof that such goods are not smuggled is on the person, from whom goods are recovered. Leave alone declaring the gold as required under Section 77 of the Customs Act, 1962, the Applicant chose to ingeniously conceal it in his rectum and this was detected only upon during his search & examination. Had be been the owner of the gold and had intended to declare the gold to Customs, he would not have had to resort to such ingenious concealment. Thus, the lack of any documents establishing ownership and non-declaration is not surprising. Keeping in view the facts and circumstances of the case and as the Applicant has failed to discharge the onus placed on him in terms of Section 123, the Government concurs with the adjudicating & appellate authorities that the impugned goods were liable to confiscation under Section 111 ibid and that the penalty was imposable on the Applicant.

10.1 The Applicant has contended that the import of gold is not 'prohibited'. However, the Government observes that this contention of the Applicant is against several judgements of the Hon'ble Supreme Court in which it has been held that the goods, Import/export whereof is allowed subject to certain conditions, are to be treated as 'prohibited goods' in case such conditions are not fulfilled. In the case of Sheikh Mohd. Omer vs Collector of Customs, Calcutta & Ors (1971 AIR 293), the Apex Court has held that for the purpose of Section 111(d) of the Customs Act, 1962, the term "Any prohibition" means every prohibition. In other words, all types of prohibition. Restriction is one type of prohibition. Gold is not allowed to be imported freely in baggage and it is permitted to be imported by a passenger subject to fulfilment of certain conditions. In the present case, as correctly brought out by the lower authorities, the Applicant in this case did not fulfil the conditions *specified in this behalf. In the case of M/s Om Prakash Bhatia Vs. Commissioner of Customs, Delhi (2003(155) ELT423(SC)), the Hon'ble Supreme Court has held that "if the conditions prescribed for import or export of goods are not complied with, it would be considered to be prohibited goods. Further, in the case of UOI &Ors vs. M/s Raj Grow Impex LLP & Ors (2021-TIOL-187-SC-CUS-LB), the Hon'ble Supreme Court has followed the judgments in Sheikh Mohd. Omer (supra) and Om Prakash Bhatia (supra) to hold that "any restriction on import or export is to an extent a prohibition; and the expression "any prohibition" in Section 111(d) of the Customs Act includes restrictions."*

10.2 In the case of Malabar Diamond Gallery P. Ltd. Vs ADG, DRI, Chennal [2016(341) ELT65(Mad.)), the Hon'ble Madras High Court (le the Hon'ble Jurisdictional High Court) has summarized the position on the issue, specifically in respect of gold, as under:

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

10.3 Moreover, the Hon'ble High Court of Delhi in its order dated 23.11.2023 in Writ Petition No. 8976 of 2020 in the matter of Kiran Juneja Vs. Union of India & Ors. has held that "A fortiori and in terms of the plain language and intent of Section 2(33), an import which is effected in violation of a restrictive or regulatory condition would also fall within the net of "prohibited goods". Hence, there is no doubt that the goods seized in the present case are to be treated as "prohibited goods", within the meaning of assigned to it under Section 2(33) of the Act, ibid.

10.4 In view of the above, the contention of the Applicant that the offending goods are not 'prohibited goods', cannot be accepted.

11. The Government observes that the original authority had denied the release of gold items on payment of redemption fine, under Section 125 of Customs Act, 1962. It is settled by the judgment of the Hon'ble Supreme Court, in the case of Garg Woollen Mills (P) Ltd vs. Additional Collector of Customs, New Delhi [1998 (104) E.L.T. 306 (S.C.)], that the option to release 'prohibited goods' on redemption fine is discretionary. Hon'ble Delhi High Court has, in the case of Raju Sharma [2020 (372) ELT 249 (Del)], held that "Exercise of discretion by judicial, or quasi-judicial authorities, merits interference only where the exercise is perverse or tainted by patent illegality, or is tainted by oblique motive." Further, the Hon'ble Delhi High Court in its order dated 21.08.2023 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 the Adjudging Officer". Therefore, keeping in view the judicial pronouncements above, the Commissioner (Appeals) has correctly refused to interfere with the discretion exercised by the original authority.

(अपील) सीमा शुल्क कार्यालय आयुक्त अहमदाबाद

12.1 As regards the prayer for permitting re-export of the offending goods, the Government observes that a specific provision regarding re-export of articles Imported in baggage is made in Chapter-XI of the Customs Act, 1962, by way of Section 80. On a plain reading of Section 80, it is apparent that a declaration under Section 77 is a pre-requisite for allowing re-export. Hon'ble Allahabad High Court has, in the case of Deepak Bajaj vs Commissioner of Customs (P), Lucknow(2019(365) ELT 695(All.)), held that a declaration under Section 77 is a sine qua non for allowing re-export under Section 80 of the Act, ibid. In this case, the Applicant had not made a true declaration under Section 77.

12.2 Further, the Hon'ble Delhi High Court has, in the case of Jasvir Kaur vs. UOI (2009 (241) ELT 621 (Del.)), held that re-export is not permissible when article is recovered from the passenger while attempting to smuggle it. Hence, the question of allowing re-export does not arise.

13. The case laws relied upon by the Applicant, in support of his various contentions, are not applicable in view of the dictum of Hon'ble Supreme Court and Hon'ble High Courts, as above.

14. In the facts and circumstances of the case, the Government finds that the order for absolute confiscation of the impugned goods as upheld by Commissioner Appeals does not require any interference. The quantum of penalty imposed on the Applicant is neither harsh nor excessive.

15. The revision application is rejected for the reasons aforesaid."

6.10 I further rely upon the recent decision of the Hon'ble Revisionary Authority in the case of Ms Ros Maszwin Binti Abdul Kadir, Order No. 184/2024-CUS, dated 04.09.2024 wherein absolute confiscation of one longcrude gold chain of 24 carat purity weighing 1.2 kgs valued at Rs 39,70,800/-, wrapped in a condom which was found concealed in lower inner garment, was upheld. The penalty imposed was also upheld.

6.11 I further rely upon the recent decision of the Hon'ble Revisionary Authority in the case of Sh Rafi Syed, Order No. 175/2024-CUS, dated 28.08.2024 wherein absolute confiscation of 39 gold bars of 24 carat purity weighing 3800 grams valued at Rs 1,16,58,400/-, concealed inside plastic pouches containing dates, was upheld. The penalty imposed was also upheld.

6.12 I further rely upon the recent decision of the Hon'ble Revisionary Authority in the case of Shri Riyas Khan, Order No. 190/2024-CUS, dated 09.09.2024 wherein absolute confiscation of two cut gold bits and 78 gold ingots of 24 carat purity weighing 2620 grams valued at Rs 87,42,940/- concealed in play station joy sticks, was upheld. The penalty imposed was also upheld.

6.13 I also rely upon the decision of Hon'ble High Court of Kerala in the case of Abdul Razak Versus Union of India [2012 (275) ELT 300 (Ker)] maintained in the Hon'ble Supreme Court [2017 (350) ELT A173 (SC)], wherein the passenger, a carrier, tried to smuggle 8 kg of gold concealed in emergency light, mixie, grinder, car horns etc. was held to be absolutely confiscated and not allowed to be released on redemption fine. The relevant para is reproduced as under:

> ***"6.*** *After hearing both sides and after considering the statutory provisions, we do not think the appellant, as a matter of right, can claim release of the goods on payment of redemption fine and duty. Even though gold as such is not a prohibited item and can be imported, such import is subject to lot of restrictions including the necessity to declare the goods on arrival at the Customs Station and make payment of duty at the rate prescribed. There is no need for us in this case to consider the conditions on which import is permissible and whether the conditions are satisfied because the appellant attempted to smuggle out the goods by concealing the same in emergency light, mixie, grinder and car horns etc. and hence the goods so brought is prohibitory goods as there is clear violation of the statutory provisions for the normal import of gold. Further, as per the statement given by the appellant under Section 108 of the Act, he is only a carrier i.e. professional smuggler smuggling goods on behalf of others for consideration. We, therefore, do not find any merit in the appellant's case that he has the right to get the confiscated gold released on payment of redemption fine and duty under Section 125 of the Act."*

In the present case also the appellant, concealed the seized gold in paste form discreetly in waist band of his jeans worn by him with an intention to smuggle the same into India. The gold was detected only on the personal search of the appellant on the basis of intelligence and profiling. Therefore, the adjudicating authority has rightly exercised his discretion for absolute confiscation of gold.

6.14 In view of the above observations, and relying upon the decision of Hon'ble Tribunal, Bangalore, the Hon'ble High Court of Kerala, the Hon'ble Supreme Court and the Hon'ble Revisionary Authority, it is clearly established that the concealment in this case was ingenious as substantial quantity of gold in paste form weighing 557.690 grams (Net weight 483.850 Grams) was intentionally and ingeniously concealed in waist band of his jeans worn by him to evade detection by the Customs authorities. The appellant did not intend to declare the said gold and the same was detected only on his personal search. He also admitted that he was carrying the said gold and intendent to clear the same without paying Customs duty from the SVPIA, Ahmedabad. The appellant has requested for release of the said gold and claimed ownership of gold but has not submitted any evidence to this effect. Thus, in my considered view, this is not a case of simple non declaration of gold but a planned and intentional smuggling of gold into India. Therefore, the adjudicating authority has rightly exercised his discretion for absolute confiscation of seized gold i.e. one gold bar weighing 483.850 Grams derived from 557.690 gram of semi-solid paste, having purity 999.0/24 Kt. and having market value of Rs.31,68,734/- and having tariff value of Rs.26,54,914/- under Customs Act, 1962. In view of above, the absolute confiscation of one gold bar weighing 483.850 Grams derived from 557.690 gram of semi-solid paste, having purity 999.0/24 Kt. and having market value of Rs.31,68,734/- and having tariff value of Rs.26,54,914/- is upheld.

6.15 Further, in respect of imposition of penalty amounting to Rs 8,00,000/- on the appellant for bringing undeclared one gold bar weighing 483.850 Grams derived from 557.690 gram of semi-solid paste, having purity 999.0/24 Kt. and having market value of Rs.31,68,734/- and having tariff value of Rs.26,54,914/-, the appellant has attempted to bring gold into India without declaring the same and concealing the same ingeniously in paste form in waist band of his jeans worn by him. The quantum of gold is substantial and the appellant had smuggled gold by ingeniously and intentionally concealing the same in paste form. The appellant did not declare the gold in paste form to the Customs and it was detected on sustained interrogation and personal search. Thus, I am of the considered view, that the penalty of Rs 8,00,000/- imposed on the appellant under Section 112(a)(i) and 112(b)(i) of the Customs Act, 1962, in the impugned order by the adjudicating authority, is appropriate as per provisions of Section 112(a)(i) and 112(b)(i) of the Customs Act, 1962 and commensurate with the omissions and commissions of the appellant. Therefore, there is no infirmity in the impugned order and the same is upheld.

7. In view of above, the appeal filed by the appellant is rejected.

सत्यापित/ATTESTED
अधीक्षक/SUPERINTENDENT
सीमा शुल्क (अपील्स), अहमदाबाद.
CUSTOMS (APPEALS), AHMEDABAD

(AMIT GUPTA)
COMMISSIONER (APPEALS)
CUSTOMS, AHMEDABAD.

By Registered Post A.D.

F.Nos. S/49-46/CUS/AHD/2025-26 Dated –30.03.2026

To,

(i) Mr. Prakashbhai Dalabjai Chaudhari,
44, Chitrakut Bunglows,
Ramosana Chowkdi, Mehsana-384002,

(ii) Gupta Law Associates,
1st Floor, The Chambers, Opposite Gurudwara,
S.G. Highway, Ahmedabad 380058

Copy to:

1. The Chief Commissioner of Customs Gujarat, Customs House, Ahmedabad.
2. The Principal Commissioner of Customs, Customs, Ahmedabad.
3. The Additional/Joint Commissioner of Customs, Customs, Ahmedabad.
4. Guard File