

	<p>अपर आयुक्त, सीमा शुल्क कार्यालय <b>OFFICE OF THE ADDITIONAL COMMISSIONER OF CUSTOMS</b> सीमा शुल्क सदन, सूरत/CUSTOMS HOUSE, SURAT 4<sup>th</sup> Floor, CUSTOMS HOUSE, Beside SMC Ward Office, Althan-Bhimrad Road, Althan, Surat - 395007 Tel. No.- 0261-2990051</p>	 आज़ादी का अमृत महोत्सव
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DIN: 20240571MN0000888A8F

**PREAMBLE**

A	फ़ाइल संख्या / File No.	:	VIII/26-07/AIU/CUS/2023-24
B	कारण बताओ नोटिस संख्या और तारीख / Show cause Notice No. and date	:	VIII/26-07/AIU/CUS/2023-24 dated 12.07.2023
C	ऑर्डर-इन-ओरिजिनल नंबर / Order-in-Original No.	:	01/AB/ADC/SRT-AIRPT/2024-25
D	आदेश तारीख/ Date of Order-in-Original	:	02-05-2024
E	जारी करने की तिथि/ Date of Issue	:	02-05-2024
F	द्वारा पारित / Passed by	:	Anunay Bhati Additional Commissioner I/c of International Airport, Surat
G	आयातक/यात्री का नाम और पता/ Name and address of Importer/ Passenger	:	1. Shri Atif Firozbhai Lakhani, 304, Shalimar Park, Navsari Main Road, Unn, Budia, Surat, Gujarat-394210 2. Shri Yasin Musabhai Memon, 303, Vadiya Complex, Chhadaol, near Masjid E Hajra, Rampura, Surat

1. जिस व्यक्ति के लिए आदेश जारी किया गया है, उसके व्यक्तिगत उपयोग के लिए प्रति निशुल्क प्रदान की है।  
1. This copy is granted free of charge for the private use of the person to whom it is issued.

२. इस आदेश से अपने को व्यक्ति महसूस करनेवाला कोई भी व्यक्ति आयुक्त (अपील), सीमा शुल्क, 4th मंजिल, टुडको बिल्डिंग, ईश्वर भुवन रोड, नवरंगपुरा, अहमदाबाद- ३८०००९ के यहाँ अपील कर सकता है। इस तरह की अपील, पार्टी को इस आदेश के सौंपे जाने अथवा डाक के प्राप्त होने के साठ दिन के अन्दर सीमा शुल्क (अपील) नियम, १९६२ के अंतर्गत फार्मस सी. ए. १ और २ दी जानी चाहिए। इस अपील पर नियमानुसार कोट की स्टाम्प लगा होना चाहिए।

2. Any person deeming himself aggrieved by this order, may prefer an appeal against the order to the Commissioner of Customs (Appeal), 4th Floor, Hudco Building, Ishwar Bhuvan Road, Navrangpura, Ahmedabad-380009, in Form C. A. 1 & 2 as prescribed under Customs (Appeal), Rules, 1962. The appeal must be filed within sixty days from the date of receipt of this order either by the post or by the person. It should bear a court fee stamp of appropriate value.

३. अपील के साथ निम्नलिखित चीजे संलग्न जाए।

3. The following documents must be enclosed alongwith the appeal.

(क) अपील की प्रति, तथा (a) A copy of the appeal and

(ख) आदेश यह प्रति या अन्य आदेश की प्रति, जिस नियमानुसार कोट फी स्टाम्प लगा हो।

(b) Copy of this order or another copy of the order, which must bear court fee stamp of appropriate value.



**Brief facts of the case:-**

Shri Atif Firozbbhai Lakhani, aged 22 years, resident of 304, Shalimar Park, Navsari Main Road, Unn, Budia, Surat, Gujarat-394210, (hereinafter referred to as "passenger/noticee") bearing Passport No. W8755396 arrived at Surat International Airport on 25.01.2023 to board the Air India Flight No. IX-171 scheduled from Surat to Sharjah. On the basis of a specific intelligence that the passenger Shri Atif Firozbbhai Lakhani, scheduled to board the Air India Flight No. IX-171 on 26.01.2023 from Surat to Sharjah was attempting to smuggle huge amount of foreign currency from India without declaring it before the Customs, developed by the officers of the Directorate of Revenue Intelligence (herein after referred to as "DRI") Surat, the passenger was intercepted by the officers of DRI in presence of independent panchas, when he was about to board the Air India Flight No. IX-171 on 25.01.2023 at first floor, the boarding hall of Surat Airport under panchnama proceedings dated 25/26.01.2023.

2. The DRI officers, in presence of the panchas, inquired about passenger, Shri Atif Firozbbhai Lakhani at the check-in counter of Air India and got to know that the said person had already checked-in and had crossed the emigration counter, then the officers enquired at the emigration counter at the first floor about the passenger, Shri Atif Firozbbhai Lakhani, the officer at emigration counter informed that the said passenger had already crossed the emigration counter. The officers identified a suspected pax sitting in the boarding hall and on making enquiry with the said person, he introduced himself as Shri Atif Firozbbhai Lakhani and produced his passport bearing no.W8755396 and boarding pass bearing no. 0034, Seat No 8B for Air India Flight No. IX-171 on 26.01.2023 from Surat to Sharjah. The officers introduced themselves by showing their identity card to Shri Atif Firozbbhai Lakhani and requested him for detailed examination of his baggage under the Customs Act, 1962 to which Shri Atif Firozbbhai Lakhani gave his consent. Thereafter, the officers offered their personal search to the passenger to which he declined politely. The passenger informed that he was carrying a handbag (black colour American Tourister backpack) and had deposited a grey colour trolley bag in check-in luggage. The officers and passenger came at check-in counter and requested the Air India Officers to return the Check-in luggage to the passenger. After some time, the Air India Officers handed over a grey colour trolley bag to the passenger and after confirmation that that bag belonged to him, the officers matched the luggage tag slip pasted on trolley bag with the slip pasted behind the boarding pass produced by the passenger and found it tallied. Then the officers in the presence of panchas and the passenger started searching the grey colour Trolley Bag near the check in counter and found various currency notes of UAE Dirham of 1000 denomination concealed in between the pages of Xerox copy of 2 Books i.e. Mirco Economics NCERT Class XII, NCERT Biology Class IX. Then the officers requested Shri Atif Firozbbhai Lakhani to accompany to Customs Office at Arrival Hall for detailed examination of his luggage and backpack.

2.1 After reaching at the Customs office situated at Arrival hall, the officers carried out the personal search of the passenger and detail examination of his clothes, items packed in the trolley bag (Check-in luggage) and backpack (Hand



bag) one by one and found the foreign currency notes i.e. UAE Dirham of 1000 denomination hidden in the cloths/Books/backpack/ wallet, detailed as under:

Sr. No.	Item from which the Foreign Currency recovered	No. of 1000 Dirham Foreign Currency Notes	Value of Currency (Dirham)
1	American Tourister Backpack (inner pocket)	10	10000
2	Tan colour Wallet	49	49000
3	Xerox of Microbiology Book NCERT Class IX kept in Trolley Bag	30	26000
4	Xerox of Micro Economics NCERT Class XII kept in Trolley Bag	26	30000
5	Black Colour Angelo brand Jean Pent kept in Trolley Bag	70	70000
6	Brown Colour Towel kept in Trolley Bag	15	15000
<b>Total</b>		<b>200</b>	<b>200000</b>

**2.2** On being asked by the officers, the passenger informed that he was carrying total 200000 UAE Dirham foreign currency and on being asked about any declaration before Customs at Surat Airport and any legal document showing the purchase/ownership of these 200000 UAE Dirham, he informed that he had neither filed any declaration before Customs at Surat Airport on 25.01.2023 nor he possessed any exchange receipt of those 200000 UAE Dirham. The detailed inventory of those 200 notes each of 1000 denomination of UAE Dirham recovered from the possession of Shri Atif Firoz bhai Lakhani are as under:

Sr. No.	Sr. No. of Foreign Currency	Foreign Currency were recovered from
1	025618467	American Tourist Back Pack (Hand Bag)
2	043515881	American Tourist Back Pack (Hand Bag)
3	065967309	American Tourist Back Pack (Hand Bag)
4	069288182	American Tourist Back Pack (Hand Bag)
5	029587207	American Tourist Back Pack (Hand Bag)
6	012931493	American Tourist Back Pack (Hand Bag)
7	058574896	American Tourist Back Pack (Hand Bag)
8	079375825	American Tourist Back Pack (Hand Bag)
9	065671547	American Tourist Back Pack (Hand Bag)
10	030285385	American Tourist Back Pack (Hand Bag)
11	075571269	American Tourist Back Pack (Hand Bag)
12	054397559	Tan Colour Wallet
13	012613454	Tan Colour Wallet
14	033077572	Tan Colour Wallet

15	033680436	Tan Colour Wallet
16	003492250	Tan Colour Wallet
17	047104682	Tan Colour Wallet
18	021901667	Tan Colour Wallet
19	061377697	Tan Colour Wallet
20	058372226	Tan Colour Wallet
21	015893043	Tan Colour Wallet
22	036789683	Tan Colour Wallet
23	075809258	Tan Colour Wallet
24	008737618	Tan Colour Wallet
25	002987958	Tan Colour Wallet
26	065218348	Tan Colour Wallet
27	007837233	Tan Colour Wallet
28	053175083	Tan Colour Wallet
29	006999358	Tan Colour Wallet
30	038717192	Tan Colour Wallet
31	079837741	Tan Colour Wallet
32	004255749	Tan Colour Wallet
33	004736560	Tan Colour Wallet
34	015914316	Tan Colour Wallet
35	010865902	Tan Colour Wallet
36	021818600	Tan Colour Wallet
37	017376822	Tan Colour Wallet
38	007918944	Tan Colour Wallet
39	044687369	Tan Colour Wallet
40	052836414	Tan Colour Wallet
41	072635744	Tan Colour Wallet
42	007398045	Tan Colour Wallet
43	079563594	Tan Colour Wallet
44	047387032	Tan Colour Wallet
45	032739170	Tan Colour Wallet
46	016526733	Tan Colour Wallet
47	077941674	Tan Colour Wallet
48	012060561	Tan Colour Wallet
49	001470431	Tan Colour Wallet
50	027240338	Tan Colour Wallet
51	066765876	Tan Colour Wallet
52	017536555	Tan Colour Wallet
53	071328036	Tan Colour Wallet
54	054547526	Tan Colour Wallet
55	002058957	Tan Colour Wallet
56	078638481	Tan Colour Wallet
57	019015326	Tan Colour Wallet
58	020005959	Tan Colour Wallet



59	040965092	Tan Colour Wallet
60	042775098	Xerox of Micro Biology Book - NCERT Class IX (Lugagge Bag/Trolley Bag)
61	009448256	Xerox of Micro Biology Book - NCERT Class IX (Lugagge Bag/Trolley Bag)
62	072923910	Xerox of Micro Biology Book - NCERT Class IX (Lugagge Bag/Trolley Bag)
63	037181330	Xerox of Micro Biology Book - NCERT Class IX (Lugagge Bag/Trolley Bag)
64	024399436	Xerox of Micro Biology Book - NCERT Class IX (Lugagge Bag/Trolley Bag)
65	020330601	Xerox of Micro Biology Book - NCERT Class IX (Lugagge Bag/Trolley Bag)
66	007028522	Xerox of Micro Biology Book - NCERT Class IX (Lugagge Bag/Trolley Bag)
67	070815299	Xerox of Micro Biology Book - NCERT Class IX (Lugagge Bag/Trolley Bag)
68	025814375	Xerox of Micro Biology Book - NCERT Class IX (Lugagge Bag/Trolley Bag)
69	030707924	Xerox of Micro Biology Book - NCERT Class IX (Lugagge Bag/Trolley Bag)
70	008174824	Xerox of Micro Biology Book - NCERT Class IX (Lugagge Bag/Trolley Bag)
71	019512083	Xerox of Micro Biology Book - NCERT Class IX (Lugagge Bag/Trolley Bag)
72	014048084	Xerox of Micro Biology Book - NCERT Class IX (Lugagge Bag/Trolley Bag)
73	075590800	Xerox of Micro Biology Book - NCERT Class IX (Lugagge Bag/Trolley Bag)
74	029628297	Xerox of Micro Biology Book - NCERT Class IX (Lugagge Bag/Trolley Bag)
75	077154897	Xerox of Micro Biology Book - NCERT Class IX (Lugagge Bag/Trolley Bag)
76	029393948	Xerox of Micro Biology Book - NCERT Class IX (Lugagge Bag/Trolley Bag)
77	006670306	Xerox of Micro Biology Book - NCERT Class IX (Lugagge Bag/Trolley Bag)
78	005491938	Xerox of Micro Biology Book - NCERT Class IX (Lugagge Bag/Trolley Bag)
79	041152916	Xerox of Micro Biology Book - NCERT Class IX (Lugagge Bag/Trolley Bag)
80	032572144	Xerox of Micro Biology Book - NCERT Class IX (Lugagge Bag/Trolley Bag)
81	029592862	Xerox of Micro Biology Book - NCERT Class IX (Lugagge Bag/Trolley Bag)
82	022849048	Xerox of Micro Biology Book - NCERT Class IX (Lugagge Bag/Trolley Bag)
83	035209078	Xerox of Micro Biology Book - NCERT Class IX (Lugagge Bag/Trolley Bag)
84	040965483	Xerox of Micro Biology Book - NCERT Class IX (Lugagge Bag/Trolley Bag)



85	014447092	Xerox of Micro Biology Book - NCERT Class IX (Lugagge Bag/Trolley Bag)
86	035601985	Xerox of Micro Biology Book - NCERT Class IX (Lugagge Bag/Trolley Bag)
87	003983140	Xerox of Micro Biology Book - NCERT Class IX (Lugagge Bag/Trolley Bag)
88	024719021	Xerox of Micro Biology Book - NCERT Class IX (Lugagge Bag/Trolley Bag)
89	007706992	Xerox of Micro Biology Book - NCERT Class IX (Lugagge Bag/Trolley Bag)
90	042120052	Xerox of Micro Economics Book - NCERT Class XII (Lugagge Bag/Trolley Bag)
91	028117674	Xerox of Micro Economics Book - NCERT Class XII (Lugagge Bag/Trolley Bag)
92	029224917	Xerox of Micro Economics Book - NCERT Class XII (Lugagge Bag/Trolley Bag)
93	002670821	Xerox of Micro Economics Book - NCERT Class XII (Lugagge Bag/Trolley Bag)
94	018628601	Xerox of Micro Economics Book - NCERT Class XII (Lugagge Bag/Trolley Bag)
95	017595608	Xerox of Micro Economics Book - NCERT Class XII (Lugagge Bag/Trolley Bag)
96	023850155	Xerox of Micro Economics Book - NCERT Class XII (Lugagge Bag/Trolley Bag)
97	073847604	Xerox of Micro Economics Book - NCERT Class XII (Lugagge Bag/Trolley Bag)
98	017789681	Xerox of Micro Economics Book - NCERT Class XII (Lugagge Bag/Trolley Bag)
99	032929879	Xerox of Micro Economics Book - NCERT Class XII (Lugagge Bag/Trolley Bag)
100	072275758	Xerox of Micro Economics Book - NCERT Class XII (Lugagge Bag/Trolley Bag)
101	076289603	Xerox of Micro Economics Book - NCERT Class XII (Lugagge Bag/Trolley Bag)
102	068855658	Xerox of Micro Economics Book - NCERT Class XII (Lugagge Bag/Trolley Bag)
103	005818907	Xerox of Micro Economics Book - NCERT Class XII (Lugagge Bag/Trolley Bag)
104	011846192	Xerox of Micro Economics Book - NCERT Class XII (Lugagge Bag/Trolley Bag)
105	018585699	Xerox of Micro Economics Book - NCERT Class XII (Lugagge Bag/Trolley Bag)
106	052397875	Xerox of Micro Economics Book - NCERT Class XII (Lugagge Bag/Trolley Bag)
107	005717250	Xerox of Micro Economics Book - NCERT Class XII (Lugagge Bag/Trolley Bag)
108	029234529	Xerox of Micro Economics Book - NCERT Class XII (Lugagge Bag/Trolley Bag)
109	026710182	Xerox of Micro Economics Book - NCERT Class XII (Lugagge Bag/Trolley Bag)
110	042393799	Xerox of Micro Economics Book - NCERT Class XII (Lugagge Bag/Trolley Bag)



111	004454615	Xerox of Micro Economics Book - NCERT Class XII (Lugagge Bag/Trolley Bag)
112	042310015	Xerox of Micro Economics Book - NCERT Class XII (Lugagge Bag/Trolley Bag)
113	001242920	Xerox of Micro Economics Book - NCERT Class XII (Lugagge Bag/Trolley Bag)
114	059903661	Xerox of Micro Economics Book - NCERT Class XII (Lugagge Bag/Trolley Bag)
115	008801843	Xerox of Micro Economics Book - NCERT Class XII (Lugagge Bag/Trolley Bag)
116	011886374	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
117	033543444	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
118	029351113	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
119	005108289	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
120	038831900	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
121	016065103	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
122	039299616	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
123	027599007	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
124	015414779	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
125	043884090	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
126	024862894	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
127	032750956	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
128	009108817	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
129	079222497	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
130	032275259	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
131	021613604	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
132	035581097	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
133	019697245	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
134	037227473	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
135	009444224	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
136	072435778	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
137	060777295	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
138	039368492	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
139	003289548	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
140	025000172	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
141	020012365	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
142	026938782	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
143	027128303	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
144	017251391	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
145	027370699	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
146	027982721	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
147	039308126	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
148	034399002	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
149	013660016	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
150	005585757	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)



151	035881765	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
152	015895939	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
153	041587017	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
154	042014381	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
155	041770757	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
156	050948618	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
157	079329059	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
158	009611394	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
159	004082160	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
160	079802488	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
161	076075240	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
162	030965459	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
163	007145377	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
164	033509605	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
165	006488540	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
166	011126149	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
167	022926101	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
168	076525959	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
169	026994929	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
170	032203097	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
171	033919581	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
172	018135241	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
173	034047106	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
174	032842464	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
175	029866270	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
176	065395498	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
177	013849010	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
178	002749289	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
179	065053919	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
180	039625103	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
181	007274330	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
182	077318924	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
183	038449152	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
184	013187441	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
185	039646991	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
186	009062157	Black Colour Angelo Brand Jeans Pant (Lugagge Bag/Trolley Bag)
187	001121202	Brown Colour Towel (Lugagge Bag/Trolley Bag)
188	028299342	Brown Colour Towel (Lugagge Bag/Trolley Bag)
189	027889671	Brown Colour Towel (Lugagge Bag/Trolley Bag)
190	041065565	Brown Colour Towel (Lugagge Bag/Trolley Bag)
191	041065563	Brown Colour Towel (Lugagge Bag/Trolley Bag)
192	077930528	Brown Colour Towel (Lugagge Bag/Trolley Bag)
193	041065564	Brown Colour Towel (Lugagge Bag/Trolley Bag)
194	042101951	Brown Colour Towel (Lugagge Bag/Trolley Bag)



195	033388142	Brown Colour Towel (Lugagge Bag/Trolley Bag)
196	062230794	Brown Colour Towel (Lugagge Bag/Trolley Bag)
197	038784067	Brown Colour Towel (Lugagge Bag/Trolley Bag)
198	039404514	Brown Colour Towel (Lugagge Bag/Trolley Bag)
199	022303136	Brown Colour Towel (Lugagge Bag/Trolley Bag)
200	052941488	Brown Colour Towel (Lugagge Bag/Trolley Bag)

**2.4** Following documents were withdrawn from the passenger, Shri Atif Firozbhai Lakhani for further investigations:-

- Copy of ticket bearing PNR No. 1Q9EO2 from Surat to Sharjah by flight No. IX- 171 on 26.01.2023.
- Copy of return ticket bearing PNR No. WIRWRX/SG from Dubai to Mumbai by flight No. SG-60 on 31.01.2023.
- Boarding pass bearing no.0034, Seat No 8B for Air India Flight No. IX-171 on 26.01.2023 from Surat to Sharjah.
- Copy of Passport No. W8755396 dated 18.01.2023 valid up to 17.01.2033.
- Copy of eVisa bearing Entry Permit no.204/2023/87315080, U.I.D. No. 232017612 issued on 23.01.2023 valid until 23.03.2023.

The officers resumed the above documents under the provisions of Customs Act, 1962. The officers informed Shri Atif Firozbhai Lakhani that the above-mentioned 2,00,000 UAE Dirham (Two Lacs only) were attempted to be smuggled outside India without declaring before Customs Authority by way of concealment which was a clear violation of the provisions of Baggage Rule-2016 and Customs Act, 1962. Therefore, 200 notes each of 1000 denomination of UAE Dirham equivalent to Rs.43,00,000/- (Forty Three Lakh only) (exchange rate @ 21.50) was placed under seizure vide Seizure Memo dated 26.01.2023 (DIN No. 202301DDZ1000000E390) by the Senior Intelligence Officer, DRI, Surat under the provisions of Customs Act, 1962 under the reasonable belief that the same was liable for confiscation under Section 113 of the Customs Act, 1962. Further, American Tourister Backpack, Tan colour Wallet, Xerox of Microbiology Book NCERT Class IX, Xerox of Micro Economics NCERT Class XII, Black Colour Angelo brand Jean Pant, Brown Colour Towel used for concealment of said foreign Currency are also placed under seizure under the provisions of Customs Act, 1962 under the reasonable belief that the same are liable for confiscation under the Customs Act, 1962.

**3.** A Statement of Shri Atif Firozbhai Lakhani, the passenger, was recorded on 26.01.2023 under Section 108 of the Customs Act, 1962 before Senior Intelligence Officer, DRI, Surat wherein he interalia stated that:

- He holds Indian Passport bearing No. W8755396 (valid up to 17.01.2033), PAN No. BAUPL0743A and My Aadhar Card No 2845 6600 6617, Driving Licence Bearing No.GJ0520170013128 issued on 28.03.2017.



- ii. He was helping his father in his business of trading in iron scrap locally; that he was also doing his own business of trading in iron scrap materials and spare parts of two wheel vehicles locally; that he was doing the said business in cash and did not maintain any record; that he had a firm having GSTIN: 24BAUPL0743A1ZZ which was inactive; that his father was also having a firm named M/s. Shiv Traders which was inactive; that they only deal in cash for trading of iron scrap.
- iii. He perused the panchnama dated 25/26.01.2023 drawn at Surat International Airport and agreed with the content mentioned therein and put his dated signature on the last page of the same. He further stated that 200 notes of 1000 denomination of UAE dirham amounting to 2,00,000 UAE Dirham in total recovered from xerox books, wallet, clothes, towel were concealed by him and were being illegally smuggled by him out of India through Surat International Airport; that he had not made any declaration of the said foreign currency before Customs authorities at Surat International Airport as the same was not legally converted by him.
- iv. He was scheduled to depart for Sharjah by Air India Flight No. IX 171 dated 26.01.2023 (Seat No 8B) from Surat International Airport after completion of emigration formalities; that the Customs/DRI Officers intercepted him at seating hall of departure terminal and asked whether he was carrying any contraband or foreign currency or Indian currency more than the permissible limit to which he replied in the negative; that during his personal search and search of his checked-in luggage bag and hand bag in presence of him, two independent witnesses and the Senior Intelligence Officer, 2,00,000 Dirham in denominations of 1000 (200 Notes of 1000 Dirham Each) were recovered from his checked-in baggage, hand bag and wallet; that the details of 2,00,000 UAE dirhams recovered from his possession are as under:-

Sr. No.	Item from which the Foreign Currency recovered	No of 1000 Dirham Foreign Currency Notes	Value of Currency (Dirham)
1	American Tourister Backpack (inner pocket)	10	10000
2	Tan colour Wallet	49	49000
3	Xerox of Microbiology Book NCERT Class IX kept in Trolley Bag	30	26000
4	Xerox of Micro Economics NCERT Class XII kept in Trolley Bag	26	30000
5	Black Colour Angelo brand Jean Pent kept in Trolley Bag	70	70000
6	Brown Colour Towel kept in Trolley Bag	15	15000
<b>Total</b>		<b>200</b>	<b>200000</b>



- v. He did not have any licit document in support of legal acquisition, possession, and/or exportation of the foreign currency notes i.e. 2 Lakh Dirham (200 Notes \* 1000 Dirham); that he had not got this currency converted legally from any Government authorised money exchange counters.
- vi. He was going to UAE along with 2 Lakh Dirham (200 notes of 1000 Dirham Each) to purchase Gold and bring the same to India for selling it (Gold) in local market in India.
- vii. He had purchased 2 Lakh Dirham from Shri Yasin Memon; that Shri Yasin Memon alias Nizambhai called him near Building Opposite to Masjid E Hajra, Near Rampura Petrol Pump, Surat and took him to 2nd floor of the said building and gave him 2 Lakh Dirham in his office/ flat situated on the 2nd Floor of the building; that Shri Yasin Memon alias Nizambhai gave him those foreign currency notes 15-20 days ago; that he had given Rs.45,00,000/- (Forty Five Lakhs) to Shri Yasin Memon alias Nizambhai and he offered him exchange rate of Rs.22.50 per UAE dirham; that on being asked regarding source of Rs.45,00,000/- (Forty Five Lakhs), he stated that the said amount had been generated from his trading business of scrap.

4. Shri Atif Firozbhai Lakhani stated in his earlier statement dated 26.01.2023 that he had purchased 2 Lakh Dirham from Shri Yasin Memon and informed his address as 2nd floor of a Building Opposite to Masjid E Hajra, Near Rampura Petrol Pump, Surat. The said address of Shri Yasin Memon was a vague address and not specific. Therefore, a Summon dated 04.05.2023 was issued to Shri Atif Firozbhai Lakhani but he had not turned up. With additional resources information was gathered that Shri Yasin Memon, the supplier of Foreign Currency, was residing at 303, Vadiya Complex, Chhadaol, near Masjid E Hajra, Rampura, Surat.

4.1 A search was conducted by the officers of DRI at the premises of Shri Yasin Memon, the supplier of Foreign Currency, situated at 303, Vadiya Complex, Chhadaol, near Masjid E Hajra, Rampura, Surat, in presence of independent panchas and panchnama dated 16.05.2023 was drawn. During the search, 92 notes of different denomination of foreign currency (US Dollar, Pound, Euro, South African Rand), as detailed below, were recovered from an almirah in bedroom of Shri Yasin Memon which were detained under the provisions of Customs Act, 1962.

Sr. No.	Type of Currency	Denomination of Note	Number on the note
1	US Dollar	100	AB 55834386E
2			AB 33968858N
3			AB 09624431P
4			BB 27607752A
5			BH 13962888A
6			BH 13962889A
7			BH 13962871A
8			AB 98539760N



9			AB 53934310K
10			AB 85736141M
11	POUND	50	AB 44286396
12			AD 22211781
13			AA 53768441
14			AD 32496012
15			AA 70795018
16			AE 01587275
17			AD 58686211
18			AD 47325359
19			AC 52320743
20			AC 52320749
21		20	BD 04035432
22			AJ 38641870
23			AK 81846506
24		10	EA 28938032
25		5	AM40353903
26	EURO	50	EB 7265061675
27			UA 8190992073
28			UA 6191013954
29		20	UA 0710025276
30		10	RA 2689799469
31	SOUTH AFRICAN RAND	200	LF 3871788E
32			NV 0541621E
33			LB 1133120E
34			GL 1020775E
35			MA 3690140E
36			MG 5830764E
37			MG 2484422E
38			MK 7726213E
39			MJ 7846901E
40			LL 0766025E
41			LQ 6183268E
42			ME 8036569E
43			MD 2488638E
44			SC 2603572E
45			SH 1397679E
46			MJ 8941247E
47			KE 4299160E
48			SJ 6565482E
49			KU 7958876E
50			KB 6340633E

51			MD 1465610E
52			LR 5644773E
53			NB 4268172E
54			MG 7080333E
55			GR 0858361E
56			SD 6113672E
57			LE 7170616E
58			LQ 6692107E
59			MC 4183889E
60			JA 7221688E
61			LS 0077860E
62			MH 6913160E
63			MS 3271632E
64			MA 3173296E
65			MA 2107125E
66			ND 1729682E
67			MB 5924081E
68			LU 0973705E
69			LH 0623877E
70			EE 2039355E
71			LR 0940642E
72			SK 9727951E
73			LQ 3983084E
74			LD 3576416E
75			MM 3234341E
76			LT 4283129E
77			MC 2437889E
78			SG 7762070E
79			QL 7725714D
80		100	RF 4743881D
81			SU 2052571D
82			TU 8868591D
83			LG 8295346C
84			LA 7699888C
85			LF 3886199C
86			JE 9271422C
87			EE 5653775C
88		50	EJ 0303322C
89			LD 7286929C
90			EL 8052334C
91			PP 1771247C
92			JH 5268451C



5. Statement of Shri Yasin Musabhai Memon S/o Shri Musabhai Memon, residing at 303, Wadia Complex, Chhadaol, Rampura, Surat was recorded before the Senior Intelligence Officer, DRI, Surat on 16.05.2023 under section 108 of Customs Act, 1962 wherein he interalia stated that:

- (i) He was in to business of buying/selling the electronics consumable household goods i.e. he purchased the material from Mumbai and with nominal margin sold the same in Rander area and Bhagal area in Surat. He did not have any shop/business premises therefore he sold it by visiting the shops of buyer.
- (ii) He was present at the said premises during the course of panchnama and agreed with the content of the same and in token of perusal and correctness of the panchnama, he put his dated signature on the last page of the same. On being asked, he stated that he agreed with the recovery and detention of 92 note of foreign currency (US Dollar, Pound, Euro, South African Rand) of various denomination.
- (iii) He stated that apart from his above said business, he was also engaged in the business of buying/selling of foreign currency note; that as many persons in the Bhagal/Rander area know that he was also into buying/selling of foreign currency note, so whenever any person have foreign currency note and want to get the equivalent amount in INR, he provided the same. In the same way if any person wants foreign currency note, he provided the same to them as per availability; that he earned commission based on foreign currency, for example he earned 30-40 paisa on one Pound/ Euro, 2-3 paisa on South African Rand, 15-20 paisa on USD, 2-3 paisa on UAE Dirham.
- (iv) On being specifically asked regarding the source of detained foreign currency, he stated that he purchased the same from different persons who came from overseas in last one week; that those foreign currency notes were meant for supply to foreign going tourist without any valid documents.
- (v) On being asked to peruse the statement dated 26.01.2023 of Shri Atif Firozbhai Lakhani, he stated that he had perused the same and in token of its perusal, he put his dated signature on the last page of the same. On being asked, he stated that in the month of Jan-2023, Shri Firozbhai Lakhani father of Shri Atif Firozbhai Lakhani contacted him and asked if he had foreign currency note of UAE Dirham available, then as per availability, he provided the said UAE Dirham to Shri Atif Firoz Lakhani.

6. Therefore, total 92 notes of different denomination of foreign currency detained under panchnama dated 16.05.2023, equivalent to Rs.2,08,137/- (Two Lac Eight Thousand One Hundred Thirty Seven only), as mentioned in table below, was seized vide Seizure Memo dated 24.05.2023 (DIN-202305DDZ10000914413) under the provisions of Customs Act, 1962 under the reasonable belief that the same is liable for confiscation under Section 113 of the Customs Act, 1962.



Sl No	Currency details	Nos of notes of different denomination	Total value of foreign currency (in FC)	Value in INR (Rs.) as per CBIC Notif dated 4.5.2023
1	US Dollor	10	1000	82600
2	Pound	15	575	60116
3	Euro	5	180	16596
4	South African Rand	62	10500	48825
<b>TOTAL</b>		<b>92</b>		<b>208137</b>

7. In view of the above facts, it appears that the Foreign Currency i.e. 2,00,000 Dirham equivalent to Rs. 43,00,000/- (Rupees Forty Three Lakhs) carried by the passenger Shri Atif Firozbhai Lakhani appeared to be "smuggled goods" as defined under Section 2(39) of the Customs Act, 1962. Further, it also appears that 92 notes recovered from the premises of Shri Yasin Musabhai Memon equivalent to Indian Rs. 2,08,137/- collected by him without valid documents were meant for smuggling out of India through supply to foreign going tourist/persons in few days.

**8. LEGAL PROVISIONS RELEVANT TO THE CASE:**

- a) 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.
- b) 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."
- c) 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."
- d) 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."
- e) As per Section 2(3) - "baggage" includes unaccompanied baggage but does not include motor vehicles.
- f) 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.
- g) 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."
- h) 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.
- i) As per Section 11H (a) of the Customs Act 1962- "illegal export" means the export of any goods in contravention of the provisions of this Act or any other law for the time being in force;
- j) As per Section 113 of the Customs Act 1962, the following export goods shall be liable to confiscation:
  - (d) any goods attempted to be exported or brought within the limits of any customs area for the purpose of being exported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;
  - (e) any goods found concealed in a package which brought within the limits of a Customs area for the purpose of exportation;
- k) As per Section 114 of the Customs Act 1962- any person who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 113, or abets the doing or omission of such an act, shall be liable,
  - (i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty not exceeding three times the value of the goods as declared by the exporter or the value as determined under this Act, whichever is the greater;
- l) As per Section 119 of Customs Act 1962- any goods used for concealing smuggled goods shall also be liable for confiscation.
- m) 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.
- n) 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.
- o) 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.
- p) As per Rule 7 of the Baggage Rules, 2016, the import and export of currency under these rules shall be governed in accordance with the provisions of the Foreign Exchange Management (Export and Import of Currency) Regulations, 2000, and the notifications issued thereunder.
- q) **FOREIGN TRADE POLICY 2015-20**

**Para 2.45- Export of Passenger Baggage**

- (a) Bona-fide personal baggage may be exported either along with passenger or, if unaccompanied, within one year before or after



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

**r) THE FOREIGN EXCHANGE MANAGEMENT ACT, 1999:**

**SECTION 2. Definitions.**-In this Act, unless the context otherwise requires, -(m) "foreign currency" means any currency other than Indian currency;

**SECTION 3. Dealing in foreign exchange, etc.**- Save as otherwise provided in this Act, rules or regulations made thereunder, or with the general or special permission of the Reserve Bank, no person shall (a) deal in or transfer any foreign exchange or foreign security to any person not being an authorised person;

**SECTION 4. Holding of foreign exchange, etc.**- Save as otherwise provided in this Act, no person resident in India shall acquire, hold, own, possess or transfer any foreign exchange, foreign security or any immovable property situated outside India.

**s) Notification No. FEMA-6 (R)/RB-2015 dated 29/12/2015 (Foreign Exchange Management (Export and import of currency) Regulations, 2015) [Earlier Notification No. FEMA 6 /RB-2000 dated 3rd May 2000 (Foreign Exchange Management (Export and Import of Currency) Regulations, 2000)] :**

**REGULATION 5: Prohibition on export and import of foreign currency:**

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

**REGULATION 6: Import of foreign exchange into India:**

A person may

- a. send into India without limit foreign exchange in any form other than currency notes, bank notes and travellers' cheques;
  - b. bring into India from any place outside India without limit foreign exchange (other than unissued notes),
- provided that bringing of foreign exchange into India under clause (b) shall be subject to the condition that such person makes, on arrival in India, a declaration to the Custom authorities in Currency Declaration Form (CDF) annexed to these Regulations;
- provided further that it shall not be necessary to make such declaration where the aggregate value of the foreign exchange in the form of currency notes, bank notes or traveller's cheques brought in by such person at any one time does not exceed US\$10,000 (US Dollars ten thousand) or its equivalent and/or the aggregate value of foreign currency notes brought in by such person at any one time does not exceed US\$ 5,000 (US Dollars five thousand) or its equivalent.

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

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



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

- a. Cheques drawn on foreign currency account maintained in accordance with Foreign Exchange Management (Foreign Currency Accounts by a person resident in India) Regulations, 2000;
- b. foreign exchange obtained by him by drawal from an authorised person in accordance with the provisions of the Act or the rules or regulations or directions made or issued thereunder;
- c. currency in the safes of vessels or aircrafts which has been brought into India or which has been taken on board a vessel or aircraft with the permission of the Reserve Bank;

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

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

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

**t) Notification No. FEMA 11(R)/ 2015-RB Dated 29.12.2015: Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulations, 2015**

REGULATION 3: Limits for possession and retention of foreign currency or foreign coins:

For the purpose of clause (a) and clause (e) of Section 9 of the Act, the Reserve Bank specifies the following limits for possession or retention of foreign currency or foreign coins, namely :

- i) Possession without limit of foreign currency and coins by an authorised person within the scope of his authority;
- ii) Possession without limit of foreign coins by any person;
- iii) Retention by a person resident in India of foreign currency notes, bank notes and foreign currency travellers' cheques not exceeding US\$ 2000 or its equivalent in aggregate, provided that such foreign exchange in the form of currency notes, bank notes and travellers cheques;
  - a. was acquired by him while on a visit to any place outside India by way of payment for services not arising from any business in or anything done in India; or
  - b. was acquired by him, from any person not resident in India and who is on a visit to India, as honorarium or gift or for services rendered or in settlement of any lawful obligation; or
  - c. was acquired by him by way of honorarium or gift while on a visit to any place outside India; or
  - d. represents unspent amount of foreign exchange acquired by him from an authorised person for travel abroad.



**CONTRAVENTION AND VIOLATION OF LAWS**

9. From the records and evidences discussed in the foregoing paras, it appears that in the instant case Foreign Currency equivalent to Indian Rupees 43,00,000/- (Rupees Forty Three Lakhs only) carried by the passenger Shri Atif Firozbhai Lakhani in his baggage was with an intent to smuggle it out of India. Further, Shri Atif Firozbhai Lakhani was unable to produce any legal documents showing legitimate procurement of the said seized foreign currency from any legal source during search, seizure and investigation of the case.
10. As per Regulation 5 of Foreign Exchange Management (Export and import of currency) Regulations, 2015 issued by Reserve Bank of India under Notification No. FEMA 6 (R)/RB-2015 dated 29/12/2015, no person shall, without the general or special permission of the Reserve Bank, export or send out of India, any foreign currency. Similarly, Regulation 7 *ibid* deals with export of foreign exchange and currency notes. Regulation 7 *inter alia* states that "Any person may take or send out of India, - foreign exchange obtained by him by drawl from an authorized person in accordance with the provisions of the Act or the rules or regulations or directions made or issued there under. On the basis of Regulation 7 *ibid*, a person is entitled to take or send out foreign exchange drawn from an Authorized Person in accordance with the provisions of the Act or the rules or regulations or directions made or issued there under. During the search of baggage and personal search of Shri Atif Firozbhai Lakhani, documents with respect to Foreign Currency were not found which could prove the legal purchase of foreign currency from any authorized person as per Regulation 7 *ibid*.
11. Further, Shri Atif Firozbhai Lakhani was unable to produce any document evidencing a legitimate procurement of the said seized Foreign Currency. On the basis of the above, it appears that Shri Atif Firozbhai Lakhani carried the foreign currencies illegally and with intention to smuggle the same out of India in violation of the said Act/Rules/Regulations in force. Regulation 7(3) and (4) of the Foreign Exchange Management (Export and import of currency) Regulations, 2015 would come into force only when a proper declaration before the Customs Officer had been made.
12. Further, it appears that Shri Yasin Musabhai Memon had supplied the foreign currency of 2,00,000 Dirham to the passenger Shri Atif Firozbhai Lakhani during the material time without any valid documents. It appears that 92 notes of different denominations of foreign currency were recovered during the search at the premises of Shri Yasin Musabhai Memon. It appears during the search at the premises of Shri Yasin Musabhai Memon that he had collected those notes without any legal documents and was with intention to smuggle the same out of India in violation of the said Act/Rules/Regulations in force.
13. In view of the discussions in forgoing paras, it appears that the foreign currency, seized from the passenger, cannot be exported without having proper legal and legitimate documents. Therefore, it appears that the attempt to carry the said foreign currency in the baggage or any other manner for export by the passenger is a clear violation of the restrictions imposed under Foreign Exchange Management (Export and import of currency) Regulations, 2015 and



hence the same appears to fall under the ambit of "prohibited goods" as defined under Section 2(33) of the Customs Act, 1962. Further, in terms of Section 11H (a) of the Customs Act, 1962 the commission of the said act again amounts to "Illegal export" of foreign currencies by Shri Atif Firozbhai Lakhani in as much as the passenger failed to produce any legitimate/legal document in support of purchase of foreign currency from an authorised person at the time of interdiction, seizure and during the course of investigation. He had also admitted in his statement recorded under Section 108 of the Customs Act, 1962 that he had attempted to smuggle the seized Foreign Currency. The foreign currencies totally equivalent to Indian Rupees 43,00,000/- seized from Shri Atif Firozbhai Lakhani appears liable to confiscation under section 113(d) and 113(e) of the Customs Act, 1962.

**13.1** It appears that Shri Atif Firozbhai Lakhani cleverly concealed the foreign currency in his American Tourister Backpack, Tan colour Wallet, Xerox of Microbiology Book NCERT Class IX, Xerox of Micro Economics NCERT Class XII, Black Colour Angelo brand Jean Pant, Brown Colour Towel. Thus, the American Tourister Backpack, Tan colour Wallet, Xerox of Microbiology Book NCERT Class IX, Xerox of Micro Economics NCERT Class XII, Black Colour Angelo brand Jean Pant, Brown Colour Towel used by Shri Atif Firozbhai Lakhani for concealment of foreign Currency appears to be liable for confiscated under section 118 & 119 of the Customs Act, 1962.

**14.** It appears that Shri Atif Firozbhai Lakhani had carried the foreign currency and proceeded to clear the security check at Surat Airport to smuggle the same out of India illegally. The foreign currency worth 2,00,000 Dirham and totally valued at Rs. 43,00,000/- was recovered from his possession, cleverly concealed in his baggage, during the search under Panchnama dated 25/26.01.2023 drawn at Surat Airport, Surat. The passenger appeared to have actively and knowingly indulged in the smuggling of the foreign currency totally valued at Rs. 43,00,000/- which was liable to confiscation under Section 113 (d) and 113(e) of the Customs Act, 1962. Therefore, it also appears that Shri Atif Firozbhai Lakhani by committing the said act has rendered himself liable for penalty under the provisions of section 114 of the Customs Act, 1962.

**15.** Further, it appears that Shri Yasin Musabhai Memon had supplied the foreign currency of 2,00,000 Dirham to the passenger Shri Atif Firozbhai Lakhani during the material time without any valid documents. It appears that Shri Yasin Musabhai Memon was fully aware that those foreign currency were meant to be smuggled by Shri Atif Firozbhai Lakhani and abets Shri Atif Firozbhai Lakhani to do so. Further he had involved himself in keeping and concealing the smuggled 92 notes of Foreign Currencies having value equivalent to Indian Rs. 2,08,137/- in contravention of the provisions of Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulation, 2015, seized under Seizure Memo dated 24.05.2023 liable to be confiscated under section 113 (d) of the Customs Act, 1962. Therefore, it appears that Shri Yasin Musabhai Memon by committing the said act has rendered himself liable for penalty under the provisions of section 114 of the Customs Act, 1962.



16. Therefore, Shri Atif Firozbhai Lakhani was called upon to show cause in writing to the Additional/Joint Commissioner of Customs, I/c of Surat International Airport, Surat, having his office situated at Customs Adani Hazira Port, Hazira Gam, Taluka Choryasi, Surat-394270, within 30 days from the receipt of the notice as to why-

- (i) The Foreign Currency i.e. **2,00,000 Dirham** (200 notes each of 1000 denomination of Dirham) having value equivalent to Indian **Rs. 43,00,000/- (Rupees Forty Three Lakh only)** seized from possession of Shri Atif Firozbhai Lakhani and attempted to be smuggled/improperly exported out of India in contravention of the provisions of Foreign Exchange Management (Export and Import of Currency) Regulations, 2015 read with Rule 7 of the Baggage Rules, 2016, seized under Seizure Memo dated 26.01.2023 should not be confiscated under section 113 (d) and 113(e) of the Customs Act, 1962;
- (ii) The American Tourister Backpack, Tan colour Wallet, Xerox of Microbiology Book NCERT Class IX, Xerox of Micro Economics NCERT Class XII, Black Colour Angelo brand Jean Pant, Brown Colour Towel used by Shri Atif Firozbhai Lakhani for concealment of foreign Currency, seized under Seizure Memo dated 26.01.2023 should not be confiscated under section 118 and 119 of the Customs Act, 1962.
- (iii) Penalty should not be imposed upon Shri Atif Firozbhai Lakhani under the provisions of **Section 114** of the Customs Act, 1962.
- (iv) The 92 notes of Foreign Currencies having value equivalent to Indian **Rs. 2,08,137/- (Rupees Two Lakh Eight Thousand One Hundred Thirty Seven only)** seized from the premises of Shri Yasin Musabhai Memon meant to be smuggled/improperly exported out of India in contravention of the provisions of Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulation, 2015, seized under Seizure Memo dated 24.05.2023 should not be confiscated under section 113 (d) of the Customs Act, 1962.
- (v) Penalty should not be imposed upon Shri Yasin Musabhai Memon under the provisions of **Section 114** of the Customs Act, 1962.

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

17. The noticees have not submitted any written submission to the Show Cause Notice issued to them.

18. The noticees were given an opportunity to appear in person to represent their case on 31.10.2023, 16.02.2024 & 29.02.2024, but they did not appear and represent their case. In the instant case, the noticees have been granted sufficient opportunity, viz three times of being heard in person for but they failed to appear.



**Discussion and Findings:**

19. I have carefully gone through the facts of this case and find that the noticees viz, Shri Atif Firozbhai Lakhani (hereinafter referred to as "Noticee No.1") and Shri Yasin Musabhai Memon (hereinafter referred to as "Noticee No. 2") have not submitted written reply to the notice issued to them and also not appeared for personal hearing. I therefore proceed to decide the instant case on the basis of evidences and documents available on record.

20. In the instant case, I find that the main issues that are to be decided is whether the foreign currency i.e. 2,00,000 Dirham equivalent to a total of Indian Rupees 43,00,000/- recovered from Noticee No.1, which was seized vide Seizure Memo dated 26.01.2023 and whether the 92 notes of foreign currencies equivalent to Indian Rupees 2,08,137/- recovered from Noticee No. 2 and seized vide Seizure Memo dated 24.05.2023, on the reasonable belief that the said goods were attempted to be smuggled outside India, are liable for confiscation under Section 113 of the Customs Act, 1962 and also whether the Noticee No.1 and Noticee No.2 are liable for penalty under the provisions of Section 114 of the Act.

21. I find that the panchnama dated 25/26.01.2023 clearly draws out the fact that on the basis of specific intelligence, the Noticee No.1, Shri Atif Firozbhai Lakhani was intercepted when he had crossed the emigration counter and was seated in the boarding hall of Surat Airport waiting to board the Air India Flight No.IX-171 scheduled from Surat to Sharjah on 25.01.2023. During search of his baggage viz, a handbag (black colour American Tourister backpack) and grey colour trolley bag, 200 notes of UAE Dirham of 1000 denomination were found concealed in the said luggages. I find that the said notes had been concealed in the clothes/books/backpack and wallet. I further find that the Noticee No.1 failed to produce any legal document/receipt evidencing legitimate procurement/ownership of the 2,00,000 UAE Dirham recovered from his possession. I also find that the Noticee No.1 had attempted to illicitly export the said foreign currency without any declaration to the Customs authorities. It is on record that the Noticee No.1 had admitted in his statement dated 26.01.2023 that the said currency notes were concealed by him and were being illegally smuggled by him out of India through Surat International Airport. He also admitted that he was going to UAE along with 2 Lakh Dirham to purchase Gold and bring the same to India for selling it (Gold) in local market in India. I further find that the noticee had agreed in his statement that he had not procured this currency legally from any Government authorised money exchange counters but rather had purchased the same from one Shri Yasin Musabhai Memon (Noticee No.2).

22. I find that in course of search of the premises of Shri Yasin Musabhai Memon (Noticee No. 2), 92 notes of foreign currency (US dollar, Pound, Euro, South African Rand) of different denominations were recovered, under panchnama proceedings dated 16.05.2023. In his statement dated 16.05.2023 under section 108 of Customs Act, 1962, the Noticee No. 2 admitted to have been involved in the business of buying/selling of foreign currency note on commission basis. He further stated that he purchased foreign currency from



different persons who arrived from foreign destinations and supplied the same to foreign going persons without any valid documents. The Noticee No. 2 also admitted to have provided the impugned UAE Dirham to Noticee No. 1.

23. I also find that the noticees had neither questioned the manner of the panchnama proceedings at the material time nor contested the facts detailed in the panchnama during the course of recording of their statement. Every procedure conducted during the panchnama dated 25/26.01.2023 and dated 16.05.2023 by the officers was well documented and made in the presence of the panchas as well as the respective noticee. The Noticee No.1 has clearly admitted that he had intentionally attempted to carry the impugned foreign currency (UAE Dirham 200000) and did not declare the same before the Customs with an intent to clear the same illicitly and thereby, violated provisions of the Customs Act, the Baggage Rules, the Foreign Trade (Development & Regulations) Act, 1992, the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015 and the Foreign Exchange Management Act, 1999. The Noticee No.1 was unable to produce any document evidencing legitimate procurement of the said foreign currency. Rather he has admitted to have procured the said foreign currency from an unauthorized source (Noticee No.2) in an illegitimate manner. This act of the Noticee No.1 establishes his mens rea beyond doubt that he tried to smuggle the said foreign currency out of India in an illegal and malafide manner.

24. I find that the legal provision for taking foreign currency out of India is very clear and does not leave any scope for ambiguity. I also find that Rule 7 of the Baggage Rules, 2016 is about currency and it lays down that the import or export of currency is governed by the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015 and notifications issued there under. Thus, I find that there cannot be any denial in respect of the fact that regulations and notifications framed under the said Foreign Exchange Management (Export and Import of Currency) Regulations, 2015 were applicable to the Noticee No.1 as he was primarily bound to follow Baggage Rules, 2016.

25. The Regulation 5 read with Regulation 7 of Foreign Exchange Management (Export and Import of Currency) Regulations, 2015 in very clear terms "prohibits" export and import of "any" foreign currency without general or special permission of the Reserve Bank of India. I find that the Noticee No.1 has not come forward with any document issued by any authorized authority which can establish that the said noticee was granted special permission by the Reserve Bank of India to carry foreign currency that he was carrying with him to take out of India. This in other words means that the said noticee was governed by general permission or in case of non-applicability of general permission was absolutely prohibited to carry the foreign currencies outside India. I find that regulation 7(2)(b) of Foreign Exchange Management (Export and Import of Currency) Regulations, 2015 is the general permission which is applicable to the said noticee in the facts and circumstances of the case before me. According to this general permission, any person can take out of India foreign exchange obtained by him by drawal from an authorized person. In the case before me, the said Noticee No.1 has admitted to have procured the impugned foreign currency from an unauthorized person. These acts of omission or commission of



offence on his part was a clear violation of Rule 7 of Baggage Rules read with regulations 5 and 7 of Foreign Exchange Management (Export and Import of Currency) Regulations, 2015.

26. I find that the Honble Supreme Court in the case of Om Prakash Bhatia reported at 2003 (155) ELT 423 (SC) has held that if importation and exportation of goods are subject to certain prescribed conditions, which are to be fulfilled before or after clearance of goods, the goods would fall within the ambit of 'prohibited goods' if such conditions are not fulfilled. In the instant case, the foreign currencies were kept undeclared, concealed and were being carried by the Noticee No.1 without fulfilment of prescribed conditions and hence, are to be treated as goods prohibited in nature. Thus, "mensrea" on part of the said noticee is very much evident since he had not declared to the Customs Authorities in any manner about the foreign currency being carried by him for export and did not possess valid documents showing procurement of the said foreign currency from an authorized person. By attempting to illicitly export foreign currency without legitimate documents, it is established that the Noticee No.1 had a clear intention to export / smuggle out the foreign currency undetected in contravention to the Regulations 5 & 7 of the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015. I am therefore of the view that the foreign currencies in the present case are liable for absolute confiscation. Hence, by the aforesaid acts of commission and omission, the Noticee No.1 has rendered the impugned seized foreign currency (UAE Dirham 200000) liable for confiscation under Section 113 (d) & 113 (e) of Customs Act, 1962, read with Regulation 7 of Foreign Exchange Management (Export and Import of Currency) Regulations, 2015 issued under Foreign Exchange Management Act, 1999, and Rule 7 of the Baggage Rules, 2016 issued under Customs Act, 1962.

27. Further, I find that in the case of Samynathan Murugesan [2009 (247) ELT 21 (Mad)], the High Court upheld the absolute confiscation, ordered by the adjudicating authority and thereby allowed the departmental appeal. While upholding absolute confiscation, it was observed by the Hon'ble High Court as under:

*"....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 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 Subsection.*



*(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...."*

28. From the facts discussed above, it is evident that the Noticee No.1 had carried foreign currency and attempted to export / smuggle the same out of India i.e., to Sharjah. The said noticee had attempted to export /smuggle out the foreign currency without having legitimate documents from authorized sources, as mandated in Regulations 5 & 7 of the FEM Regulations. Needless to mention that Section 2(22) of the Act defines 'goods' which also includes currencies among other things. By attempting to illicitly export foreign currency without legitimate documents, it is established that the Noticee No.1 had a clear intention to export / smuggle out the foreign currency undetected in contravention to the Regulations 5 & 7 of the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015. I further find that his act of carrying the foreign currency without legitimate purchase documents amount to "illegal export", as per the provisions of Section 11H(a) of the Act. Further, Section 2(33) of the Act defines 'prohibited goods' means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with. The acts of omission and commission in relation to the subject currencies falls within the ambit of 'smuggling' as defined under Section 2(39) of the Act. Moreover, the said foreign currency was attempted to be smuggled out in clear violation of Foreign Exchange Management (Export and Import of Currency) Regulations, 2015, which required the said noticee to obtain foreign currencies from authorized dealers only. The condition contained in the regulation itself has thus been violated by the said noticee in the case before me which in turn makes the foreign currency very much prohibited. Thus, the foreign currency recovered from the Noticee No.1 is liable for absolute confiscation and not fit for redemption.

29. The Hon'ble High Court of Madras in the matter of COMMISSIONER OF CUSTOMS (AIR), CHENNAI-I Versus P. SINNASAMY 2016 (344) E.L.T. 1154 (Mad.) 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."*



**30.** Given the above findings, it is evident that Shri Atif Firozbhai Lakhani, in blatant violation of Baggage Rules, 2016 framed under the Customs Act, 1962 and Foreign Exchange Management (Export and Import of Currency) Regulations, 2015 framed under the Foreign Exchange Management Act attempted to improperly export/smuggle foreign currency, viz, UAE Dirham 2,00,000/- equivalent to a total of Indian Rupees 43,00,000/- to Sharjah. In the present case, "mens rea" on part of the said noticee is very much evident since he had not declared to the Customs Authorities in any manner about the foreign currency being carried by him for export and did not possess valid documents showing procurement of the said foreign currency from authorized person. Records before me conclusively prove that he had acquired the said foreign currency from an unauthorized source (Noticee No.2). By the aforesaid acts of commission and omission, Shri Atif Firozbhai Lakhani (Noticee No.1) has rendered the impugned seized foreign currency liable for confiscation under Section 113 (d) & (e) of Customs Act, 1962, read with Regulation 7 of Foreign Exchange Management (Export and Import of Currency) Regulations, 2015 issued under Foreign Exchange Management Act, 1999, and Rule 7 of the Baggage Rules, 2016 issued under Customs Act, 1962. I therefore find that Shri Atif Firozbhai Lakhani is also liable for penalty under Section 114 (i) of the Customs Act, 1962.

**31.** The American Tourister Backpack, Tan colour Wallet, Xerox of Microbiology Book NCERT Class IX, Xerox of Micro Economics NCERT Class XII, Black Colour Angelo brand Jean Pant and Brown Colour Towel used by Shri Atif Firozbhai Lakhani for concealment of foreign Currency are also liable for confiscation under Section 118 & 119 of the Customs Act, 1962.

**32.** Shri Yasin Musabhai Memon (Noticee No.2) had supplied the foreign currency of 2,00,000 Dirham to Shri Atif Firozbhai Lakhani (Noticee No.1) during the material time without any valid documents. The same was stated by Noticee No. 1 in his statement dated 26.01.2023 recorded under Section 108 of the Customs Act, 1962. This fact has also been admitted by the Noticee No. 2 in his statement dated 16.05.2023 recorded under Section 108 of the Customs Act, 1962. The Noticee No. 2 has also admitted to have been involved in trading of foreign currency. Such transactions were carried out in an illegal manner without any authorization from the competent authority. The Noticee No. 2 was fully aware that the impugned foreign currency viz, 2,00,000 UAE Dirham were meant to be smuggled by Shri Atif Firozbhai Lakhani and yet the Noticee No. 2 abetted the said act of Shri Atif Firozbhai Lakhani by providing him the requisite currency notes in an illegal manner. It is also beyond doubt that the Noticee No. 2 had acquired and retained the said foreign currency i.e. 2,00,000 UAE Dirham in an illegal manner in contravention of the provisions of Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulation, 2015. Further the Noticee No.2 had also involved himself in keeping and concealing the smuggled 92 notes of Foreign Currencies having value equivalent to Indian Rs. 2,08,137/- in contravention of the provisions of Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulation, 2015. The said currency notes were clearly meant to be supplied to persons going to a foreign destination without any valid documents. Hence, the



said 92 currency notes (US Dollar, Pound, Euro & South African Rand) of different denominations having value equivalent to Indian Rs. 2,08,137/- are liable to be confiscated under section 113 (d) of the Customs Act, 1962. For his above act of omission and commission and abetting the act of Noticee No. 1 in his attempt to smuggle foreign currency, Shri Yasin Musabhai Memon has also rendered himself liable for penalty under the provisions of Section 114(i) of the Customs Act, 1962.

33. Accordingly, I pass the following Order:-

**ORDER**

- (i) I order absolute confiscation of the impugned foreign currency (Dirham 2,00,000) equivalent to Indian Rupees 43,00,000/- (Rupees Forty Three Lakh only) seized from Shri Atif Firozbhai Lakhani under Panchnama proceedings vide Seizure Memo dated 26.01.2023, under section 113 (d) and 113 (e) of the Customs Act, 1962;
- (ii) I order confiscation of the American Tourister Backpack, Tan colour Wallet, Xerox of Microbiology Book NCERT Class IX, Xerox of Micro Economics NCERT Class XII, Black Colour Angelo brand Jean Pant and Brown Colour Towel used for concealment of the impugned foreign currency, seized from Shri Atif Firozbhai Lakhani under Panchnama proceedings vide Seizure Memo dated 26.01.2023, under Section 118 and Section 119 of the Customs Act, 1962;
- (iii) I impose a penalty of Rs. 43,00,000/- (Rupees Forty Three Lakh only) upon Shri Atif Firozbhai Lakhani under Section 114(i) of the Customs Act, 1962;
- (iv) I order absolute confiscation of the 92 notes of foreign currencies equivalent to Indian Rupees 2,08,137/- (Rupees Two Lakh Eight Thousand One Hundred Thirty Seven only) seized from Shri Yasin Musabhai Memon under Panchnama proceedings vide Seizure Memo dated 24.05.2023, under Section 113 (d) of the Customs Act, 1962;
- (v) I impose a penalty of Rs. 45,08,137/- (Rupees Forty Five Lakh Eight Thousand One Hundred Thirty Seven only) upon Shri Yasin Musabhai Memon under Section 114(i) of the Customs Act, 1962.

  
(Anunay Bhati)  
Additional Commissioner



**BY SPEED POST AD/E.MAIL/NOTICE BOARD /WEBSITE/ OTHER LEGALLY  
PERMISSIBLE MODE**

F.No. VIII/26-07/AIU/CUS/2023-24

DIN: 20240571MN0000888A8F

Dated: 02.05.2024

To

1. Shri Atif Firozbhai Lakhani,  
304, Shalimar Park, Navsari Main Road,  
Unn, Budia, Surat, Gujarat-394210
2. Shri Yasin Musabhai Memon,  
303, Vadiya Complex, Chhadaol, near Masjid E Hajra,  
Rampura, Surat

Copy to:-

1. The Pr. Additional Director General, DRI, Ahmedabad Zonal Unit, Unit No. 15, Magnet Corporate Park, Off. Sola Over Bridge, Thaltej, Ahmedabad-380054 (DIGIT ID of the case is D-002-260123-8).
2. The Additional Director General, Central Economic Intelligence Bureau, 6<sup>th</sup> Floor, B Wing, Janpath Bhawan, Janpath, New Delhi-110001.
3. The Principal Commissioner of Customs, Ahmedabad. (Kind Attn: RRA Section).
4. The Deputy Commissioner of Customs (TRC), HQ, Ahmedabad.
5. The Deputy Director, DRI, Regional Unit Surat, 2<sup>nd</sup> floor, Avalon Building, Above Indian Bank, B/h S.D. Jain School, Piplod-Vesu, Piplod, Surat-395007.
6. The Superintendent (Recovery), Customs, Surat International Airport.
7. The System In-Charge, Customs, HQ., Ahmedabad for uploading on the official website.
- ✓ 8. Guard File.