प्रधान आयुक्त का कार्यालय, सीमा शुल्क ,अहमदाबाद
"सीमाशुल्कभवन ,"पहलीमंजिल ,पुरानेहाईकोर्टकेसामने ,नवरंगपुरा ,अहमदाबाद – 380009
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DIN: 20260471MN000000C1DE

PREAMBLE

A	फ़ाइल संख्या/ File No.	:	VIII/10-64/SVPIA-A/O&A/HQ/2025-26
B	कारण बताओ नोटिस संख्या-तारीख / Show Cause Notice No. and Date	:	VIII/10-64/SVPIA-A/O&A/HQ/2025-26 Dated 04.02.2026
C	मूलआदेश संख्या/ Order-In-Original No.	:	**05/ADC/SRV/O&A/HQ/2026-27**
D	आदेश तिथि/ Date of Order-In-Original	:	**23.04.2026**
E	जारी करने की तारीख/ Date of Issue	:	**23.04.2026**
F	द्वारा पारित/ Passed By	:	**Shree Ram Vishnoi**, Additional Commissioner, Customs, Ahmedabad
G	आयातक का नाम और पता / Name and address of Importer/ Passenger	:	1) **Shri Akash Manoharlal Dengra,** H. No. 3, Haridarshan Flat, Opp. Sukhramdas Darbar Kubernagar, Ahmedabad, Gujarat- 382340 2) **Shri Govinda Hareshkumar Meghani,** H. No, A-20, Ashram Society, Thakkar Bapa Nagar, Ahmedabad 3) **Shri Jethanand Bansilal Meghani,** Gate No. 2, House No. 60, Ved Bungalows, Near Toyota Showroom, Nana Chiloda, Ahmedabad-380009
(1)	यह प्रति उन व्यक्तियों के उपयोग के लिए निःशुल्क प्रदान की जाती है जिन्हे यह जारी की गयी है।		
(2)	कोई भी व्यक्ति इस आदेश से स्वयं को असंतुष्ट पाता है तो वह इस आदेश के विरुद्ध अपील इस आदेश की प्राप्ति की तारीख के 60 दिनों के भीतर आयुक्त कार्यालय, सीमा शुल्क अपील)चौथी मंज़िल, हुडको भवन, ईश्वर भुवन मार्ग, नवरंगपुरा, अहमदाबाद में कर सकता है।		
(3)	अपील के साथ केवल पांच (5.00) रुपये का न्यायालय शुल्क टिकिट लगा होना चाहिए और इसके साथ होना चाहिए:		
(i)	अपील की एक प्रति और;		
(ii)	इस प्रति या इस आदेश की कोई प्रति के साथ केवल पांच (5.00) रुपये का न्यायालय शुल्क टिकिट लगा होना चाहिए।		
(4)	इस आदेश के विरुद्ध अपील करने इच्छुक व्यक्ति को 7.5 % (अधिकतम 10 करोड़) शुल्क अदा करना होगा जहां शुल्क या ड्यूटी और जुर्माना विवाद में है या जुर्माना जहां इस तरह की दंड विवाद में है और अपील के साथ इस तरह के भुगतान का प्रमाण पेश करने में असफल रहने पर सीमा शुल्क अधिनियम, 1962 की धारा 129 के प्रावधानों का अनुपालन नहीं करने के लिए अपील को खारिज कर दिया जायेगा।		

BRIEF FACTS OF THE CASE:

Intelligence developed by the officers of Air Intelligence Unit (AIU), SVPI Airport, Customs Ahmedabad through passenger profiling of Spicejet Flight No. SG016 on 09.08.2025 indicated suspicion of smuggling of contrabands by some passengers arriving at SVPI Airport, Ahmedabad from Dubai (UAE).

1.1. Acting upon intelligence, the officers of Air Intelligence Unit (AIU), accompanied by independent Panchas started keeping watch on the passengers arriving from Dubai to Ahmedabad by Spice jet Flight No. SG016 on 09.08.2025 at Green Channel of Arrival Hall of the Terminal-2 of SVPI Airport, Ahmedabad. The officers subsequently intercepted a male passenger named Shri Akash Manoharlal Dengra (DOB:30.03.1998) holding Indian Passport No. T3793753 (hereinafter referred to as the said "Passenger/Noticee") by verifying his Passport and boarding pass when he was trying to exit through Green Channel without making any declaration to the Customs Authorities at SVPI Airport, Ahmedabad.

1.2. Upon inquiry, the passenger identified himself as Shri Akash Manoharlal Dengra holding Indian Passport No. T3793753, DOB: 30.03.1998 residing at 3, Haridarshan Flat, Opp. Sukhramdas Darbar, Kubernagar, Ahmedabad, Gujarat, PIN-382340 and informed that he was travelling from Dubai to Ahmedabad by SpiceJet Flight No. SG016. The passenger was carrying one red trolley bag and one shoulder bag. The proceedings relating to personal search of the passenger and examination of his baggage was conducted in presence of the two independent witnesses and the same were recorded under the Panchnama dated 09.08.2025.

2. The AIU Officers inquired with the passenger as to whether he was carrying any contraband/dutiable goods in person or in baggage to which he denied. As regards the search of the passenger, the Officers asked/ informed the passenger that a search of his baggage as well his personal search was to be carried out and given him an option to carry out the search in presence of a Magistrate or a Gazetted Officer of Customs to which the Passenger desired to be searched in presence of a Superintendent of Customs. Before commencing the search, the officers offered themselves to the said passenger for conducting their personal search, which was declined by the said passenger reposing faith in the Officers.

2.1 Thereafter, in the presence of the panchas, the AIU officers instructed passenger to put his entire luggage i.e. one red trolley bag and one shoulder bag, in the X-Ray Bag Scanning Machine installed near the Green Channel at Terminal 2 of SVPI Airport, Ahmedabad for scanning. On scanning of his baggage in the X-ray machine, nothing suspicious was seen. Thereafter, the AIU officers once again asked the passenger if he was carrying any contraband/ restricted/dutiable goods, but the passenger still replied in the negative. Subsequently, the AIU officers asked the passenger to walk through the Door Frame Metal Detector (DFMD) machine. Before passing through the said DFMD machine, the said passenger was asked to remove all the metallic objects he was wearing on his body/clothes. Thereafter, the passenger removed metallic objects from his body/clothes such as mobile phone, wallet, etc. The AIU officers then asked him to pass through the DFMD machine. When the passenger passed through the DFMD machine, a strong beep sound was heard indicating that there was some metallic object on his body/clothes. Accordingly, the officer proceeded to physically examine the passenger and asked him to come to the AIU office situated opposite Belt No. 2, Arrival Hall, Green Channel, SVPI Airport, Ahmedabad. The officers conducted a thorough personal search of the passenger in the presence of the panchas and found that the said passenger had concealed 06 (six) yellowish metal bars and 03 (three) yellowish cut metal bars suspected to be gold in the pair of socks he was wearing. On being asked, the passenger informed that the said gold bars were given to him by one person namely Shri Meghani Govinda Haresh in Dubai who informed the passenger that the said gold belonged to one Shri Jackybhai Meghani. On being asked, the passenger further informed that he was working as Sales Head in M/s. Simi Plast, 60/4, Near Fire Station, Odhav, Ahmedabad and Shri Jackybhai Meghani, was the Proprietor of M/s. Simi Plast and he had carried the aforesaid gold bars and attempted to smuggle the same on behalf of his employer Shri Jackybhai Meghani.

2.2 Thereafter, the officers called one Government-approved Valuer viz. Shri Kartikey Vasantrai Soni and informed him that some suspected gold articles were recovered from the passenger and that he was required to come to the office of the AIU situated at SVPI Airport, Ahmedabad for valuation and to ascertain the purity of the aforesaid suspected gold articles recovered from the passenger. In reply, the Government-approved Valuer informed the officer that he would reach at the SVPIA Airport to ascertain the value and purity of the gold articles recovered from the passenger.

2.3 Thereafter, Mr. Soni Kartikey Vasantrai, Government-approved Valuer arrived at the AIU office at about 02.00 AM on 09.08.2025 and officers introduced him to the panchas as well as the passenger. The officers gave the suspected gold articles recovered from the passenger to the Government-approved Valuer. After weighing the said aforesaid gold articles on his weighing scale, Mr. Kartikey Vasantrai Soni informed that the total weight of 6 Gold TT Bars (5 pieces of YAQ00T 10 Tolas Gold 999 Melter Assayer, & 1 piece of MWG UAE 10 Tolas 999.0 MWG Melter Assayer) and 3 pieces of cut gold bar was 750.700 grams. Photograph of the same is as under: -

2.4 Shri Soni Kartikey Vasantrai vide **Certificate No. 450/2025-26 dated 09.08.2025** certified that the said 06 Gold TT Bars (5 pieces of YAQ00T 10 Tolas Gold 999 Melter Assayer & 01 piece of MWG UAE 10 Tolas 999.0 MWG Melter Assayer) and 03 pieces of cut gold bar weighing 750.700 grams had a purity of 999.0/24Kt and a Market Value of Rs.78,29,801/- and a Tariff Value of Rs.70,70,228/-. The Market Value of the aforesaid gold & Tariff Value were calculated as per the Notification No. 49/2025-Customs (N.T.) dated 31.07.2025 (gold) and Exchange Rate Notification No. 35/2024 dated 08.08.2025, the calculation of total Market Value was based on the unit Market Value of gold @ Rs.1,04,300/- per 10 grams (999.0/24Kt) and the calculation of total Tariff Value was based on the

Tariff Value of gold prevailing at the time of valuation @ Rs.94,181.8/- per 10 gram (999.0/24Kt). The details are as below:

Sr. No	Details of Items	Qty. (Pcs)	Net Weight in Grams	Purity	Market Value (Rs.)	Tariff Value (Rs.)
1	06 Gold TT Bars *(05 Pieces of YAQ00T 10 Tolas Gold 999 Melter Assayer & 01 Piece of MWG UAE 10 Tolas 999.0 MWG Melter Assayer)* & 03 Pieces of Cut Gold Bar	9	750.700	999.0/ 24Kt.	78,29,801/-	70,70,228/-
Total		9	750.700		78,29,801/-	70,70,228/-

SEIZURE OF THE ABOVE GOLD AND PACKING MATERIAL: -

3. The above said gold weighing 750.700 grams was carried by the passenger in a concealed manner and without declaring the same before Customs Authorities with intend to evade the Customs Duty in violation of provisions of Customs Act, 1962. Therefore, the said Gold was falling under the category of smuggled goods and there was a reasonable belief that the same were liable for confiscation under the provisions of Section 111 of the Customs Act, 1962. Accordingly, the said gold weighing 750.700 grams (Net Weight) having purity 999.0/24Kt. and Market Value of Rs.78,29,801/- and Tariff Value of Rs.70,70,228/- recovered from the passenger was placed under seizure vide Seizure Memo/Order dated 09.08.2025 issued under the provisions of Section 110(1) of the Customs Act, 1962. The Gold was placed in a transparent plastic box which was sealed and handed over to the Ware House In-charge, SVPI Airport, Customs Ahmedabad vide Ware House Entry No. 7587 dated 09.08.2025.

3.1 Further, the pair of socks used for concealment of the aforesaid six Gold TT Bars and three pieces of cut gold bar, were also seized under the provisions of the Customs Act, 1962 under reasonable belief that they were used for packing and concealment of the said Gold recovered from the passenger. The said pair of socks were also placed in another transparent plastic box which was sealed and handed over to the Ware House In-charge, SVPI Airport, Customs Ahmedabad vide Ware House Entry No. 7588 dated 09.08.2025.

STATEMENT OF PASSENGER SHRI AKASH MANOHARLAL DENGRA:

4. Statement of the passenger Shri Akash Manoharlal Dengra was recorded on 09.08.2025, wherein he inter alia stated that he was working as Sales Head of M/s. Mahi Enterprise which was engaged in the manufacturing of household plastic articles such as containers, buckets, cutlery stands etc. by the name of Simi Plast.

4.1 The passenger further stated that Shri Jethanand Bansilal Meghani alias Jackybhai Meghani was the Proprietor of M/s. Mahi Enterprise; that Shri Govinda Hareshkumar Meghani, nephew of Shri Jethanand Bansilal Meghani was Production in-charge at M/s. Mahi Enterprise. He further informed that he earned Rs.50,000/- per month as Sales Head of M/s. Mahi Enterprise.

4.2 The passenger further stated that on 06.08.2025, he had travelled to Dubai by Indigo Flight no. 6E1477 along with Shri Govinda Hareshkumar Meghani; that the to-and-fro air tickets and hotel arrangements were arranged and paid for by Shri Jethanand Bansilal Meghani alias Jacky bhai Meghani. He further stated that he had returned from Dubai to Ahmedabad on 09.08.2025 by SpiceJet Flight No. SG016; that at Dubai Airport, Shri Govinda Hareshkumar Meghani gave him 750.700 grams of gold and offered him Rs.15,000/- to conceal and carry it through SVPI Airport, Ahmedabad, which he had agreed to do.

4.3 The passenger stated that Shri Govinda Hareshkumar Meghani who had purchased the said gold in Dubai, was travelling with him on the same flight, and he had exchanged trolley bags with him upon arrival at SVPI Airport, Ahmedabad. He provided the details of residential addresses, mobile numbers, business address, bank account details and GSTIN related to Shri Govinda Hareshkumar Meghani, Shri Jethnand alias Jacky Bhai, and M/s. Mahi Enterprise.

4.4 The passenger further stated that he was aware that smuggling of gold without payment of Customs Duty was an offence and that he had concealed the gold deliberately in his socks without making any declaration before Customs Authorities to evade Customs Duty. He further stated that he had opted for the Green Channel as an attempt to smuggle the gold without paying Customs duty.

4.5 The passenger stated that he had perused the Panchnama dated 09.08.2025 and the facts narrated therein were true and correct. He produced a copy of an invoice dated 08.08.2025 issued by M/s. SKS Global FZE for gold recovered from him. He further stated that although the invoice was in his name, the payment for purchase of Gold was made by Shri Govinda Hareshkumar Meghani, whose mobile number appeared on the invoice, and that the invoice for the remaining four gold TT bars which were purchased in the name of Shri Govinda Hareshkumar Meghani, was not available with him.

ARREST OF THE PASSENGER SHRI AKASH MANOHARLAL DENGRA:

5. Based on the facts and evidences gathered as well as per the Statement of the passenger recorded as above, it appeared that the passenger had committed an offence punishable under Customs Act, 1962, in as much as he had smuggled the aforesaid Gold duly concealed in his socks and attempted to exit through the Green Channel at SVPI Airport, Ahmedabad without making declaration of the Gold before Customs Authorities with intend to evade the payment of Customs Duty. The Gold so smuggled by the passenger was liable for confiscation under the provisions of Section 111 of Customs Act, 1962. Thus, he had knowingly concerned himself in an offence punishable under Section 135(1) of the Customs Act, 1962, as he had knowingly concerned himself in dealing/carrying smuggled Gold [weighing net 750.700 grams having purity 999.0/24Kt., Market Value of Rs.78,29,801/- and Tariff Value of Rs.70,70,228/-] and did not declare the said goods before Customs Authorities and also concerned in carrying, keeping, concealing the smuggled gold which he knew and/or had reasons to believe were liable for confiscation under Section 111 of Customs Act, 1962. Hence, in terms of Board's Circular No.13/2022-Customs dated 16.08.2022, the passenger Shri Akash Manoharlal Dengra was arrested on 09.08.2025 at SVPI Airport, Ahmedabad under the provisions of Section 104 of the Customs Act, 1962 vide Arrest Memo dated 09.08.2025, after getting required Authorisation from the competent authority. He was then released on bail on satisfaction of some necessary and suitable conditions as per Bail Bond dated 09.08.2025.

FURTHER INVESTIGATION CONDUCTED:

6. During the course of recording statement dated 09.08.2025 of the said passenger, it appeared that the subject smuggling of Gold was planned by Shri Govinda Hareshkumar Meghani and Shri Jethanand Bansilal Meghani alias Jackybhai Meghani in connivance of the passenger. Accordingly, searches were conducted at the residential premises of Shri Govinda Hareshkumar Meghani situated at A-20, Ashram Society, Thakkarbapanagar, Ahmedabad and Shri Jethanand Bansilal Meghani situated at Gate No. 2, House No. 60, Ved Bungalows, Near Toyota Showroom, Nana Chiloda, Ahmedabad-380009 under two separate

Panchnamas both dated 09.08.2025. However, nothing incriminating and objectional was found during Search conducted at both the premises.

7. After carrying out searches at the residential premises of Shri Govinda Hareshkumar Meghani and Shri Jethanand Bansilal Meghani alias Jackybhai Meghani, a letter dated 10.08.2025 addressed to the Assistant Commissioner (AIU), SVPI Airport, Customs Ahmedabad was received from Shri Akash Manoharlal Dengra. Vide this letter, the statement dated 09.08.2025 of the passenger Shri Akash Manoharlal Dengra was retracted stating that he was tired and mentally absent due to his night journey when the statement was recorded; that he had signed the papers without reading or understanding, etc. Hence, in order to re-examine the submissions of the passenger Shri Akash Manoharlal Dengra and to record his further statement to check the veracity of the genuineness and facts mentioned in the said letter dated 10.08.2025, repeated Summons were issued to Shri Akash Manoharlal Dengra as well as to Shri Govinda Hareshkumar Meghani and Shri Jethanand Bansilal Meghani alias Jackybhai Meghani but they did not appear before Investigating Officers, neither sent any reply to the Summons issued to them.

8. The details of Summons issued to Shri Akash Manoharlal Dengra, Shri Govinda Hareshkumar Meghani and Shri Jethanand Bansilal Meghani alias Jackybhai Meghani are as under.

Name of the Summonee	**Date of Summons**	**CBIC DIN of the Summons issued**
Shri Akash Manoharlal Dengra	10.09.2025, 18.09.2025, 27.10.2025,	20250965TA0000419704, 20250965TA0000444AA7 20251065TA000000BA0D
Shri Jethanand Bansilal Meghani	09.08.2025, 13.08.2025, 18.09.2025, 27.10.2025	20250864WY000000A136, 20250871MN000000DFF9 20250965TA0000999EAC 20251065TA000000B214
Shri Govinda Hareshkumar Meghani	09.08.2025, 13.08.2025, 18.09.2025, 27.10.2025	20250864WY0000555A28, 20250871MN00000004E2 20250965TA000000EBA6 20251065TA0000512574

From above, it appears that neither the passenger Shri Akash Manoharlal Dengra, nor Shri Govinda Hareshkumar Meghani and Shri Jethanand Bansilal Meghani alias Jackybhai Meghani have submitted any fact or evidence in the support of letter dated 10.08.2025 rather they all failed to appear before the investigating officers in spite of providing them repeated opportunities. Hence, the retraction to the Statement dated 09.08.2025 of the passenger Shri Akash Manoharlal Dengra sent vide letter dated 10.08.2025 has no legs and it was merely an afterthought and accordingly the facts and evidences submitted by the passenger during recording of his Statement dated 09.08.2025 appear to be correct and are taken on record of this case.

LEGAL PROVISIONS:

9. According to the Customs Baggage Declaration (Amendment) Regulations, 2016 issued vide Notification 31/2016 (NT) dated 01.03.2016, all passengers who come to India and have anything to declare or are carrying dutiable or prohibited goods shall declare their accompanied baggage under Section 77 of the Customs Act, 1962.

9.1. All the dutiable articles imported into India by a passenger in his baggage are classified under CTH 9803. As per Section 77 of the Customs Act, 1962, the owner of any baggage shall for the purpose of clearing it, make a declaration of its contents to the proper officer. As per Section 11(1) of the Foreign Trade (Development and Regulation) Act,1992, no export or import shall be made by any person except in accordance with the provisions of Foreign Trade (Development and Regulation) Act, 1992, the Rules and Orders made there under and the Foreign Trade Policy for the time being in force.

9.2. In terms of Para 2.26 (a) of the Foreign Trade Policy 2015-2020, only bona fide household goods and personal effects are allowed to be imported as part of passenger baggage as per limits, terms and conditions thereof specified in the Baggage Rules notified by the Ministry of Finance. The gold can be imported by the banks (authorized by RBI) and the agencies nominated for the said purpose under Para 4.41 of Chapter-4 of Foreign Trade Policy or by "Eligible Passenger" as per the provision of Notification No. 50/2017- Customs dated 30.06.2017 (Sr. No. 356). As per Notification No. 50/2017- Customs dated 30.06.2017, the 'eligible passenger' means passenger of Indian origin or a passenger holding valid passport issued under the Passport Act, 1967 who is coming to India after a period of not less than 6 months of stay abroad.

<u>The above said legal provisions are reproduced below:</u>

9.3.1. 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.

9.3.2. 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.

9.3.3. 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.

9.3.4.1.1. <u>Para 2.26 (a) of the Foreign Trade Policy 2015-2020</u>:
Bona-fide household goods and personal effects may be imported as part of passenger baggage as per limits, terms and conditions thereof in Baggage Rules notified by the Ministry of Finance.

9.3.4.1.2. <u>Para 4.41 of the Foreign Trade Policy 2015-2020:</u>

Nominated Agencies: -

(i) Exporters may obtain gold / silver /platinum from Nominated Agency. Exporter in EOU and units in SEZ would be governed by the respective provisions of Chapter-6 of FTP / SEZ Rules, respectively.

(ii) Nominated Agencies are MMTC Ltd, The Handicraft and Handlooms Exports Corporation of India Ltd, The State Trading Corporation of India Ltd, PEC Ltd, STCL Ltd, MSTC Ltd, and Diamond India Limited.

(iii) Notwithstanding any provision relating to import of gold by Nominated Agencies under Foreign Trade Policy (2015-2020), the import of gold by Four Star and Five Star Houses with Nominated Agency Certificate is subjected to actual user condition and are permitted to import gold as input only for the purpose of manufacture and export by themselves during the remaining validity period of the Nominated Agency certificate.

(iv) Reserve Bank of India can authorize any bank as Nominated Agency.

(v) Procedure for import of precious metal by Nominated Agency (other than those authorized by Reserve Bank of India and the Gems &Jewellery units operating under EOU and SEZ schemes) and the monitoring mechanism thereof shall be as per the provisions laid down in Hand Book of Procedures.

(vi) A bank authorized by Reserve Bank of India is allowed export of gold scrap for refining and import standard gold strips as per Reserve Bank of India guidelines.

9.4. Condition 41 of Sl. No. 356 of CBIC Customs Notification No. 50/2017 dated 30.06.2017 where the condition regarding import of gold by passenger is regulated in the following manner:

If,

1. (a) the duty is paid in convertible foreign currency;

(b) the quantity of import does not exceed ten kilograms of gold and one hundred kilograms of silver per eligible passenger; and

2. the gold or silver is, -

(a) carried by the eligible passenger at the time of his arrival in India, or

(b) the total quantity of gold under items (i) and (ii) of Sr. No. 356 does not exceed one kilogram and the quantity of silver under Sr. No. 357 does not exceed ten kilograms per eligible passenger; and

(c) is taken delivery of from a customs bonded warehouse of the State Bank of India or the Minerals and Metals Trading Corporation Ltd., subject to the conditions 1;

Provided that such eligible passenger files a declaration in the prescribed form before the proper officer of customs at the time of his arrival in India declaring his intention to take delivery of the gold or silver from such a customs bonded warehouse and pays the duty leviable thereon before his clearance from customs.

Explanation.- For the purposes of this notification, "eligible passenger" means a passenger of Indian origin or a passenger holding a valid passport, issued under the Passports Act, 1967 (15 of 1967), who is coming to India after a period of not less than six months of stay abroad; and short visits, if any, made by the eligible passenger during the aforesaid period of six months shall be ignored if the total duration of stay on such visits does not exceed thirty days and such passenger has not availed of the exemption under this notification or under the notification being superseded at any time of such short visits.

Baggage Rules, 2016:

9.5.1. As per Rule 5 of the Baggage Rules, 2016, "a passenger residing abroad for more than one year, on return to India, shall be allowed clearance free of duty in his bona fide baggage of Jewellery up to a weight, of twenty grams with a value cap of fifty thousand rupees if brought by a gentleman passenger, or forty grams with a value cap of one lakh rupees, if brought by a lady passenger".

9.5.2. A combined reading of the above-mentioned legal provisions under Foreign Trade Regulations, the Customs Act, 1962 and the notifications issued therein - clearly indicate that import of gold including gold Jewellery through Baggage is Restricted and conditions have been imposed on the said imports by a passenger such as he/she should be of Indian origin or an Indian passport holder with minimum six months stay abroad etc. Only passengers who satisfy those mandatory conditions can import gold as a part of their bona fide personal baggage and the same has to be declared to the Customs at the time of their arrival and applicable duty paid. These conditions are nothing but restrictions imposed on the import of gold through passenger baggage. Further, from the foregoing legal provisions of Foreign Trade Policy, 2015-2020 read with Reserve Bank of India circulars issued under Foreign Exchange Management Act (FEMA), Notifications issued by the Government of India and Circular issued by CBIC, it is evident that no one can import gold in any other manner as not explicitly stated/permitted above.

9.6. In exercise of powers conferred by Section 3 read with Section 5 of FT (D&R) Act, 1962, read with paragraph 1.02 and 2.01 of the Foreign Trade Policy, 2015-2020, as amended from time to time, the Central Government vide DGFT's Notification No. 49/2015-2020 dated 5thJanuary, 2022 made amendment in import policy conditions of gold in any form Chapter 71 of ITC (HS), 2017, Schedule-1 (Import Policy) as under:

ITC(HS) Code	Item Description	Policy	Existing Policy Condition	Revised Policy Condition
71061000	Powder	Restricted	Import is allowed only through nominated agencies as notified by RBI (in case of banks) and DGFT (for other agencies).	No change in existing Policy Condition
71069110	Unwrought: Grains	Restricted	Import is allowed only through nominated agencies as notified by RBI (in case of banks) and DGFT (for other agencies). Silver dore can be imported by refineries against a license with AU condition.	No change in existing Policy Condition
71069190	Unwrought: Others			
71069210	Sheets, plates, strips, tubes and pipes	Restricted	Import is allowed only through nominated agencies as notified by RBI (in case of banks) and DGFT(for other agencies).	No change in existing Policy Condition
71069290	Other	Restricted	Import is allowed only through nominated agencies as notified by RBI (in case of banks) and DGFT(for other agencies).	No change in existing Policy Condition
71081100	Powder	Restricted	Import is allowed only through nominated agencies as notified by RBI (in case of banks) and DGFT (for other agencies).	No change in existing Policy Condition
71081200	Other unwrought forms	Restricted	Import is allowed only through nominated agencies as notified by RBI (in case of banks) and DGFT (for other agencies). Gold dore can be imported by refineries against a license with AU condition.	Import is allowed only through nominated agencies as notified by RBI (in case of banks), DGFT (for other agencies) and IFSCA(for qualified jewellers through India International Bullion Exchange) Gold Dore can be imported by refineries against an import license with AU condition.
71081300	Other semi-manufactured forms	Restricted	Import is allowed only through nominated agencies as notified by RBI (in case of banks) and DGFT (for other agencies).	No change in existing Policy Condition
71189000	Other	Restricted	Import is allowed only through nominated agencies as notified by RBI (in case of banks) and DGFT (for other agencies).	Import is allowed only through nominated agencies as notified by RBI (in case of banks), DGFT (for other agencies) and IFSCA(for qualified jewellers through India International Bullion Exchange).

9.6.1. As per the said Notification, the expression "*Gold in any form*" includes *gold in any form above 22 carat s*under Chapter 71 of ITC (HS), 2017, Schedule-I (Import Policy).

9.7. Further, as per Section 2(33) of the Customs Act, 1962, 'prohibited goods' means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with, implying that any goods imported in violation of the conditions subject to which the goods are permitted to be imported are nothing but prohibited goods. Hence, smuggling of the Gold totally weighing 750.700 grams (Net Weight) having purity 999.0/24Kt. and Market Value of Rs.78,29,801/- and Tariff Value of Rs.70,70,228/-, recovered from the possession of the passenger Shri Akash Manoharlal Dengra is in contravention of the Foreign Trade Policy 2015-20 read with the relevant notification issued under the Customs Act, 1962 & rules made thereunder, shall have to be treated as prohibited, by virtue of not being in conformity with the conditions imposed in the said Regulations. It is pertinent to note that any prohibition applies to every type of prohibition which may be complete or partial and even a restriction on import or export is to an extent a prohibition. Hence the restrictions imposed on the said imports are to an extent a prohibition and any violation of the said conditions/restrictions would make the impugned goods liable for confiscation under Section 111 of Customs Act, 1962.

9.8. Therefore, it appears that import of gold in contravention of the Foreign Trade Policy 2015-20 read with the Customs Act, 1962 and RBI circulars, as well as the Rules and regulations mentioned supra, shall have to be treated as prohibited, by virtue of not being in conformity with the conditions imposed in said Regulations.

9.9. As per Section 2(3) – “baggage includes unaccompanied baggage but does not include motor vehicles.

9.10. 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;

9.11. Section 2(33) of the Customs Act, 1962 -*"Prohibited Goods" means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with.*

9.12. 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.

9.13. Further, in terms of provisions under Section 123 of the Customs Act, 1962, it is the responsibility of the person who is in possession of the said gold / silver or the person claiming ownership of the same, to prove that the same were not smuggled gold. Relevant provisions of Section 123 of the Customs Act, 1962 are as under:

Section 123: Burden of proof in certain cases. –			
(1)	*Where any goods to which this section applies are seized under this act in the reasonable belief that they are smuggled goods, the burden of proving that they are not smuggled goods shall be –*		
	(a)	*In a case where such seizure is made from the possession of any person, -*	
		(i)	*on the person from whose possession the goods were seized; and*
		(ii)	*if any person, other than the person from whose possession the goods were seized, claims to be the owner thereof, also on such other person.*
	(b)	*In any other case, on the person, if any, who claims to be the owner of the goods so seized.*	
(2)	*This section shall apply to gold and manufactures thereof, watches, and any other class of goods which the Central Government may by notification in the Official Gazette specify.*		

9.14. Section 111 of the Customs Act, 1962 provides for the confiscation of the goods which are imported improperly.

Section 111. Confiscation of improperly imported goods, etc. -

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

(d) any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;

(l) any dutiable or prohibited goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77;

(m) any goods which do not correspond in respect of value or in any other particular] with the entry made under this Act or in the case of baggage with the declaration made under section 77 [in respect thereof, or in the case of goods under transshipment, with the declaration for transshipment referred to in the proviso to sub-section (1) of section 54;]

9.15. Section 112 of the Customs Act, 1962 provides the penalty on the persons for the improper import of the goods.

Section 112. Penalty for improper importation of goods, etc. -
Any person, -

(a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or

(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111,

9.16. Section 119: Confiscation of goods used for concealing smuggled goods:

"Any goods used for concealing smuggled goods shall also be liable to confiscation".

9.17. From all the above paras, it appears that during the period relevant to this case, import of gold in any form (gold having purity above 22 carat) was restricted as per DGFT Notification and import was permitted only by nominated agencies. It clearly appears that import of goods whereof is allowed subject to certain conditions are to be treated as prohibited goods under Section 2(33) of the Customs Act, 1962 in case such conditions are not fulfilled. Gold is not allowed to be imported freely in baggage and it is permitted to be imported subject to fulfilment of certain conditions.

VIOLATION AND CONTRAVENTION OF THE VARIOUS PROVISIONS:

10. From the investigation conducted in the case, it appears that the aforesaid gold was imported into India in violation of the provisions of the Baggage Rules, 2016, as amended, in as much as gold or silver in any form, other than ornaments is not allowed to be imported free of duty. In the instant case, 06 gold TT bars and 03 pieces of gold cut bars totally 750.700 grams (Net Weight) having purity 999.0/24Kt. and market value of Rs.78,29,801/- and tariff value of Rs.70,70,228/-, were brought to India as found concealed inside the socks worn by the passenger Shri Akash Manoharlal Dengra, who had arrived from Dubai to Ahmedabad on 09.08.2025 via

Spicejet Flight No. SG-016, at Terminal-2 of SVPIA Ahmedabad. Further, the said quantity of gold is more than the permissible limit allowed to a passenger under the Baggage Rules and for these reasons alone it cannot be considered as a Bonafide Baggage under the Customs Baggage Rules, 2016.

10.1. According to Section 77 of the Customs Act, 1962, the owner of any baggage, for the purpose of clearing it, is required to make a declaration of its contents to the proper Officer. In the instant case, the passenger had neither filed any such declaration, nor declared the said gold totally weighing 750.700 grams having purity of 24Kt/999.0 because of malafide intention and thereby contravened the provisions of Section 77 of the Customs Act, 1962. It therefore, appears that the said gold totally weighing 750.700 gms having purity of 24Kt/999.0 recovered from the passenger Shri Akash Manoharlal Dengra, was attempted to be smuggled into India with an intention to clear the same without discharging the Customs Duty payable thereon. It, therefore, appears that the said gold totally weighing 750.700 grams having purity of 24Kt/999.0 is liable for confiscation under the provisions of Section 111 of the Customs Act, 1962.

10.2. The seized goods, i.e. 06 gold TT bars and 03 pieces of gold cut bars totally weighing 750.700 grams having purity of 24Kt/999.0 and Market Value of Rs.78,29,801/- and Tariff Value of Rs.70,70,228/- have been attempted to be illegally smuggled into India without declaring before the Customs Authorities in violation of the provisions of the Customs Act, 1962 & FTP and Custom Baggage Rules in as much as no declaration was made under Section 77 of the Customs Act, 1962 in this case. Further, the said gold does not also appear to be allowed to be imported by the passenger keeping the restrictions on such import under the provisions of FTP and Customs Act, 1962. Hence, it appears that the said gold was brought into India with a motive to smuggle into India by way of fraudulently circumventing the restrictions and prohibitions imposed under the Customs Act 1962 and other allied Acts, Rules and Regulations. Therefore, the same prohibited goods may be treated as imported illegally into India and liable to confiscation under the provisions of Section 111(d) and (l) of the Customs Act, 1962.

10.3. In the instant case, a total quantity of net 750.700 grams of gold, involving Market Value of Rs.78,29,801/- and Tariff Value of Rs.70,70,228/- had been illegally smuggled into India without declaring before the Customs Authorities in violation of the provisions of the Customs Act, 1962 & FTP and Custom Baggage Rules. The said gold does not appear to be allowed to import by the passenger and aforesaid persons keeping the restrictions on such import under the provisions of FTP and Customs Act, 1962. Hence, it appears that the said gold had been brought into India with a motive to smuggle into India by way of fraudulently circumventing the restrictions and prohibitions imposed under the Customs Act 1962 and other allied Acts, Rules and Regulations. Therefore, the same prohibited goods may be treated as imported illegally into India and liable to confiscation under the provisions of Section 111(d) and 111(l) of the Customs Act, 1962.

10.4. Also, the passenger Shri Akash Manoharlal Dengra, Shri Govinda Hareshkumar Meghani and Shri Jethanand Bansilal Meghani alias Jackybhai Meghani have failed to discharge their onus in terms of the provisions of Section 123 of the Custom Act,1962. These actions render the said gold quantity liable for confiscation and also rendered themselves liable for penal action under the Customs Act, 1962.

10.5. Further, the packing materials used for concealing the above said gold (totally weighing net 750.700 grams having purity of 24Kt/999.0) believed to be used for concealment is liable to confiscation under Section 119 of the Customs Act, 1962.

ROLE OF VARIOUS PERSONS INVOLVED IN THE ABOVE SMUGGLING OF GOLD:

11.1. Role of the Passenger Shri Akash Manoharlal Dengra:

11.1.1. From evidences gathered, both oral and documentary, available on records, Shri Akash Manoharlal Dengra had attempted to smuggle Gold totally weighing 750.700 grams (Net Weight) having purity 999.0/24Kt. and Market Value of Rs.78,29,801/- and Tariff Value of Rs.70,70,228/-, found concealed inside the socks worn by him, who had arrived from Dubai to Ahmedabad on 09.08.2025 via Spicejet Flight No. SG-016, at Terminal-2 of SVPIA Ahmedabad, with a deliberate intention to evade payment of Customs duty and fraudulently circumventing the restrictions and prohibitions imposed under the Customs Act, 1962 and other allied Acts, Rules and Regulations. The said passenger had knowingly and intentionally smuggled the said gold, and attempted to exit from the Green Channel of SVPI Airport, Ahmedabad with an intent to clear it illicitly to evade payment of Customs Duty. Therefore, the improperly imported gold by the passenger Shri Akash Manoharlal Dengra, by way of concealment in socks and without declaring it to Customs on arrival in India cannot be treated as Bonafide household goods or personal effects. Shri Akash Manoharlal Dengra 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, as amended.

11.1.2. Shri Akash Manoharlal Dengra has, by not declaring the gold brought by him totally weighing 750.700 gms having purity of 24Kt/999.0, found concealed inside the socks worn by him, which included dutiable and prohibited goods to the proper officer of the Customs, contravened Section 77 of the Customs Act, 1962 read with Regulation 3 of Customs Baggage Declaration Regulations, 2013.

11.1.3. Shri Akash Manoharlal Dengra deposed in his statement dated 09.08.2025 that he had travelled to Dubai by Indigo Flight no. 6E-1477 alongwith Shri Govinda Hareshkumar Meghani; that the to and fro air tickets were arranged and paid by Shri Jethanand Bansilal Meghani alias Jackybhai Meghani. He further deposed that while he and Shri Govinda Hareshkumar Meghani were at Dubai Airport, Shri Govinda Hareshkumar Meghani gave him 750.700 Grams gold in form of 6 Gold TT Bars (5 Pieces of YAQ00T 10 Tolas Gold 999 Melter Assayer, & 1 Piece Of MWG UAE 10 Tolas 999.0 MWG Melter Assayer) & 3 Pieces Of Cut Gold Bar and asked him to conceal the above said gold in his socks; that Shri Govinda Hareshkumar Meghani instructed him to carry the said gold to Ahmedabad Airport for which Shri Govinda Hareshkumar Meghani offered the passenger Rs.15,000/- for carrying the said gold through SVPI Airport, Ahmedabad; that he (the passenger) got tempted by the offer and agreed to carry the said gold through Ahmedabad airport.

11.1.4. On being asked, Shri Akash Manoharlal Dengra stated that Shri Govinda Hareshkumar Meghani had purchased the above gold in Dubai and gave the same to him for carrying through the SVPI Airport, Ahmedabad; that Shri Govinda Hareshkumar Meghani was also travelling with him in the same flight.

11.1.5. From above, it appears that the passenger coordinated to execute this smuggling operation, having prior knowledge of the concealment and retrieval process for monetary considerations and for personal enrichment. The Gold was found concealed in his socks and he may get Rs.15,000/- for smuggling of gold. These activities were undertaken by the passenger for monetary gain, with full awareness that such acts were illegal, unauthorized, and unsupported by proper documentation.

11.1.6. During the course of interception, the passenger Shri Akash Maniharlal Dengra was enquired by the officers of Air Intelligence Unit, Customs Ahmedabad, whether, he wanted to declare any dutiable item before the Custom Authorities, to which he had denied. He did not have proper documents/purchase documents in respect of gold which was attempted to be smuggled. Hence, the passenger Shri Akash Maniharlal Dengra appears to be important part of the syndicate of such smuggling of gold in nexus with Shri Govinda Hareshkumar Meghani and Shri Jethanand Bansilal Meghani alias Jacky bhai Meghani who appears to be the main handler.

11.1.7. The act of concealing the gold into the socks of the passenger to dodge the custom authority itself suggests the mens-rea on the part of the passenger with a view to smuggled the gold avoided payment of Customs duty. It therefore, appears that the passenger Shri Akash Manoharlal Dengra was not inclined to declare the goods viz. gold that he was carrying before the Customs Authorities. Thus, the Gold totally weighing 750.700 grams (Net Weight) having purity 999.0/24 Kt. and market value of Rs.78,29,801/- and tariff value of Rs.70,70,228/-, recovered from the possession of the passenger Shri Akash Manoharlal Dengra, was attempted to be smuggled by him into India illegally without declaration and payment of appropriate Customs duties.

11.1.8. Therefore, Shri Akash Manoharlal Dengra was found smuggling gold bars weighing 750.700 grams of 24Kt/999 purity, concealed inside the socks he was wearing, with the intent to illegally import the gold without declaring it to Customs and to evade customs duty while circumventing applicable restrictions and prohibitions. By this act, the gold became liable for confiscation under Sections 111(d) and 111(l) read with Sections 2(22), 2(33), and 2(39) of the Customs Act, 1962. Further, he knowingly violated provisions of the Customs Act, 1962, Foreign Trade Policy 2015–20, Baggage Rules, 2016, and relevant Customs Notifications, including failure to file the mandatory declaration under Section 77 of the Customs Act. As he was involved in carrying, keeping, concealing, and illegally importing goods he knew were liable to confiscation, he rendered himself liable to penalty under Sections 112(a) and 112(b) of the Customs Act, 1962.

11.1.9. Shri Akash Manoharlal Dengra has failed to discharge his onus in terms of the provisions of Section 123 of the Custom Act,1962. These actions render the said gold quantity liable for confiscation and also render penal action against him under the Customs Act, 1962.

11.1.10. As narrated above, Shri Akash Manoharlal Dengra had tendered statement dated 09.08.2025 at SVPI Airport, Ahmedabad wherein he categorically explained the role of Shri Govinda Hareshkumar Meghani and Shri Jethanand Bansilal Meghani on the basis of which Searches were carried out at the residential premises of these two persons. As a result of the same, a letter dated 10.08.2025 was received showing sender name as Shri Akash Manoharlal Dengra wherein the Statement dated 09.08.2025 of Shri Akash Manoharlal Dengra was retracted. In order to verify the genuineness of the letter dated 10.08.2025 and to re-examine the matter by recording afresh statement of Shri Akash Manoharlal Dengra, several repeated Summons dated 10.09.2025, 18.09.2025 and 27.10.2025 were issued directing him to appear before investigating officer and to produce facts and evidences in this regard but Shri Akash Manoharlal Dengra neither appeared before investigating officers, nor submitted /sent any fact or evidences in the matter. By doing so, Shri Akash Manoharlal Dengra not only attempted to mis-lead the investigation, but also dis-honoured the Summons issued to him. For these omission and commission on his part, Shri Akash Manoharlal Dengra has also rendered himself liable for penalty under Section 117 of Customs Act, 1962.

11.2. <u>Role of Shri Govinda Hareshkumar Meghani: -</u>

11.2.1. From the facts and evidences on record and Statement dated 09.08.2025 of Shri Akash Manoharlal Dengra, it appears that Shri Govinda Hareshkumar

Meghani was one of the key persons behind the smuggling of gold in the present case. He had travelled to and fro Dubai with Shri Akash Manoharlal Dengra for the purpose of smuggling of Gold and while they were at Dubai Airport, Shri Govinda Hareshkumar Meghani gave the subject 750.700 Grams gold to Shri Akash Manoharlal Dengra and asked him to conceal the above said gold in his socks. Shri Govinda Hareshkumar Meghani instructed Shri Akash Manoharlal Dengra to carry the said gold to Ahmedabad Airport for which he allured Shri Akash Manoharlal Dengra to give Rs.15,000/- for carrying the said gold through SVPI Airport, Ahmedabad.

11.2.2. As per the version of Shri Akash Manoharlal Dengra deposed through Statement dated 09.08.2025, Shri Govinda Hareshkumar Meghani had purchased the above said gold in Dubai and gave the same to Shri Akash Manoharlal Dengra for bringing it illegally into India through the SVPI Airport, Ahmedabad.

11.2.3. From above, it appears that Shri Govinda Hareshkumar Meghani was one of the associates of the conspiracy of smuggling and coordinated the passenger to execute this smuggling operation. The gold was purchased by him as per version of Shri Akash Manoharlal Dengra and also appears as per mention of his mobile no. on the invoice provided by the passenger. As per directions of Shri Govinda Hareshkumar Meghani, the gold was brought to India under concealment in the socks worn by the passenger and the same was not declared before Customs Authorities at SVPI Airport, Ahmedabad with intend to evade the Customs Duty.

11.2.4. The act of concealing the gold into the socks of the passenger to dodge the custom authority itself as per his directions, suggests the mens-rea on the part of Shri Govinda Hareshkumar Meghani with a view to smuggle the gold avoiding payment of Customs duty. Thus, the Gold totally weighing 750.700 grams (Net Weight) having purity 999.0/24Kt. and market value of Rs.78,29,801/- and tariff value of Rs.70,70,228/-, recovered from the possession of the passenger Shri Akash Manoharlal Dengra, was illegally attempted to be smuggled into India as per direction of Shri Govinda Hareshkumar Meghani without declaration and payment of appropriate Customs duties.

11.2.5. Therefore, Shri Govinda Hareshkumar Meghani was found to have abetted the smuggling of gold and knowingly violated provisions of the Customs Act, 1962, Foreign Trade Policy 2015–20, Baggage Rules, 2016, and relevant Customs Notifications, with the intent to illegally import gold without declaration to Customs, evade customs duty, and circumvent applicable restrictions and prohibitions. His actions rendered the gold liable to confiscation under Sections 111(d) and 111(l) read with Sections 2(22), 2(33), and 2(39) of the Customs Act, 1962. Further, he was involved in the smuggling, purchase, and dealing of the subject gold and caused non-filing of the declaration under Section 77 of the Customs Act, despite knowing or having reason to believe that the goods were liable to confiscation under Section 111, thereby rendering himself liable to penalty under Sections 112(a) and 112(b) of the Customs Act, 1962.

11.2.6. Shri Govinda Hareshkumar Meghani has failed to discharge his onus in terms of the provisions of Section 123 of the Custom Act,1962. These actions render the said gold quantity liable for confiscation and also render penal action against him under the Customs Act, 1962.

11.2.7. In his statement dated 09.08.2025, Shri Akash Manohar Dengra had categorically explained the role of Shri Govinda Hareshkumar Meghani in this case of smuggling of Gold. In order to record version of Shri Govinda Hareshkumar Meghani, several repeated Summons dated 09.08.2025, 13.08.2025, 18.09.2025 and 27.10.2025 were issued directing him to appear before investigating officer and to produce facts and evidences in this regard but Shri Govinda Hareshkumar

Meghani neither appeared before investigating officers, nor submitted /sent any fact or evidences in the matter. By doing so, Shri Govinda Hareshkumar Meghani had dis-honored the Summons issued to him. For these omission and commission on his part, Shri Govinda Hareshkumar Meghani has also rendered himself liable for penalty under **Section 117** of Customs Act, 1962.

11.3. Role of Shri Jethanand Bansilal Meghani Alias Jackybhai Meghani: -

11.3.1. During the Panchnama proceedings dated 09.08.2025, Shri Akash Manoharlal Dengra submitted that the subject gold was given to him by one Shri Meghani Govinda Harish in Dubai who informed him (the passenger) that the said gold belonged to Shri Jackybhai Meghani. Shri Akash Manoharlal Dengra further informed that he was working as Sales Head in M/s. Simi Plast in which Shri Jakcybhai Meghani is Proprietor. In his Statement dated 09.08.2025 also, Shri Akash Manoharlal Dengra deposed that for the journey in which he brought the Gold, the to and fro air tickets were arranged and paid by Shri Jethanand Bansilal Meghani alias Jackybhai Meghani. Thus, it appears that Shri Jethanand Bansilal Meghani alias Jackybhai Meghani is the main mastermind behind the smuggling of subject gold thereby violation of various provisions of Customs Act, 1962, Foreign Trade Policy 2015-20, Baggage Rules, 2016, Customs Notifications, etc. It appears that Shri Jethanand Bansilal Meghani alias Jackybhai Meghanihas concerned himself in the act of abetment of smuggling of gold, and knowingly violated the various provisions of Customs Act, 1962, Foreign Trade Policy 2015-20, Baggage Rules, 2016, Customs Notifications, etc., for the purpose of the smuggling/illegal import without declaring it to the Customs with intend to evade the Customs Duty and to circumvent the restrictions and prohibitions imposed on import of subject gold by which he rendered the above goods liable to confiscation under Section 111(d) and 111(1) read with Section 2(22), 2(33), 2(39) of the Customs Act, 1962. Further, as per the facts discussed supra, Shri Jethanand Bansilal Meghani alias Jackybhai Meghani has concerned himself in the conspiracy of smuggling of gold and thereby knowingly violated the various provisions of Customs Act, 1962, Foreign Trade Policy 2015-20, Baggage Rules, 2016, Customs Notifications, etc., which rendered the above goods liable to confiscation under Section 111(d) and 111(1) of the Customs Act, 1962. Shri Govinda Hareshkumar Meghani was found concerned in financially adding and dealing with the smuggled gold which he knew or has reason to believe are liable to confiscation under section 111 of Customs Act, 1962 and thereby rendered himself liable for penalty under Section 112(a) and 112(b) of Customs Act, 1962.

11.3.3. Shri Jethanand Bansilal Meghani alias Jackybhai Meghani has failed to discharge his onus in terms of the provisions of Section 123 of the Custom Act,1962. These actions render the said gold quantity liable for confiscation and also render penal action against him under the Customs Act, 1962.

11.3.4. In the Panchnama dated 09.08.2025 and statement dated 09.08.2025, Shri Akash Manoharlal Dengra had categorically explained the role of Shri Jethanand Bansilal Meghani alias Jackybhai Meghani in the smuggling of Gold. In order to record version of Shri Jethanand Bansilal Meghani alias Jackybhai Meghani, several repeated Summons dated 09.08.2025, 13.08.2025, 18.09.2025 and 27.10.2025 were issued directing him to appear before investigating officer and to produce facts and evidences in this regard but Shri Jethanand Bansilal Meghani alias Jackybhai Meghani neither appeared before investigating officers, nor submitted /sent any fact or evidences in the matter. By doing so, Shri Jethanand Bansilal Meghani alias Jackybhai Meghani had dis-honored the Summons issued to him. For these omission and commission on his part, Shri Jethanand Bansilal Meghani alias Jackybhai Meghani has also rendered himself liable for penalty under Section 117 of Customs Act, 1962.

12. In view of the above, it appears that Gold Cut Bars, having purity 999.0/24 Kt., totally weighing 750.700 grams (Net Weight) having purity 999.0/24Kt. and Market Value of Rs.78,29,801/- and Tariff Value of Rs.70,70,228/, found concealed inside the socks worn by Shri Akash Manoharlal Dengra, who had arrived from Dubai to Ahmedabad on 09.08.2025 via Spicejet Flight No. SG-016, at Terminal-2 of SVPI Airport, Ahmedabad, placed under seizure under Panchnama proceedings dated 09.08.2025 and Seizure Memo/ Order dated 09.08.2025, are liable for (i) confiscation under the provision of Section111(d) and 111(l)of the Customs Act, 1962; and the goods used for concealment of subject smuggled gold i.e. pair of socks worn by the passenger Shri Akash Manoharlal Dengra are liable for confiscation under Section 119 of the Customs Act, 1962. Further, the passenger Shri Akash Manoharlal Dengra and other two persons viz. Shri Govinda Hareshkumar Meghani and Shri Jethanand Bansilal Meghani alias Jackybhai Meghani found involved in the smuggling of the said Gold thereby violation of provisions of Customs Act, 1962, Foreign Trade Policy 2015-20, Baggage Rules, 2016, Customs Notifications, etc., are liable for penalty under the provisions of Section 112(a) & 112(b) and Section 117 of the Customs Act, 1962, for the omissions and commissions mentioned herein above.

13. Accordingly, a Show Cause Notice was issued to the Noticees viz. (i) Shri Akash Manoharlal Dengra, (ii) Shri Govinda Hareshkumar Meghani and (iii) Shri Jethanand Bansilal Meghani, as to why:

(i) 06 Gold TT Bars and 03 Pieces of Gold Cut Bars totally weighing 750.700 grams having purity of 24Kt/999.0 and Market Value of Rs.78,29,801/- and Tariff Value of Rs.70,70,228/-, found concealed inside the socks worn by Shri Akash Manoharlal Dengra, who arrived from Dubai to Ahmedabad on 09.08.2025 via Spicejet Flight No. SG-016, at Terminal-2 of SVPI Airport, Ahmedabad, Placed Under Seizure Under Panchnama Proceedings Dated 09.08.2025 and Seizure Memo Order dated 09.08.2025, should not be confiscated under the provision of Section 111(d) and 111(l) of the Customs Act, 1962;

(ii) The pair of socks used for concealment of the aforesaid six (06) Gold TT Bars and three (03) Pieces of Cut Gold Bars seized vide Seizure Memo Dated 09.08.2025, should not be confiscated under the provision of Section 119 of the Customs Act, 1962

(iii) Penalty should not be imposed separately upon them under the provisions of Sections 112(a) and 112(b) of the Customs Act, 1962, for the omissions and commissions mentioned hereinabove.

(iv) Penalty should not be imposed separately upon them under the provisions of Sections 117 of the Customs Act, 1962, for the omissions and commissions mentioned hereinabove.

DEFENSE REPLY/ REPLY TO SHOW CAUSE NOTICE ISSUED:

14. The Noticees (i) Shri Akash Manoharlal Dengra, (ii) Shri Govind Hareshkumar Meghani and (iii) Shri Jethanand Bansilal Meghani have submitted written submission on dated 19.03.2026 through their Advocate and Authorized Representative, Shri Rishikesh Mehra. A Brief Summary of the defence replies is as under:

Defence Reply of the Noticee (i) Shri Akash Manoharlal Dengra:

14.1 Shri Akash Manoharlal Dengra submitted a defence reply to SCN/ written submission on dated **19.03.2026**, through his advocate and authorised representative Shri Rishikesh Mehra. Vide the said letter Shri Akash Manoharlal

Dengra responded to the Show Cause Notice dated 04.02.2026 by denying all allegations against him. He reportedly accepted that he had carried 09 gold bars weighing 750.700 grams valued at Rs.70,70,228/-, which were found concealed in his socks and subsequently seized by the authorities. He further claimed that his statements recorded under Section 108 of the Customs Act, 1962 were taken under fear, pressure, and threat of arrest, and therefore could not be considered voluntary or reliable for initiating proceedings against him. He reportedly argued that gold is neither a prohibited nor a restricted item, and therefore the goods were not liable for confiscation under Sections 111(d), 111(i), 111(l), and 111(m) of the Customs Act, 1962, nor was he liable for penalty under Section 112 of the Customs Act, 1962.

14.1.2 He further submitted that he had purchased the gold for personal use using his savings and borrowed money from his employer in Dubai, and that he possessed valid purchase invoices from **SKS Global FZE, Dubai,** which supported his claim of legitimate ownership. It was also contended that he had concealed the gold only for safety reasons due to fear of theft or loss during travel, and that there was no deliberate intention to smuggle or evade customs duty. He reportedly stated that he was a first-time traveler carrying gold and was unaware of the requirement to declare it under customs law, and that he was not properly guided or provided with the declaration form at the airport. He further alleged that despite requesting to declare and pay applicable duty, he was not assisted by customs officials, and that the proceedings were initiated before he could complete the declaration process.

14.1.3 He also claimed that the statements recorded from him were in English, which he did not fully understand, and that he was compelled to sign documents without proper explanation or opportunity to write in his preferred language of Gujarati. Finally, the Noticee reportedly maintained that he had no intention of violating customs laws, that he was not a habitual offender, and that the case was based on coercion and improper recording of statements, which he believed rendered the proceedings legally unsustainable. The Noticee additionally relied on the provisions of Section 138B of the Customs Act, 1962, to contend that statements recorded under coercion or without voluntariness are not sustainable in law and cannot be used as admissible evidence against him. Further, reliance was placed on Article 20(3) of the Constitution of India, which protects an accused person from being compelled to be a witness against himself, thereby prohibiting any such forced or involuntary self-incriminating statement.

14.1.4 He further submitted that numerous judicial decisions both supported and opposed the release of gold seized in customs cases, and a combined reading of these judgments along with the relevant policies and rules indicated that whether goods were classified as “prohibited” depended on the specific facts and the profile of the individual involved. It was further submitted that goods not explicitly listed as prohibited could still be treated as such based on circumstances; however, even if considered prohibited, they could be released or re-exported at the discretion of the adjudicating authority, provided such discretion followed the legal principles laid down by the Hon’ble Supreme Court. Judicial precedents were cited to support the release of seized gold upon payment of a redemption fine. In the case of Yakub Ibrasher Yousuf, the Tribunal allowed redemption of undeclared gold, holding that an option for redemption must be provided to the possessor even if the import was illicit and intended for profit, and this option could be granted even if ownership was not claimed. Similarly, in Shaikh Jameel Pasha vs Government of India, the Andhra Pradesh High Court held that unauthorized import of gold other than ornaments still entitled the importer to redemption upon payment of a fine, provided the goods were otherwise permissible. In Kadar Mydeen vs Commissioner of Customs, confiscation of undeclared gold was upheld, but the appellant was still granted the option to redeem the goods upon payment of a specified fine. Reference was also made to a Revisionary

Authority order by the Government of India, which upheld the release of non-declared gold for eligible passengers. These precedents collectively supported the contention that seized gold could be released on payment of fine, penalty, and duty, even in cases of non-declaration.

14.1.5 He submitted that there should be consistency in the approach adopted by adjudicating authorities while deciding similar issues, and reliance was placed on the decision in *Copier Company vs Commissioner of Customs, Chennai* reported in 2007 (218) ELT 142 (Tribunal). It was argued that in the said decision, the Tribunal had observed that the term "prohibited" under Section 111(d) of the Customs Act should be interpreted broadly to include even "restricted" goods, and that similar considerations should apply while exercising powers under Section 125 of the Customs Act, 1962. He further highlighted that the Tribunal had held that adjudicating authorities have discretion to allow redemption of goods on payment of fine, depending upon the nature of restriction and circumstances of import, and that absolute confiscation is not mandatory in every case. He submitted that reliance was also placed on the judgment of the Hon'ble Supreme Court in *Union of India vs Dhanak M. Ramji* reported in 2011 (252) ELT A102 (SC), wherein it was held that goods may be released on redemption and that ownership issues may be examined appropriately before release.

14.1.6 He further submitted that in *A. Rajkumari vs Commissioner of Customs (Chennai)* reported in 2015 (321) ELT 540 (Tri-Chennai), redemption of absolutely confiscated gold was permitted even in cases involving alleged ingenious concealment, and the said view was affirmed by the Hon'ble Supreme Court in 2015 (321) ELT A207 (SC). It was therefore contended that even in cases of alleged concealment, the option of redemption under Section 125 of the Customs Act, 1962 is available, and the same should be exercised to meet the ends of justice.

14.1.7 He also argued that recent judicial pronouncements of High Courts, including the Allahabad High Court in *Commissioner of Customs vs Rajesh Jhamatmal Bhat* (2023), have recognized that gold is not to be treated as absolutely prohibited and that redemption on payment of fine and penalty is permissible. Further reliance was placed on the Rajasthan High Court decision in *Manoj Kumar Sharma vs Union of India* (2022), where similar principles were considered in relation to release and redemption of gold under customs law. Accordingly, it was submitted that the consistent judicial view across various forums supports the position that even in cases of seizure and alleged concealment, confiscation need not be absolute and redemption of goods on payment of appropriate fine and penalty should be permitted.

14.1.8 It was submitted that the noticee's statement had been recorded under duress and threat, making it involuntary. He had never previously brought gold or other restricted goods into India, and the department had provided no evidence of prior violations, emphasizing that this was his first instance of non-compliance and merited leniency. It was noted that no Indian or foreign currency or other incriminating items were recovered, indicating he was not involved in organized smuggling. The noticee requested that the goods be released promptly, even provisionally, and expressed willingness to execute a bond or pay the applicable customs duty, fine, or penalty. Alternatively, if immediate release was not allowed, he sought permission to re-export the goods while complying with any penalties imposed.

He further requested an opportunity for a personal hearing, with the ability to make further submissions following such a hearing.

Defence Reply of the Noticee (ii) Shri Govind Hareshkumar Meghani:

14.2 Shri Govind Hareshkumar Meghani submitted a defence reply to SCN/ written submission on dated **19.03.2026**, through his advocate and authorised representative Shri Rishikesh Mehra. Vide the said letter Shri Govind Hareshkumar Meghani responded to the Show Cause Notice dated 04.02.2026 by denying all allegations against him. He stated that although Akash Manoharlal Dengra was intercepted by AIU officers at SVPI Airport upon arrival from Dubai and gold weighing 750.700 grams valued at Rs.70,70,228/- was recovered from him, the subsequent proceedings were not conducted properly. It was claimed that during his statement recorded under Section 108 on 09.08.2025, he was allegedly threatened with imprisonment and forced to implicate co-noticee Govinda Hareshkumar Meghani. The Noticee further submitted that the statement was not given voluntarily, but was typed by officers, and that the passenger was not allowed to read, understand, or write in his own language, thereby asserting that the statement reflected the officers' version rather than his own account.

14.2.1 The Noticee submitted that the statement of Shri Akash Manoharlal Dengra recorded under Section 108 of the Customs Act, 1962 was given under duress and fear of arrest, alleging that officers had threatened him and did not allow him to read or write the statement in Gujarati, which he knows well. It was further stated that the statement was typed by the officers in English and he was only asked to sign it as prepared by them. Therefore, he contended that the statement was neither true, correct, nor voluntary, and should not be relied upon in the present proceedings. He also stated that it would have been retracted immediately upon learning of its contents and thus was contrary to law. Additionally, he submitted that since the statement was obtained under threat and coercion, it is not sustainable under Section 138B of the Customs Act, 1962.

14.2.2 He further submitted that in ***Noor Aga v. State of Punjab*****,** the Hon'ble Supreme Court of India reiterated that search, seizure, or arrest under the law cannot be treated differently merely based on the authority conducting it, whether under the Customs Act or any other statute. The Court observed that what is material is the purpose behind such actions, including arrest, search, seizure, and investigation, rather than the designation of the authority involved. It further emphasized that the law governing such procedures must remain certain, consistent, and uniform in its application.

14.2.3 It was observed that only when the necessary legal requirements are satisfied, a statement made by an accused can be treated as relevant in a prosecution under the Customs Act and used to prove the truth of its contents. The provision under Section 138B distinguishes between different categories of persons, including those whose statements were recorded under Section 108, and allows limited use of such statements only under specific circumstances, particularly when witnesses do not support the prosecution case. However, it was clarified that a confessional statement of an accused cannot be relied upon under Section 138B in any manner and is considered weak evidence. Further, reliance was placed on Article 20(3) of the Constitution of India, which protects an accused person from being compelled to be a witness against himself, thereby prohibiting any such forced or involuntary self-incriminating statement.

14.2.4 The Noticee submitted that he had no involvement in the present case and stated that his implication was based only on mobile call records, without any supporting call recordings or other corroborative evidence from the co-accused's devices. It was further contended that he was made a co-noticee solely on the basis of a forcefully obtained confessional statement. The Noticee argued that each incriminating circumstance must be proved through reliable and clinching evidence, forming a complete chain of events that leads only to the irresistible conclusion of guilt, with no other reasonable hypothesis possible. He further submitted that in cases relying mainly on confessional statements of co-accused persons, there is a risk that suspicion or conjecture may replace legal proof. He emphasized that all circumstances must exclude the possibility of innocence, and if any important link in the chain is missing, the entire chain fails. Therefore, he stated that guilt cannot be established beyond reasonable doubt, and cautioned that courts must ensure that suspicion is not allowed to substitute legal evidence, as doing so may blur the line between moral certainty and legal proof.

14.2.5 He submitted that there is a significant distinction between what may possibly be true and what must be proven to be true, and that this gap separates mere conjecture from a definite conclusion. The Noticee stated that the statement recorded under Section 108 of the Customs Act, 1962, which may be treated as a confession, was given while the co-accused was in custody and therefore would be hit by Section 26 of the Indian Evidence Act, which bars the use of confessions made to police officers while in custody against the accused. It was further contended that in the absence of any independent or corroborative evidence, a person cannot be convicted solely on the basis of a co-accused's statement.

14.2.6 The Noticee submitted that the confession of the co-accused cannot be relied upon to establish allegations against him, as the statement of co-noticee Shri Akash Manoharlal Dengra recorded under Section 108 of the Customs Act was made while in custody and was used as the sole basis to allege that the Noticee had abetted smuggling of gold. It was contended that under Section 30 of the Indian Evidence Act, a co-accused's confession is a weak form of evidence and cannot form the foundation of conviction, but can only be used for corroboration along with independent evidence. Reliance was also placed on judicial principles that a confession under Section 108 is substantive evidence only against its maker and not against co-accused, and in the absence of independent corroboration, conviction cannot be sustained solely on such confession. The Noticee further stated that he was merely a friend of the co-accused and had no involvement in any smuggling activity, and that his name was falsely implicated based on the recorded statement. Additionally, it was alleged that the Show Cause Notice dated 04.02.2026 was pre-judged and pre-determined, leaving no real scope for fair adjudication, thereby making the opportunity of reply and hearing an empty formality and rendering the notice liable to be set aside.

14.2.7 The Noticee Shri Govinda Hareshkumar Meghani submitted that he has no claim over the seized gold and therefore no penalty should be imposed on him under Section 112 of the Customs Act, 1962. He stated that he has neither acquired possession of nor in any manner dealt with the goods, including carrying, removing, depositing, harbouring, concealing, selling, purchasing, or otherwise handling any goods liable for confiscation under Section 111(d), 111(i), 111(l), and 111(m). He further contended that the proposed penalties under Sections 112(a) and 112(b) are not applicable to him and should be set aside. Accordingly, he prayed that all further proceedings against him be dropped.

He requested a personal hearing, with the opportunity to make further submissions thereafter.

<u>Defence Reply of the Noticee (iii) Shri Jethanand Bansilal Meghani:</u>

14.3 Shri Jethanand Bansilal Meghani submitted a defence reply to SCN/ written submission on dated **19.03.2026**, through his advocate and authorised representative Shri Rishikesh Mehra. Vide the said letter Shri Jethanand Bansilal Meghani responded to the Show Cause Notice dated 04.02.2026 by denying all allegations against him. The Noticee respectfully submitted that the allegations made in the Show Cause Notice are false, baseless, misconceived, and without any legal foundation. He stated that he is an innocent person and has been wrongly implicated without any evidence of his conscious involvement, ownership, possession, or knowledge of the alleged goods, and denied all allegations except those specifically admitted. It was further submitted that passenger Shri Akash Manoharlal Dengra was detained by AIU officers and his statement recorded under Section 108 on 09.08.2025 was obtained under threat of imprisonment and coercion, allegedly forcing him to implicate co-noticee Jethanand Bansilal Meghani. The Noticee also contended that his statement was typed by officers, he was only asked general questions about his family, and he was not allowed to read, understand, or write it in his own language. It was further claimed that he was compelled to sign the statement under threat, making it involuntary and not recorded as per his version but as per the officers' own narrative.

14.3.1 The Noticee submitted that the statement of Shri Akash Dengra recorded under Section 108 of the Customs Act, 1962 was obtained under duress, fear of arrest, and threats allegedly given by officers. It was further stated that he was not allowed to read or write the statement in Gujarati, a language he knows well, and that the statement was instead recorded in English by the officers, who later compelled him to sign it as prepared by them. On this basis, it was contended that the statement cannot be treated as true, correct, or voluntary, and should not be relied upon in the present proceedings. The Noticee further stated that the statement would have been immediately retracted upon knowledge of its contents and therefore is contrary to law. It was also submitted that as the statement was recorded under coercion and threat, it is not sustainable in view of the provisions of Section 138B of the Customs Act, 1962.

14.3.2 He further submitted that in ***Noor Aga v. State of Punjab*,** the Hon'ble Supreme Court of India reiterated that search, seizure, or arrest under the law cannot be treated differently merely based on the authority conducting it, whether under the Customs Act or any other statute. The Court observed that what is material is the purpose behind such actions, including arrest, search, seizure, and investigation, rather than the designation of the authority involved. It further emphasized that the law governing such procedures must remain certain, consistent, and uniform in its application.

14.3.3 It was observed that only when the necessary legal requirements are satisfied, a statement made by an accused can be treated as relevant in a prosecution under the Customs Act and used to prove the truth of its contents. The provision under Section 138B distinguishes between different categories of persons, including those whose statements were recorded under Section 108, and allows limited use of such statements only under specific circumstances, particularly when witnesses do not support the prosecution case. However, it was clarified that a confessional statement of an accused cannot be relied upon under Section 138B in any manner and is considered weak evidence. Further, reliance was placed on Article 20(3) of the Constitution of India, which protects an accused person from being compelled to be a witness against himself, thereby prohibiting any such forced or involuntary self-incriminating statement.

14.3.4 The Noticee submitted that he has no involvement in the present case and stated that his implication is based only on mobile call records, without any supporting call recordings or voice clips from the co-accused's phones. It was further contended that he has been made a co-noticee solely on the basis of a forcefully obtained confessional statement. The Noticee argued that each incriminating circumstance must be proved through reliable and clinching evidence forming a complete chain of events that leads only to the irresistible conclusion of guilt, excluding any reasonable hypothesis of innocence. He further submitted that in cases primarily relying on confessional statements of co-accused persons, there is a risk that suspicion or conjecture may replace legal proof. It was emphasized that all circumstances must form an unbroken chain ruling out any reasonable likelihood of innocence, and if an important link is missing, the chain stands broken and cannot establish guilt beyond reasonable doubt. The Noticee also cautioned that courts must be careful not to allow suspicion to substitute legal proof, as doing so may blur the distinction between moral certainty and legal evidence.

14.3.5 The Noticee submitted that he is neither the owner, importer, nor claimant of the alleged seized goods and has never exercised any ownership, control, possession, or interest over them. It was stated that the essential requirement for imposing penalty under the Customs Act—such as conscious possession, knowledge, involvement, or intentional abetment—is completely absent in his case. He further contended that mere inclusion of his name without any corroborative evidence cannot establish liability under law. The Noticee reiterated that he has no ownership or beneficial interest in the goods and has never represented himself as their owner. He also submitted that any alleged involvement has been wrongly inferred without criminal intent, knowledge, or reason to believe that any illegal activity was taking place. It was further explained that booking tickets and arranging hotel accommodation are normal lawful activities and do not constitute any offence under the Customs Act, and were done in good faith without any dishonest or illegal motive. He additionally stated that he had no knowledge of the contents of the baggage allegedly carried by Akash and was not involved in any manner in packing, handling, transporting, concealing, or importing the goods.

14.3.6 The Noticee submitted that he was not present at the airport at the time of the alleged seizure and did not accompany any person during the incident, and therefore had no physical proximity, custody, or control over the alleged contraband goods. It was stated that he had no role, either directly or indirectly, in the import, concealment, possession, transportation, handling, or facilitation of any alleged smuggling activity, and that the essential legal requirement of conscious knowledge and intentional involvement under the Customs Act is completely absent in his case. The Noticee further submitted that he did not receive any financial benefit, commission, or consideration of any kind, nor did he finance or arrange transportation of the goods, and there is no evidence of any financial transaction or agreement indicating his involvement. It was argued that the allegations are based purely on assumptions and conjectures without any independent or reliable evidence, and there is no material to show that he had knowledge of the goods or intent to assist any illegal activity, and therefore no penalty can be imposed.

14.3.7 The Noticee submitted that the allegations against him in the SCN were based solely on the statement of co-noticee Shri Akash Manoharlal Dengra recorded under Section 108 of the Customs Act, 1962, wherein it was alleged that his involvement in abetment of smuggling was disclosed while the co-accused was in custody, and that this statement was treated as confirmation of his guilt. It was contended that such reliance on a co-accused's confession is legally unsustainable, as Section 30 of the Indian Evidence Act applies only to confessional statements and not to mere inculpatory remarks, and in any case, a co-accused's confession is a very weak form of evidence which cannot form the basis of conviction. The Noticee further stated that a statement recorded under Section 108 is substantive evidence only against its maker and cannot be treated as substantive evidence against a co-accused, and at best it may be considered only as relevant evidence under Section 30. It was emphasized that settled law, including judicial precedents, holds that no conviction can be based solely on a co-accused's confession without independent corroborative evidence, and such statements, whether judicial or extra-judicial, cannot by themselves form the foundation of guilt, as a matter of both evidence law and judicial prudence.

14.3.8 The Noticee submitted that he is merely known as the boss of Akash Manoharlal Dengra and has not at any time been involved in or connected with any act of gold smuggling, and that his name has been wrongly implicated solely on the basis of statements recorded by officers. He further contended that the Show Cause Notice dated 04.02.2026 is vitiated as it has pre-judged and pre-determined the entire issue, leaving no scope for fair adjudication, and that the allegations in the SCN are not tentative in nature, thereby rendering the proceedings a mere formality and liable to be set aside. The Noticee also submitted that he has no claim over the seized gold and has neither possessed nor dealt with the goods in any manner that would attract liability under Section 112 of the Customs Act, 1962, as he has not engaged in any activity such as carrying, concealing, transporting, or dealing with goods liable for confiscation under Section 111. Accordingly, he prayed that the proposed penalties under Section 112(a) and 112(b) be dropped and that all further proceedings against him be discontinued and an opportunity for personal hearing be granted.

RECORD OF PERSONAL HEARING:

15. Opportunity for Personal Hearing to the Noticees (i) Shri Akash Manoharlal Dengra, (ii) Shri Govind Hareshkumar Meghani and (iii) Shri Jethanand Bansilal Meghani was given on 12.03.2026 and 23.03.2026 and accordingly, Shri Rishikesh Mehra, Advocate and Authorised Representative of all above noticees, appeared for hearing and produced copy of Vakalatnama to represent the case. Record of the Personal Hearing as under:

15.1 **Personal Hearing to the Noticees (i) Shri Akash Manoharlal Dengra**: Shri Rishikesh Mehra, Advocate and Authorised Representative of the noticee Shri Akash Manoharlal Dengra, appeared for hearing and produced copy of Vakalatnama to represent the case on dated 23.03.2026.

15.1.2 Shri Rishikesh Mehra submitted written representations dated 19.03.2026 and reiterated his position. The noticee stated that he had traveled from Dubai to India carrying nine gold bars, which he claimed were purchased using personal savings and borrowed funds from friends for family purposes. He emphasized that the quantity of gold was not commercial in nature and argued that gold is not a prohibited item. Accordingly, he requested release of the goods upon payment of applicable duty and fines.

15.1.3 The noticee further explained that this was the first time he had carried gold into India. Due to concerns about theft or loss, he kept the gold securely, which he argued should not be considered concealment. He attributed his failure to formally declare the gold to ignorance of customs rules and regulations, while maintaining that he had made an oral declaration and expressed willingness to pay the required duty.

15.1.4 In support of his case, he relied on several prior orders, including those in the cases of Arbazkhan Imtiyazkhan, Shaikh Dawood Raza Mohammad Rashid, and Srishallam Salavath, as well as Department of Revenue Order No. 516–517/2023, where relief was granted even in cases involving concealment. Based on these precedents, he requested a lenient view and sought release of the gold upon payment of duty, fine, and penalty.

15.2 **Personal Hearing to the Noticees (ii) Shri Govind Hareshkumar Meghani:** Shri Rishikesh Mehra, Advocate and Authorised Representative of the noticee Shri

Govind Hareshkumar Meghani appeared for hearing and produced copy of Vakalatnama to represent the case on dated 23.03.2026.

15.2.1 Shri Rishikesh Mehra submitted written submission dated 19.03.2026 and reiterated the same. He submitted that the noticee had no direct or indirect involvement in the present case. He argued that there is no concrete evidence establishing the noticee's conscious involvement, ownership, possession, or knowledge of the alleged goods. The noticee categorically denied all allegations made against him in the show cause notice (SCN).

15.2.2 It was further explained that the noticee was made a co-noticee solely because he was acquainted with passenger Aakash, as both were employed in the same company. The inclusion of the noticee in the case was based only on Aakash's statement, without any independent corroboration. Mehra emphasized that no gold was recovered from the noticee, and therefore the allegations in the SCN are baseless and founded on assumptions and presumptions.

15.2.3 He contended that the investigating officer wrongly implicated the noticee in a smuggling case without sufficient grounds. On these bases, he requested that the SCN be dropped and that a lenient view be taken in the matter.

15.3 **Personal Hearing to the Noticees (iii) Shri Jethanand Bansilal Meghani:** Shri Rishikesh Mehra, Advocate and Authorised Representative of the noticee Shri Jethanand Bansilal Meghani, appeared for hearing and produced copy of Vakalatnama to represent the case on dated 23.03.2026.

15.3.1 Shri Rishikesh Mehra submitted written submission dated 19.03.2026 and reiterated the same. He submitted that the noticee had no direct or indirect involvement in the present case. He emphasized that there is no evidence demonstrating the noticee's conscious involvement, ownership, possession, or knowledge of the alleged goods. The noticee categorically denied all allegations made against him in the show cause notice (SCN).

15.3.2 He further explained that the noticee was made a co-noticee only because he had known passenger Aakash for the past 15 years, as Aakash worked in his company. Mehra argued that the noticee's implication was based solely on Aakash's statement, without any independent evidence. He highlighted that no gold was recovered from the noticee, and therefore the allegations in the SCN are baseless and based on mere assumptions and presumptions.

15.3.3 He contended that the investigating officer had wrongly implicated the noticee in a smuggling case without sufficient grounds. In view of these circumstances, he requested that the SCN be dropped and that a lenient view be taken in the matter.

DISCUSSION AND FINDINGS:

16. I have carefully examined the case records, the Show Cause Notice, the documents relied upon therein, as well as the statements of the Noticees and any submissions made by them, in light of the relevant legal provisions applicable to this case. I am further of the view that adequate opportunities have been afforded to the Noticees in accordance with the principles of natural justice, and that it would not be prudent to keep the matter pending indefinitely.

17 Based on the evidence available on record, including the Panchnama, the statement of the Noticee, recorded under Section 108 of the Customs Act, 1962, I find that the Noticees, namely (i) Shri Akash Manoharlal Dengra, (ii) Shri Govind Hareshkumar Meghani, and (iii) Shri Jethanand Bansilal Meghani, were engaged in smuggling activities at Sardar Vallabhbhai Patel International (SVPI) Airport, Ahmedabad, in pursuit of monetary gain.

17.1 I find from the statement of Shri Akash Manoharlal Dengra, recorded under Section 108 of the Customs Act, 1962 on 09.08.2025, revealed that he was employed as a Sales Head at M/s. Mahi Enterprise, a firm engaged in manufacturing household plastic products under the brand name Simi Plast. He stated that the proprietor of the firm was Shri Jethanand Bansilal Meghani (also known as Jackybhai Meghani), while Shri Govinda Hareshkumar Meghani served as the Production In-charge. He further mentioned that he earned a monthly salary of ₹50,000/-

17.2 He stated that on 06.08.2025, he had travelled to Dubai along with Shri Govinda Hareshkumar Meghani, with all travel and accommodation expenses arranged and paid by Shri Jethanand Meghani. On 09.08.2025, while returning to Ahmedabad, Shri Govinda handed him 750.700 grams of gold at Dubai Airport and offered him ₹15,000/- to conceal and carry it through SVPI Airport, which he agreed to.

17.3 The passenger further stated that Shri Govinda, who had purchased the gold in Dubai, was travelling on the same flight. Upon arrival at Ahmedabad, they exchanged trolley bags. He also provided details such as residential addresses, contact numbers, business information, bank account details, and GSTIN of the individuals involved and the firm.

17.4 He admitted that he was aware that smuggling gold without paying customs duty is an offence. Despite this, he deliberately concealed the gold in his socks and chose the Green Channel to evade customs duty. He confirmed that the contents of the Panchnama dated 09.08.2025 were true and correct.

17.5 Additionally, he produced an invoice dated 08.08.2025 issued by M/s. SKS Global FZE, Dubai for the gold recovered. Although the invoice was in his name, he clarified that the payment was made by Shri Govinda Hareshkumar Meghani, whose mobile number appeared on the invoice. He also stated that the invoice for four other gold TT bars purchased in Shri Govinda's name was not available with him.

17.6 Based on the evidence and the passenger's statement, Shri Akash Manoharlal Dengra was found to have committed an offence under the Customs Act, 1962 by smuggling 750.700 grams of gold concealed in his socks and attempting to exit through the Green Channel at SVPI Airport, Ahmedabad without declaring it, with the intent to evade customs duty. The gold, valued at ₹78,29,801/- (market value) and ₹70,70,228/- (tariff value), was liable for confiscation under Section 111 of the Customs Act, 1962. His actions attracted punishment under Section 135(1) of the Act, as he knowingly carried and concealed smuggled goods. Accordingly, he was arrested on 09.08.2025 under Section 104 after due authorization, in line with Board's Circular No. 13/2022-Customs, and was later released on bail the same day upon fulfilling the required conditions.

17.7 In view of the foregoing, I find that Shri Akash Manoharlal Dengra had directly facilitated the smuggling operation, in contravention of the provisions of the Foreign Trade Policy, 2023, the Baggage Rules, 2016, and the applicable Customs Notifications. Accordingly, the impugned gold is liable to confiscation under Sections 111(d) and 111(l) of the Customs Act, 1962, and he is liable to penalty under Sections 112(a) and 112(b) of the said Act.

18. I find that a letter dated 10.08.2025 was received from Shri Akash Manoharlal Dengra addressed to the Assistant Commissioner (AIU), SVPI Airport, Customs

Ahmedabad, in which he retracted his earlier statement recorded on 09.08.2025. He claimed that he was tired and mentally exhausted due to his night journey at the time of recording the statement and had signed the documents without properly reading or understanding them. In order to verify the authenticity of this retraction and re-examine the facts, repeated summons were issued to Shri Akash Manoharlal Dengra as well as to Shri Govinda Hareshkumar Meghani and Shri Jethanand Bansilal Meghani. However, none of them appeared before the investigating officers or responded to the summons.

18.1 I find that neither Shri Akash Manoharlal Dengra nor Shri Govinda Hareshkumar Meghani and Shri Jethanand Bansilal Meghani (alias Jackybhai Meghani) provided any evidence to support the retraction letter dated 10.08.2025, and all failed to appear before the investigating officers despite repeated opportunities. Consequently, the retraction of the statement dated 09.08.2025 was considered baseless and an afterthought, and the original statement along with the facts and evidence recorded therein were treated as true and taken on record for the case.

18.2 As per Section 2(33) of the Customs Act, 1962, "prohibited goods" include those whose import or export is restricted unless the prescribed conditions are fulfilled, implying that any violation of such conditions renders the goods prohibited. In this case, the gold weighing 750.700 grams (net), with purity of 999.0/24 Kt. and significant market and tariff value, recovered from Shri Akash Manoharlal Dengra, was imported in contravention of the Foreign Trade Policy 2015–20 and relevant provisions of the Customs Act and rules. Since the import did not comply with the prescribed conditions, it is deemed prohibited. Furthermore, even partial restrictions are treated as prohibitions to that extent, and any violation of such restrictions makes the goods liable for confiscation under Section 111 of the Customs Act, 1962.

18.3 I find that the investigation revealed that the gold was imported in violation of the Baggage Rules, 2016, as gold in forms other than ornaments is not allowed duty-free. In this case, 750.700 grams of gold (including six TT bars and three cut pieces) of 24Kt purity, with significant market and tariff value, was brought into India by Shri Akash Manoharlal Dengra on 09.08.2025 from Dubai to Ahmedabad and was found concealed in his socks. The quantity exceeded the permissible limit under the Baggage Rules and therefore could not be treated as bona fide baggage. Furthermore, as required under Section 77 of the Customs Act, 1962, the passenger failed to declare the gold to customs authorities, indicating malafide intent to evade duty. Consequently, the gold was deemed to have been smuggled into India and was liable for confiscation under Section 111 of the Customs Act, 1962.

18.4 The seized gold, comprising six TT bars and three cut pieces weighing 750.700 grams of 24 Kt purity, with substantial market and tariff value, was found to have been illegally smuggled into India without declaration to Customs Authorities, in violation of the Customs Act, 1962, the Foreign Trade Policy, and the Baggage Rules. The passenger failed to declare the gold as required under Section 77, and the import did not comply with the applicable restrictions, indicating a deliberate attempt to evade legal provisions by circumventing prohibitions. Accordingly, the gold is treated as prohibited goods illegally imported into India and is liable for confiscation under Sections 111(d) and 111(l) of the Customs Act, 1962.

18.5 I further find in this case, a total of 750.700 grams of gold, with significant market and tariff value, was illegally smuggled into India without being declared to the Customs Authorities, in violation of the Customs Act, 1962, the Foreign Trade Policy, and the Baggage Rules. The import of such gold was not permissible for the passenger under the applicable restrictions, indicating a deliberate attempt to evade legal provisions by fraudulently bypassing prohibitions and regulations. Consequently, the gold is treated as prohibited goods illegally imported into India and is liable for confiscation under Sections 111(d) and 111(l) of the Customs Act, 1962.

19. The passenger, along with Shri Govinda Hareshkumar Meghani and Shri Jethanand Bansilal Meghani (alias Jackybhai Meghani), failed to discharge their burden of proof as required under Section 123 of the Customs Act, 1962, thereby rendering the seized gold liable for confiscation and exposing themselves to penal action under the Act. Additionally, the packing materials used for concealing the gold were also considered liable for confiscation under Section 119 of the Customs Act, 1962, as they were used in the act of concealment.

20. I find that, by the above acts of commission and omission Shri Akash Manoharlal Dengra was actively involved in smuggling gold operation. Based on available evidence, he tried to smuggle 750.700 grams of 24-karat gold, valued at ₹78,29,801/-, by concealing it in his socks while arriving from Dubai to Ahmedabad on 9 August 2025. He deliberately avoided declaring the gold to Customs authorities and attempted to pass through the Green Channel to evade payment of duty. Such actions violated provisions of the Customs Act, 1962, Foreign Trade Policy, and related regulations, and the gold could not be treated as personal belongings due to its concealed and undeclared nature.

20.1 I find that Further investigation revealed that Dengra was instructed by Shri Govinda Hareshkumar Meghani, who had purchased the gold in Dubai, to carry and conceal it for smuggling into India. The travel arrangements were allegedly made by Shri Jethanand Bansilal Meghani, identified as the main handler. Dengra admitted he was offered ₹15,000/- for transporting the gold and knowingly agreed for monetary gain. His actions, including denying possession of dutiable goods and lacking valid documentation, indicate intentional involvement and awareness of the illegal activity.

20.2 The concealment of gold in socks and his attempt to bypass Customs checks clearly demonstrate criminal intent. Consequently, the gold was deemed liable for confiscation under relevant sections of the Customs Act, and Dengra became liable for penalties for illegal import, concealment, and non-declaration. Additionally, he failed to fulfill the burden of proof under Section 123 of the Act.

20.3 I find that although Shri Akash Manoharlal Dengra initially gave a statement implicating the other individuals, he later attempted to retract it through a letter. However, he failed to appear before investigating authorities despite repeated summons and did not provide any supporting evidence. This non-compliance was seen as an attempt to mislead the investigation and disregard legal procedures, making him further liable for penalty under Section 117 of the Customs Act, 1962. Accordingly, the passenger Shri Akash Manoharlal Dengra found involved in the smuggling of the said Gold thereby violation of provisions of Customs Act, 1962, Foreign Trade Policy 2015-20, Baggage Rules, 2016, Customs Notifications, etc., is liable for penalty under the provisions of Section 112(a) & 112(b) and Section 117 of the Customs Act, 1962, for the omissions and commissions mentioned herein above.

21. I find that, by the above acts of commission and omission, the role of Shri Govinda Hareshkumar Meghani as a key figure in the gold smuggling operation. Based on evidence and the statement of Shri Akash Manoharlal Dengra, Meghani allegedly planned and coordinated the smuggling by traveling with Dengra to Dubai, purchasing 750.700 grams of gold, and instructing him to conceal it in his socks. He also offered ₹15,000/- to Dengra as an incentive to carry the gold illegally into India through Ahmedabad Airport without declaring it to Customs authorities.

21.1 I find that further details indicate that Shri Govinda Hareshkumar Meghani not only purchased the gold in Dubai but also directed its illegal transportation and concealment to evade customs duty. His involvement is supported by Dengra's statement and additional evidence such as the invoice bearing his mobile number. These actions suggest that Shri Govinda Hareshkumar Meghani actively participated in and coordinated the smuggling operation, with clear intent to bypass legal procedures and restrictions.

21.2 As a result, Shri Govinda Hareshkumar Meghani is considered to have abetted the smuggling of gold and knowingly violated provisions of the Customs Act, 1962, along with other related laws and regulations. His actions rendered the gold liable for confiscation and made him subject to penalties under various sections of the Act. Additionally, he failed to fulfil the burden of proof under Section 123, further strengthening the case against him.

21.3 Despite multiple summons issued by the authorities, Shri Govinda Hareshkumar Meghani did not appear before investigators or provide any explanation or evidence. This non-compliance was treated as disregard for legal procedures and led to further liability for penalty under Section 117 of the Customs Act, 1962. Accordingly, the noticee Shri Govinda Hareshkumar Meghani found involved in the smuggling of the said Gold thereby violation of provisions of Customs Act, 1962, Foreign Trade Policy 2015-20, Baggage Rules, 2016, Customs Notifications, etc., is liable for penalty under the provisions of Section 112(a) & 112(b) and Section 117 of the Customs Act, 1962, for the omissions and commissions mentioned herein above.

22. I find that, by the above acts of commission and omission, Shri Jethanand Bansilal Meghani, also known as Jackybhai Meghani, as the alleged mastermind behind the gold smuggling operation. Based on Panchnama dated 09.08.2025, the smuggled gold was said to belong to Jackybhai Meghani, while Shri Govinda Hareshkumar Meghani acted as an intermediary who handed over the gold in Dubai. It was further revealed that Dengra worked in a company owned by Jackybhai Meghani, and that the travel arrangements, including air tickets for the smuggling trip, were organized and funded by him. These facts suggest that he played a central role in planning and financing the illegal activity.

22.1 I find he evidence indicates that Jackybhai Meghani was actively involved in the conspiracy to smuggle gold into India without declaration, with the intention of evading customs duty and bypassing legal restrictions. His actions are considered to be in violation of multiple provisions under the Customs Act, 1962, Foreign Trade Policy, and Baggage Rules. As a result, the smuggled gold was deemed liable for confiscation, and he became liable for penalties under relevant sections of the law for abetment, financial involvement, and dealing with goods known to be illegally imported.

22.2 Additionally, he failed to meet the burden of proof required under Section 123 of the Customs Act, further strengthening the case for confiscation and penal action. Despite being repeatedly summoned by investigating authorities, he neither appeared nor provided any evidence or explanation. This non-compliance was treated as a deliberate disregard of legal proceedings, making him further liable for penalty under Section 117 of the Customs Act, 1962. Accordingly, the noticee Shri Jethanand Bansilal Meghani alias Jackybhai Meghani found involved in the smuggling of the said Gold thereby violation of provisions of Customs Act, 1962, Foreign Trade Policy 2015-20, Baggage Rules, 2016, Customs Notifications, etc., is liable for penalty under the provisions of Section 112(a) & 112(b) and Section 117 of the Customs Act, 1962, for the omissions and commissions mentioned herein above.

23. I perused the facts presented before me. The question that needs to be addressed in the instant case are within the jurisdiction of Customs Act, 1962 and allied laws. I, therefore, proceed to decide the case on the basis of evidence and documents available on record. In the instant case, I find that the main issues to be decided whether: -

(i) the 06 Gold TT Bars and 03 Pieces of Gold Cut Bars totally weighing 750.700 grams having purity of 24Kt/999.0 and Market Value of Rs.78,29,801/- and Tariff Value of Rs.70,70,228/-, found concealed inside the socks worn by Shri Akash Manoharlal Dengra, who arrived from Dubai to Ahmedabad on 09.08.2025 via Spicejet Flight No. SG-016, at Terminal-2 of SVPI Airport, Ahmedabad, Placed Under Seizure Under Panchnama Proceedings Dated 09.08.2025 and Seizure Memo Order dated 09.08.2025, liable for confiscation under the provision of Section 111(d) and 111(l) of the Customs Act, 1962 or not;

(ii) the pair of socks used for concealment of the aforesaid six (06) Gold TT Bars and three (03) Pieces of Cut Gold Bars seized vide Seizure Memo Dated 09.08.2025, are liable for confiscation under the provision of Section 119 of the Customs Act, 1962 or not;

(iii) the penalties to be imposed upon them under Section 112(a) and 112(b) of the Customs Act, 1962 or not; and

(iv) the penalties to be imposed upon them under Section 117 of the Customs Act, 1962 or not.

24. I find that the Panchnama has clearly drawn that the officers of the Air Intelligence Unit (AIU) at SVPI Airport, Ahmedabad received intelligence about possible smuggling by passengers arriving from Dubai on SpiceJet Flight SG-016 on 09.08.2025. Acting on this, they monitored passengers at the Green Channel and intercepted a passenger, Akash Manoharlal Dengra, who was attempting to exit without declaring any goods. Upon questioning, the passenger confirmed his identity and travel details. He was carrying one trolley bag and one shoulder bag. A personal search and baggage examination were conducted in the presence of independent witnesses, and the proceedings were documented under a Panchnama dated 09.08.2025.

24.1 The AIU officers questioned the passenger about carrying any contraband or dutiable goods, which he denied. He was informed of his right to be searched in the presence of a Magistrate or Gazetted Officer, and he chose to be searched before a Superintendent of Customs. The officers offered themselves for personal search, but the passenger declined. His luggage was scanned through an X-ray machine, which showed nothing suspicious. However, when he passed through the Door Frame Metal Detector (DFMD), a strong beep indicated the presence of a metallic object. Upon a detailed personal search conducted in the presence of witnesses, officers found 6 gold bars and 3 cut gold pieces concealed in his socks.

24.2 On questioning, the passenger revealed that the gold was given to him in Dubai by a person named Meghani Govinda Haresh, who said it belonged to Jackybhai Meghani. The passenger admitted that he was carrying and attempting to smuggle the gold on behalf of his employer, Jackybhai Meghani, proprietor of M/s. Mahi Enterprise (Brand Name Simi Plast). After recovering the suspected gold, the officers called a government-approved valuer, Kartikey Vasantrai Soni, to assess its purity and value. He arrived at the AIU office at around 2:00 AM on 09.08.2025 and examined the seized items in the presence of witnesses and the passenger.

25. It is on record that during the detailed examination, the government-approved valuer Shri Kartikey Vasantrai Soni, vide Certificate No. 450/2025-26 dated 09.08.2025 certified that the said 06 Gold TT Bars and 03 pieces of cut gold bar weighing 750.700 grams had a purity of 999.0/24Kt. and a Market Value of Rs.78,29,801/- and a Tariff Value of Rs.70,70,228/-. The Market Value & Tariff Value of the aforesaid gold were calculated as per the Notification No. 49/2025-Customs (N.T.) dated 31.07.2025 (gold) and Exchange Rate Notification No. 35/2024 dated 07.08.2025, the calculation of total Market Value was based on the unit Market Value of gold @ 1,04,300/- per 10 grams (999.0/24Kt) and the calculation of total Tariff Value was based on the Tariff Value of gold prevailing at the time of valuation @ Rs.94,181.8/- per 10 gram (999.0/24Kt). The detail of the Valuation of the said gold is tabulated as below:

Details of Items	PCS	Certificate No. & Date	Net Weight in Gram	Purity	Market Value (Rs)	Tariff Value (Rs)
06 Gold TT Bars (05 Pieces of YAQ00T 10 Tolas Gold 999 Melter Assayer & 01 Piece of MWG UAE 10 Tolas 999.0 MWG Melter Assayer) & 03 Pieces of Cut Gold Bar	09	450/2025-26 Dt.09.08.2025	750.700	999.0/ 24Kt	78,29,801/-	70,70,228/-

26. I find that from the defence replies submitted by the noticees on 19.03.2026 and stated that the allegations made against them were false and baseless.

26.1 They further submitted that the panchnama and the statement recorded under Section 108 of the Customs Act, 1962 had been obtained under fear and duress of arrest and was not voluntary in nature. They stated that the statement of the passenger Shri Akash Manoharlal Dengra had been typed by the officers themselves, and that they had been forced to sign the typed English statement under threat, without being allowed to read, understand, or write the statement in his own handwriting or language. They contended that such a statement could not be relied upon in law and referred to Section 138B of the Customs Act, 1962, explaining that statement recorded during inquiry would be relevant only under specific circumstances and subject to certain legal conditions. They also relied on the judgment of the Hon'ble Supreme Court in the case of Noor Aga v. State of Punjab, stating that confessional statements were considered weak evidence and could not be relied upon without independent corroboration.

26.2 They further submitted that Article 20(3) of the Constitution of India protected individuals from self-incrimination and prohibited compelling an accused person to be a witness against themself. The noticees further stated that they had been falsely implicated merely on assumptions and presumptions without any independent or legally admissible.

27. From the above defence submissions, I find that the noticees (i) Shri Akash Manoharlal Dengra, (ii) Shri Govind Hareshkumar Meghani and (iii) Shri Jethanand Bansilal Meghani has raised a series of defenses to contest the Show Cause Notice. The main contests are as under: -

➢ ***Allegations and Defence:***

The noticees has denied all allegations made against them in the Show Cause Notice. They contend that they were falsely implicated and that the proceedings are based solely on assumptions without any independent or admissible evidence.

I find that the said allegation is not tenable as on carefully going through the evidences available on record in the form of statement of the noticee Shri Akash Manoharlal Dengra recorded under Section 108 of the Customs Act, 1962 etc. I find that the Noticees (i) Shri Akash Manoharlal Dengra and (ii) Shri Govind Hareshkumar Meghani were found to be actively involved in smuggling of 750.700 grams gold, carried by the passenger in a concealed manner, managed finances for tickets, accommodation, transport, and coordinated the overall illegal activity of gold smuggling through SVPI airport, Ahmedabad and had knowingly violated the various provisions of Foreign Trade Policy 2023, Baggage Rules, 2016, Customs Notifications, etc.

➢ ***<u>Statements Recorded under Section 108:</u>***

The all noticees (i) Shri Akash Manoharlal Dengra, (ii) Shri Govind Hareshkumar Meghani and (iii) Shri Jethanand Bansilal Meghani, submitted that the statement of the passenger Shri Akash Manoharlal Dengra was recorded under Section 108 of the Customs Act, 1962, and the panchnama was obtained under coercion, fear, and threat of arrest. They further stated that the statement was typed by the officers, not explained to Shri Akash Manoharlal Dengra, and they were forced to sign him without understanding the contents, rendering them involuntary and unreliable.

I find that the said facts are nothing but an afterthought. As the noticee has neither made retraction immediately nor has produced any evidence that his statement was recorded under duress. Only at the time of filing reply to the SCN, the noticees have stated the facts of retraction without any evidence. Furter, it is time and again held that statement recorded by the AIU Officer is valid. Further, I find that that there is no dispute the gold weighing 750.700 grams of 999.0/24Kt. purity (in form of 09 pieces of cut gold bars) found from the possession of the noticee Shri Akash Manoharlal Dengra and onus is on the noticees to prove that the gold was not smuggled. To fortify my said stand, I rely on the decision of Hon'ble Allahabad High Court rendered in case of Commissioner of Customs, C.G.O. Vs. Sonam International reported in 2012 (275) ELT 326 (All.). Relevant Paras of the decision are reproduced as under:

"96. In one other case reported in AIR 1965 SC 476 = 2008 (228) E.L.T. 8 (S.C.), Hukma v. State of Rajasthan, Hon'ble Supreme Court ruled that once it is found in consequence of Section 178A of the Sea Custom Act that the person was carrying the gold, the circumstances under which the gold was discovered, the manner in which he was carrying smuggled gold, the considerable quantity of the gold that was being carried namely, blocks and bars in which the major portion of the gold was found and expected to recover gold it may be inferred that the accused was evading the prohibition. The circumstances should be taken up cumulatively.

97. In the case of Kewal Krishan vs. State of Punjab reported in AIR 1967 SC 737 = 1993 (67) E.L.T. 17 (S.C.) their lordship's held that when goods are seized with reasonable belief that they are smuggled one then onus proving that they are not smuggled goods i.e. not of foreign origin on which duty was not paid shall be on the person on whose possession the goods are seized. The onus shall not be on the prosecution to show that the goods are not of Indian origin.

In case contention of respondent's counsel is accepted then it will amount to shifting of onus on the prosecution.

98. Their Lordship of Hon'ble Supreme Court in a case reported in 1996 (83) E.L.T. 258 (S.C.). Naresh J. Sukhawani vs. Union of India had held as under-

"4. It must be remembered that the statement made before the Customs officials is not a statement recorded under Section 161 of the Criminal Procedure Code, 1973. Therefore, it is a material piece of evidence collected by Customs officials under Section 108 of the Customs Act. That material incriminates the petitioner inculpating him in the

contravention of the provisions of the Customs Act. The material can certainly be used to connect the petitioner in the contravention inasmuch as Mr. Dudani's statement clearly inculpates not only himself but also the petitioner. It can, therefore, be used as substantive evidence connecting the petitioner with the contravention by exporting foreign currency out of India. Therefore, we do not think that there is any illegality in the order of confiscation of foreign currency and imposition of penalty. There is no ground warranting reduction of fine."

100. In the case, Surjeet Singh Chhabra and Naresh J. Sukhawani (supra) Hon'ble Supreme Court while interpreting Section 108 and 111 of Customs Act, has held that confessional statement made before the custom officers, retracted, shall be binding since custom officers are not police officers. Accordingly, the statement of Pradeep Pathak cannot be thrown out as baseless only because of retraction at later stage.

101. It shall be relevant to take note of the fact that at no stage, the respondent has either led evidence or tried to rebut the appellant's version that M/s. Anivet Industries, does not have got any manufacturing unit at Nepal and it imports vitamin-E from China, Germany and other countries. No effort was made by the respondent to establish that vitamin-E to the extent of 49% could have been used as animal feed supplement. Rather, it has been submitted that 1-2 gms., is mixed in one tone or more in animal feed."

Further, I rely on the ratio of decision of Hon'ble Supreme Court rendered in case of Hukma Vs. State of Rajasthan reported in 2008 (228) EKT 8 (S.C.). Relevant Para of said decision are reproduced as under:

"8. There remains for consideration the last point raised by the learned counsel, [namely, that even if Lal Singh had authority to seize at the place where the seizure was made and s. 178-A of the Sea Customs Act applied, the prosecution had still to prove by further evidence that the accused had the mens rea necessary to constitute the offence. Learned counsel rightly pointed that while s. 178-A has the result of placing the burden of proof that the gold was not smuggled on the accused, it is of no assistance to the prosecution to prove that the accused was carrying the gold knowingly to evade the prohibition which was for the time being in force with respect to the import of gold into India. Once, however, it is found, as it must be found in this case, in consequence of the provisions of s. 178-A (the accused has not tried to discharge the burden that lay on him that the gold was not smuggled) that he was carrying smuggled gold, the circumstances under which the gold was discovered, the manner in which he was carrying the gold, the considerable quantity of the gold that was being carried and the form in which gold was being carried, namely, blocks and bars in which the major portion of the gold was found, all these circumstances establish beyond a shadow of doubt that accused was carrying the gold knowingly and with the intention of evading the prohibition that was in force with respect to the import of gold into the country. Mr. Kapur tried to argue that when gold is carried by persons, they often carry it in this manner in a pouli concealed under trousers. That may well be so. Here, however, there is an additional circumstance that a pointsman of the Railway, not expected to have so much gold in his possession, was carrying the gold which was, as already mentioned in six blocks and 22 bars apart from some small pieces and one pair of murkees. The total quantity was as much as 286 tolas and 11 annas, that is, about three kilograms. When all these circumstances are taken together, it is not possible to accept learned counsel's suggestion that he might be carrying the gold innocently having purchased it from somebody. In our opinion, the High Court has rightly held that all the ingredients of the offence under s. 167(81) of the Sea Customs Act have been established. It may be mentioned that it has not been disputed before us that if we believe the story of the recovery of the gold from the appellant, the circumstances are sufficient to establish that Lal Singh seized the gold in the reasonable belief that these were smuggled goods."

➢ ***Legal Provisions and Admissibility:***

They highlighted that under Section 138B of the Customs Act, 1962, statements made before a Gazetted Customs Officer are admissible only upon fulfillment of statutory conditions, including judicial scrutiny. They referred to the Supreme Court judgment in Noor Aga vs. State of Punjab, emphasizing that confessional statements are weak evidence and cannot be relied upon mechanically. They also cited Article 20(3) of the Constitution, which protects individuals from being compelled to be witnesses against themselves.

I find that the said allegation is baseless as the noticee has neither made retraction immediately nor has produced any evidence to prove that that his statement was recorded under threat, duress or promise. The retraction made only at the time of filing reply to the Show Cause Notice. I further find that a letter dated 10.08.2025 was received from Shri Akash Manoharlal Dengra by the Assistant Commissioner (AIU), SVPI Airport, Customs Ahmedabad, in which he retracted his earlier statement dated 09.08.2025, claiming it was given while he was fatigued and not fully aware, and that he had signed documents without properly understanding them. To verify the authenticity of this retraction and reassess the facts, repeated summons were issued to Shri Dengra as well as to Shri Govinda Hareshkumar Meghani and Shri Jethanand Bansilal Meghani alias Jackybhai Meghani; however, none of them appeared before the investigating officers or responded to the summons. To negate this allegation, I rely on the ratio of decision of Hon'ble Gujarat High Court rendered in case of Principal Commissioner of Customs Vs. Kishan Manjibhai Gadhesariya reportedin 2023 (2) Centax 63 (Guj). Relevant Paras are reproduced as under:

"43. The Supreme Court, while interpreting Sections 107 and 108 respectively of the Customs Act, held in Romesh Chandra Mehta vs. State of West Bengal 1968 taxmann.com 3/[1969] 2 SCR 461, that any statement made by a person against whom an enquiry is made by a Customs Officer is not a statement made by a person accused of an offence, but he being an officer concerned or the person in authority, Section 24 of the Indian Evidence Act would be attracted and which provides that a confession made by an accused is irrelevant in a criminal proceedings, if the making of the confession appears to the Court to have been caused by any inducement, threat or promise having reference to the charge against accused persons, proceeding from a person in authority and sufficient in the opinion of the Court, to give the accused person grounds, which would appear to him reasonable, for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him.

44. In D. Bhoormall's case (supra), while examining the provisions of Sections 167(8) and 178A of the Sea Customs Act, the Supreme Court held:

"33. Another point to be noted is that the incidence, extent and nature of the burden of proof for proceedings for confiscation under the first part of the entry in the 3rd column of clause (8) of Section 167, may not be the same as in proceedings when the imposition of the other kind of penalty under the second part of the entry is contemplated. We have already alluded to this aspect of the matter. It will be sufficient to reiterate that the penalty of confiscation is a penalty in rem which is enforced against the goods and the second kind of penalty is one in personam which is enforced against the person concerned in the smuggling of the goods. In the case of the former, therefore, it is not necessary for the Customs authorities to prove that any particular person is concerned with their illicit importation or exportation. It is enough if the Department furnishes prima facie proof of the goods being smuggled stocks. In the case of the latter penalty, the Department has to prove further that the person proceeded against was concerned in the smuggling."

45. In K.T.M.S. Mohd. v. Union of India [1992] 3 SCC 178, the Court made a distinction between the provisions of the FERA and the Income-tax Act held in para 31 as follows:

"31. Leave apart, even if the officers of the Enforcement intend to take action against the deponent of a statement on the basis of his inculpatory statement which has been subsequently repudiated, the officer concerned must take both the statements together, give a finding about the nature of the repudiation and then act upon the earlier inculpatory one. If on the other hand, the officer concerned bisects the two statements and make use of the inculpatory statement alone conveniently bypassing the other, such a stand cannot be a legally permissible because admissibility, reliability and the evidentiary value of the statement of the inculpatory statement depend on the bench mark of the provisions of the Evidence Act and the general criminal law."

46. Holding in categorical terms that Section 24 of the Indian Evidence Act shall apply, it was held:

"But suffice to say that the core of all the decisions of this Court is to the effect that the voluntary nature of any statement made either before the Custom Authorities or the officers of Enforcement under the relevant provisions of the respective Acts is a sine qua non to act on it for any purpose and if the statement appears to have been obtained by any inducement, threat, coercion or by any improper means that statement must be rejected brevi manu. At the same time, it is to be noted that merely because a statement is retracted, it cannot be recorded as involuntary or unlawfully obtained. It is only for the maker of the statement who alleges inducement, threat, promise etc. to establish that such improper means has been adopted. However, even if the maker of the statement fails to establish his allegations of inducement, threat etc. against the officer who recorded the statement, the authority while acting on the inculpatory statement of the maker is not completely relieved of his obligations in at least subjectively applying its mind to the subsequent retraction to hold that the inculpatory statement was not extorted. It thus boils down that the authority or any Court intending to act upon the inculpatory statement as a voluntary one should apply its mind to the retraction and reject the same in writing. It is only on this principle of law, this Court in several decisions has ruled that even in passing a detention order on the basis of an inculpatory statement of a detenu who has violated the provisions of the FERA or the Customs Act etc. the detaining authority should consider the subsequent retraction and record its opinion before accepting the inculpatory statement lest the order will be vitiated."

47. The Court then held in para 25 that the initial burden to prove that the confession was voluntary in nature, would be on the department. The special or peculiar knowledge of the person proceeded against would not relieve the prosecution or the Department altogether of the burden of producing some evidence in respect of that fact in issue.

48. In Vinod Solanki v. Union of India, 2009 (233) E.L.T. 157 (S.C.) = 2009 (13) S.T.R. 337 (S.C.), the Supreme Court considered the effect of retraction of the statement in proceedings of penalty under Foreign Exchange Regulation Act, 1973. The Supreme Court held that indisputably a confession made by an accused would come within the purview of Section 24 of the Indian Evidence Act, 1872. The proceedings under the Act are quasi criminal in nature. Section 50 of the Act is penal provision. It prescribes that in the event of contravention of any of the provisions of the Act or the Rules, directions or order penalty in exceeding 5 times of the amount of value involved in any such contravention may be imposed. Section 71 of the Act provides for burden of proof in certain cases. Sub-section (2) of Section 71 provides for burden of proof that foreign exchange acquired by such person, has been used for the purpose for which permission to acquire was granted, shall be on such person. The Act as Special Act confers various powers under the authorities. Even if salutary principle 'mens rea' and 'actus reus' in the proceedings under the Act may not be held to be applicable, it is now a settled principle that presumption of innocence as contained in Article 14(2) of the International Covenant on civil and political rights is a human right, although per see it may not be treated to be a fundamental right within the meaning of Article 21 of the Constitution of India. Sub-section (2) of Section 71 places burden of proof upon an accused or *proceedee only when the foreign exchange acquired has been used for the purpose for which permission to acquire it was granted and not for mere possession thereof. The Parliament advisedly did not make any provision placing the burden of proof on the accused/proceedee.*

49. In para 22 the Supreme Court said:

"22. It is a trite law that evidence brought on record by way of confession which stood retracted must be substantially corroborated by other independent and cogent evidences, which would lend adequate assurance to the Court that it may seek to rely thereupon. We are not oblivious of some decisions of this Court wherein reliance has been placed for supporting such contention but we must also notice that in some of the cases retracted confession has been used as a piece of corroborative evidence and not as the evidence on the basis whereof alone a judgment of conviction and sentence has been recorded." [See Pon Adithan v. Deputy Director, Narcotics Control Bureau, Madras, MANU/SC/0403/1999: (1999) 6 SCC 1].

50. In K.I. Pavunny vs. Assistant Collector (HQ), CCE 1997 (90) E.L.T. 241 (SC)/ [1997] 3 SCC 721, it was held that a person suspected by a Customs Officer is not an accused at that stage. He becomes an accused only when summons are issued by a competent Court/Magistrate pursuant to a complaint lodged by the competent Customs Officer. His statement recorded under section 108 or during confiscation proceedings is not that of an accused within the meaning of Section 24 of the Evidence Act. The Customs Officer in such case although not police officer, is an authority within the meaning of Section 24 of the Evidence Act. The evidence is admissible under section 135 of the Customs Act, although subsequently retracted, if on facts found voluntary and truthful. Only in such case it can form exclusive basis for conviction. It is, however, a rule of prudence and practice that the Court seeks assurance from other facts and circumstances to corroborate retraction of confession. The Supreme Court held that object of the Act in empowering the Customs Officer to record evidence under section 108 is to collect information of the contravention of the provisions of the Act or concealment of the contraband, to avoid or avoidance of the duty of excise so as to enable them to collect the evidence of the proof of contravention of the provisions of the Act for initiating proceedings for further action of confiscation of the contraband or imposition of penalty. By virtue of authority of law the officer exercises the power under the Act is an authority, within the meaning of Section 24 of the Evidence Act.

51. There is no prohibition under the Evidence Act to rely upon retracted confession to prove the prosecution case so as to make the same the basis for conviction of the accused. The practice and prudence require that the Court could examine the evidence adduced by the prosecution to find out whether there were any other facts and circumstances to corroborate the retracted confession. It is not necessary that there should be corroboration from independent evidence adduced by the prosecution to corroborate each detail contained on the confessional statement. The Court is required to examine whether the confessional statement was voluntary; in other words, whether it was not obtained by threat, duress or promise. If the Court is satisfied from the evidence that it was voluntary, then it is required to examine whether the statement is true. If the Court on examination of the evidence finds that the retracted confession is true, that part of the inculpatory portion could be relied upon to base the conviction. However, prudence and practice require that the Court would seek assurance getting corroboration from other evidence adduced by the prosecution.

95. The veracity of the facts admitted in the statements dated 21-4-2009, 29-4-2009, 24-6-2009 and 27-6-2009 respectively by Sanjay also find support from the statements of others/accomplices and the evidence which were found pursuant thereto, during the investigation. Although the said statements later came to be retracted by subsequent statement recorded on 4-7-2009 before the JMFC in the Criminal Proceedings under the NDPS Act, 1985, yet, the statements recorded under section 108 have evidentiary value and constitute substantive evidence. A belated retraction after considerable length of time would not have the same efficacy in law as the retraction made at the earlier point *of time from the day of the statement."*

➢ ***Seized Gold and Penalty:***

The noticee (i) Shri Akash Manoharlal Dengra has submitted in his submissions on 19.03.2026 as well as during personal hearing that the seized gold was purchased for his personal use and was not ingeniously concealed. It was inside the socks wore by him for safety purpose. Therefore, he argued that the penalty proposed under Section 112 of the Customs Act, 1962 was unjustified and requested that the proceedings against them be dropped.

Further, the noticee (ii) Shri Govind Hareshkumar Meghani and (iii) Shri Jethanand Bansilal Meghani submitted in their submissions on 19.03.2026 as well as during personal hearing that the gold was not recovered from their possession and have been wrongly implicated in the present matter without any evidence showing their conscious involvement, ownership, possession of the gold. Therefore, they argued that the penalty proposed under Section 112 of the Customs Act, 1962 was unjustified and requested that the proceedings against them be dropped.

I find that questioning the applicability of the legal provisions alleged in the impugned Show Cause Notice is not tenable as it is an undisputed fact that based on the intelligence developed by the officers of Air Intelligence Unit (AIU), SVPI Airport, Customs Ahmedabad. The noticee (i) Shri Akash Manoharlal Dengra was intercepted during arrival from Dubai to Ahmedabad alongwith 750.700 grams gold in form of 09 cut gold bars concealed in pair of socks wore by him. The noticees failed to produce any evidence of its legal possession. Further investigation conducted by the officers of Air Intelligence Unit (AIU), SVPI Airport, Customs Ahmedabad and found the master mind of the gold smuggling racket Shri Jethanand Bansilal Meghani. Shri Akash Manoharlal Dengra accepted in Panchnama that the said gold bars were given to him by one person namely Shri Meghani Govinda Haresh in Dubai who informed the passenger that the said gold belonged to one Shri Jethanand Bansilal (Jackybhai) Meghani. The passenger further informed that he was working as Sales Head in M/s. Simi Plast, Ahmedabad and Shri Jackybhai Meghani were the Proprietor of M/s. Simi Plast and he had carried the aforesaid gold bars and attempted to smuggle the same on behalf of his employer Shri Jackybhai Meghani. I find the ratio of decision of Hon'ble Delhi Tribunal rendered in the case of Rakesh Luthra Vs. Commr. of Cus. (Air Port & General), New Delhi reported in 2024 (387) ELT 691 (Tri. Del) is squarely applicable to the present case. Relevant Para is reproduced as under:

"8.1 In the instant case, it is on record that the four passengers had gone to Dubai on 5-6-2019 and had returned on 8-6-2019. Therefore, the appellants did not satisfy the requirements of the aforesaid notification in order to be eligible to import the gold legally. It is also on record that the appellants were intercepted near the exit gate. The argument that they were prevented from making the declaration is clearly an afterthought. The gold was recovered from their person. It is also noted that the appellants, in their respective statements have accepted that there were aware of the Customs procedures for passenger clearance, and that Gold was dutiable. Consequently, the argument that there is no concealment or attempt to smuggle cannot be accepted. As regards the argument of the appellants that Gold is not a prohibited item, we note that the High Court of Gujarat in the case Bhargavraj Rameshkumar Mehta v. Union of India [2018 (361) E.L.T. 260 (Guj.)] held that attempt to smuggle by concealing the same, and breaching the condition for the import of such goods would make them 'prohibited goods' in terms of Section 2(33) of the Customs Act, 1962. The relevant paras of the aforesaid decision is reproduced hereinbelow:

We may recall, the contention of the "15. Counsel for the petitioner in this respect was that the gold at the relevant time was freely importable. Import of gold was not *prohibited. Case of the petitioner would therefore, fall under clause (ii) of Section 112 and penalty not exceeding 10% of the duty sought to be evaded would be the maximum penalty imposable. Such contention shall have to be examined in the light of the statutory provisions noted above. As noted, Section 111 of the Act provides for various eventualities in which the goods brought from a place outside India would be liable for confiscation. As per clause (d) of Section 111, goods which are imported or attempted to be imported or are brought within the Customs quarters for import contrary to any prohibition imposed by or under the Act or any other law for the time being in force, would be liable for confiscation. Similarly, for dutiable or prohibited goods found concealed in any manner in any conveyance would also be liable to confiscation. As per Section 2(39) the term 'smuggling' would mean in relation to any goods, any act or omission which will render such goods liable to confiscation under Section 111 or Section 113. Thus, clearly Section 111 of the Customs Act prohibits any attempt at concealment of goods and bringing the same within the territory of India without declaration and payment of prescribed duty. Term 'prohibited goods' as defined under Section 2(33) means any goods, the import or export of which is subject to any prohibition under the 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. This definition therefore, comes in two parts. The first part of the definition explains the term 'prohibited goods' as to mean those goods, import or export of which is subject to any prohibition under the law. The second part is exclusionary in nature and excludes from the term 'prohibited goods', in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with. From the definition of term 'prohibited goods', in case of goods, import of which is permitted would be excluded subject to satisfaction of the condition that conditions for export have been complied with. By necessary implication therefore in case of goods, import of which is conditional, would fall within the definition of prohibited goods if such conditions are not complied with.*

Further clarity in this respect would be available when one refers to the term 'dutiable goods' as to mean any goods which are chargeable to duty and on which duty has not been paid. We refer to this definition since Section 112 makes the distinction in respect of goods in respect of which any prohibition is imposed and dutiable goods other than prohibited goods. When clause (ii) of Section 112 therefore, refers to dutiable goods other than prohibited goods, it shall necessarily have the reference to the goods, import of which is not prohibited or of which import is permissible subject to fulfilment of conditions and such conditions have been complied with. Condition of declaration of dutiable goods, their assessment and payment of customs duties and other charges is a fundamental and essential condition for import of dutiable goods within the country. Attempt to smuggle the goods would breach all these conditions. When clearly the goods are sought to be brought within the territory of India concealed in some other goods which may be carrying no duty or lesser duty, there is clear breach of conditions of import of goods though per se import of goods may not be prohibited."

8.2 Further, in the case at hand, the facts are the appellants were carrying gold in their person and were intercepted near the exit gate of the Customs Baggage Hall, which clearly establishes their intention to smuggle the Gold. In this regard, we note that the Supreme Court in the case of Om Prakash Bhatia v. Commissioner of Customs, Delhi reported in [2003 (155) E.L.T. 423 (S.C.) = 2003 taxmann.com 482 (S.C.)] and in case of Sheikh Mohd. Omer v. Collector of Customs, Calcutta and Others reported in [1983 (13) E.L.T. 1439 (S.C.)] held that smuggling in relation to any goods is forbidden and totally prohibited. Failure to check the goods on the arrival at the customs station and payment of duty at the rate prescribed, would fall under the second limb of Section 112(a) of the Act, which states omission to do any act, which act or omission, would *render such goods liable for confiscation under Section 111 of the Act, and clause (b) to Section 111 of the Act covers the persons involved.*

10. We now take up the appeal filed by the Department wherein the adjudicating authority had in the impugned order had permitted redemption of gold on payment of fine to appellant Rakesh Luthra, and permission to re-export the gold to 2 other appellants Sonia and Mamik Luthra, and have prayed for absolute confiscation of the gold. We note that all the four appellants collectively brought 5218 grams of gold (in the form of bars, not in the form of ornaments) from Dubai. It is also established that all the appellants attempted to smuggle the gold with an intention to evade Customs Duty by not declaring the non-bona fide baggage which was commercial in nature. It is also established that the appellants were 'ineligible passengers' to import gold in terms of Notification No. 50/2017-Cus., dated 30-6-2017 and also provisions of Foreign Trade (Development and Regulation) Act, 1992, Foreign Trade (Exemption from Application of Rules in Certain Cases) Rules, 1993 and Foreign Trade Policy, 2015-20. We also note that Section *80 of Customs Act, 1962 provides for 'temporary detention of baggage', which is applicable in respect of only those goods for which a true declaration has been made under* Section 77*. Under Section 80, the proper officer may, at the request of the passenger, detain such article for the purpose of being returned to him on his leaving India. In the instant case, though the appellants had not declared the gold and the fact remains that the passengers were intercepted by the officers of customs at the exit gate. This clearly establishes the intent was to walk away with the gold without payment of duty that was lawfully due to the Government. This is also corroborated by their statements that similar modus operandi was adopted when they had returned from Dubai. In this regard, the decision of the High Court of Gujarat in the case Bhargavraj Rameshkumar Mehta v. Union of India (supra) held that attempt to smuggle by concealing the same, and breaching the condition for the import of such goods would make them 'prohibited goods' in terms of Section 2(33) of the Customs Act, 1962. Once it is established that the goods are prohibited, then there cannot be an option for either redemption or re-export, and such goods are liable for absolute confiscation. In this context, we note that the Tribunal in the case of Sunny Kakkar v. Principal Commissioner of Customs (Preventive), New Delhi [2023 (385) E.L.T. 258 (Tri. - Del.) = (2023) 5 Centax 261 (Tri. - Del.)] upheld the absolute confiscation of Gold. The relevant paras of this decision is reproduced hereinafter:*

As per Section 2(39) "smuggling", in relation to any goods, '32. means any act or omission which will render such goods liable to confiscation under section 111 or section 113. Therefore, if the gold bars in dispute are held liable for confiscation under section 111, they will fall under the category of smuggled gold as per Section 2(39). Another important section in this regard is Section 123 which reads as follows:

Section 123 - Burden of proof in certain cases. *Where any goods to - (1) which this section applies are seized under this Act in the reasonable belief that they are smuggled goods, the burden of proving that they are not smuggled goods shall be -*
(a) in a case where such seizure is made from the possession of any person, -
(i) on the person from whose possession the goods were seized; and
(ii) if any person, other than the person from whose possession the goods were seized, claims to be the owner thereof, also on such other person;
(b) in any other case, on the person, if any, who claims to be the owner of the goods so seized.

This section shall apply to gold, and manufactures thereof, (2) watches, and any other class of goods which the Central Government may by notification in the Official Gazette specify.

Section 123 shifts the burden of proof from the Department to the person from whom the goods have been seized in respect to gold and certain other goods which are *notified. Undisputedly, the bars in question were of gold and they had foreign markings and were packed in a bag with the address of the jeweller in Dubai. The bars were examined by an expert and were held to be foreign origin gold of 995 purity. All these gave the officers reasonable belief that the gold bars were of foreign origin. Since import of gold is restricted, if foreign origin gold bars were legally imported it was incumbent upon the importer and any other person to whom they may have been sold to show documents that the gold was legally imported. This responsibility is cast upon the appellant as per Section 123. The gold was seized and after its assessment, statements of the appellant were recorded in which he explained that he procured the gold from one Shri Harish of Dubai who told him that Shri Ahadees would contact him and give him the gold bars and accordingly, he was waiting at Rajeev Chowk Metro Station whether transaction took place. He had, at no point of time, produced any document to show that the gold was legally imported. According to his statement, the arrangement which he had with Shri Harish was that he would send gold through one of his persons (Shri Ahadees in this case) and after selling the gold he would pay Shri Harish. At the time of receiving the gold he would pay only some amount to the person handing over the gold. In this case, the amount which he paid in a pink polythene bag was Rs.5,45,000/- to Shri Ahadees. These statements were corroborated by the statement of Shri Ahadees. Neither Shri Ahadees nor the appellant have at any point of time produced any document to show that the gold was legally imported by them or that it was purchased by them from somebody who had legally imported it.*

Learned Counsel for the appellant submitted that on 8-12-2015 the appellant had retracted his statement and, therefore, it cannot be relied upon. We have gone through the statements made before the Learned CMM by the appellant in his application for bail which is at pages 109 to 112 of the appeal book. The application only states that the statement was not made by the appellant. However, there is nothing in the statement made before the Learned CMM explaining the nature of the gold seized from the appellant. In the absence of any other explanation, the statements made by the appellant and Shri Ahadees before the officer must be accepted as correct. These statements corroborate each other and with the panchnama. The cross-examination of Shri Ahadees by the learned counsel for the appellant also confirm the facts pertaining to this seizure and also that on previous two occasions smuggled gold was transacted between the appellant and Shri Ahadees. The mobile phone recovered from the appellant and which was used to communicate with Shri Ahadees was also obtained in the name of Shri Kaskyrbayev a Kazakhi national who was not even in India at the time the SIM card was issued which corroborates the clandestine nature of the transaction in the confiscated gold.'

10.1 As per the facts of the case, the seizure of gold from the appellants, as recorded in the panchnama and admitted in their respective statements is undisputed. It is also established that the gold was of foreign origin. It is also established that the appellants were attempting to smuggle the gold without payment of duty. We also note that legal import of gold is governed by certain conditions which the appellant do not fulfil. Therefore, we are of the considered opinion that the gold recovered from the appellants is liable for absolute confiscation."

28. Role Played by the Noticees: I find from the Statement of the Noticee, Panchnama and other evidences available with records, the noticees Played Role in the case as under:

28.1 Shri Akash Manoharlal Dengra was actively involved in smuggling gold operation. He tried to smuggle gold of 750.700 grams (Net Weight) having purity 999.0/24Kt. and Market Value of Rs.78,29,801/- and Tariff Value of Rs.70,70,228/, by concealing it in his socks while arriving from Dubai to Ahmedabad on 9 August 2025. He deliberately avoided declaring the gold to Customs authorities and attempted to pass through the Green Channel to evade payment of duty. Such actions violated provisions of the Customs Act, 1962, Foreign Trade Policy, and related regulations, and the gold could not be treated as personal belongings due to its concealed and undeclared nature.

28.1.1 Further investigation revealed that Dengra was instructed by Shri Govinda Hareshkumar Meghani, who had purchased the gold in Dubai, to carry and conceal it for smuggling into India. The travel arrangements were allegedly made by Shri Jethanand Bansilal Meghani, identified as the main handler. Dengra admitted he was offered ₹15,000 for transporting the gold and knowingly agreed for monetary gain. His actions, including denying possession of dutiable goods and lacking valid documentation, indicate intentional involvement and awareness of the illegal activity.

28.1.2 The concealment of gold in socks and his attempt to bypass Customs checks clearly demonstrate criminal intent. Consequently, the gold was deemed liable for confiscation under relevant sections of the Customs Act, and Dengra became liable for penalties for illegal import, concealment, and non-declaration. Additionally, he failed to fulfil the burden of proof under Section 123 of the Act.

28.1.3 Although Dengra initially gave a statement implicating the other individuals, he later attempted to retract it through a letter. However, he failed to appear before investigating authorities despite repeated summons and did not provide any supporting evidence. This non-compliance was seen as an attempt to mislead the investigation and disregard legal procedures, making him further liable for penalty under Section 117 of the Customs Act, 1962. Accordingly, the passenger Shri Akash Manoharlal Dengra found involved in the smuggling of the said Gold thereby violation of provisions of Customs Act, 1962, Foreign Trade Policy 2015-20, Baggage Rules, 2016, Customs Notifications, etc., is liable for penalty under the provisions of Section 112(a) & 112(b) and Section 117 of the Customs Act, 1962, for the omissions and commissions mentioned herein above.

28.2 **<u>Shri Govinda Hareshkumar Meghani</u>** was actively involved as a key figure in the gold smuggling operation. Based on evidence and the statement of Shri Akash Manoharlal Dengra, Meghani allegedly planned and coordinated the smuggling by traveling with Dengra to Dubai, purchasing 750.700 grams of gold, and instructing him to conceal it in his socks. He also offered ₹15,000/- to Dengra as an incentive to carry the gold illegally into India through Ahmedabad Airport without declaring it to Customs authorities.

28.2.1 Further details indicate that Meghani not only purchased the gold in Dubai but also directed its illegal transportation and concealment to evade customs duty. His involvement is supported by Dengra's statement and additional evidence such as the invoice bearing his mobile number. These actions suggest that Meghani actively participated in and coordinated the smuggling operation, with clear intent to bypass legal procedures and restrictions.

28.2.2 As a result, Meghani is considered to have abetted the smuggling of gold and knowingly violated provisions of the Customs Act, 1962, along with other related laws and regulations. His actions rendered the gold liable for confiscation and made him subject to penalties under various sections of the Act. Additionally, he failed to fulfil the burden of proof under Section 123, further strengthening the case against him.

28.2.3 Despite multiple summons issued by the authorities, Meghani did not appear before investigators or provide any explanation or evidence. This non-compliance was treated as disregard for legal procedures and led to further liability for penalty under Section 117 of the Customs Act, 1962. Accordingly, the noticee Shri Govinda Hareshkumar Meghani found involved in the smuggling of the said

Gold thereby violation of provisions of Customs Act, 1962, Foreign Trade Policy 2015-20, Baggage Rules, 2016, Customs Notifications, etc., is liable for penalty under the provisions of Section 112(a) & 112(b) and Section 117 of the Customs Act, 1962, for the omissions and commissions mentioned herein above.

28.3 **<u>Shri Jethanand Bansilal Meghani Alias Jackybhai Meghani</u>** as the alleged mastermind behind the gold smuggling operation. Based on statements given by Shri Akash Manoharlal Dengra and Panchnama dated 09.08.2025, the smuggled gold was said to belong to Jackybhai Meghani, while Shri Govinda Hareshkumar Meghani acted as an intermediary who handed over the gold in Dubai. It was further revealed that Dengra worked in a company owned by Jackybhai Meghani, and that the travel arrangements, including air tickets for the smuggling trip, were organized and funded by him. These facts suggest that he played a central role in planning and financing the illegal activity.

28.3.1 The evidence indicates that Jackybhai Meghani was actively involved in the conspiracy to smuggle gold into India without declaration, with the intention of evading customs duty and bypassing legal restrictions. His actions are considered to be in violation of multiple provisions under the Customs Act, 1962, Foreign Trade Policy, and Baggage Rules. As a result, the smuggled gold was deemed liable for confiscation, and he became liable for penalties under relevant sections of the law for abetment, financial involvement, and dealing with goods known to be illegally imported.

28.3.2 Additionally, he failed to meet the burden of proof required under Section 123 of the Customs Act, further strengthening the case for confiscation and penal action. Despite being repeatedly summoned by investigating authorities, he neither appeared nor provided any evidence or explanation. This non-compliance was treated as a deliberate disregard of legal proceedings, making him further liable for penalty under Section 117 of the Customs Act, 1962. Accordingly, the noticee Shri Jethanand Bansilal Meghani alias Jackybhai Meghani found involved in the smuggling of the said Gold thereby violation of provisions of Customs Act, 1962, Foreign Trade Policy 2015-20, Baggage Rules, 2016, Customs Notifications, etc., is liable for penalty under the provisions of Section 112(a) & 112(b) and Section 117 of the Customs Act, 1962, for the omissions and commissions mentioned herein above.

29. I find that the statement given by noticee under Section 108 of the Customs Act, 1962, was made voluntarily and carry evidentiary value under the law. In support of my view, I relied on the following judgements:

i. Hon'ble Supreme Court in case of Surjeet Singh Chhabra Vs. U.O.I [reported in 1997 (89) E.L.T 646 (S.C)] held that ***evidence- confession statement made before Customs officer, though retracted within six days, in admission and binding, since Customs Officers are not police officers under Section 108 of the Customs Act and FERA***.

ii. Assistant Collector of Central Excise, Rajamundry Vs. Duncan Agro India Ltd reported in 2000 (120) E.L.T 280 (SC) wherein it was held that ***"Statement recorded by a Customs Officer under Section 108 is a valid evidence"***

iii. In 1996 (83) E.L.T 258 (SC) in case of Shri Naresh J Sukhwani V. Union of India wherein it was held that ***"It must be remembered that the statement before the Customs official is not a statement recorded under Section 161 of the Criminal Procedure Code 1973. Therefore, it is material piece of evidence collected by Customs Official under Section 108 of the Customs Act,1962"***

iv. ***There is no law which forbids acceptance of voluntary and true admissible statement if the same is later retracted on bald assertion of threat and coercion*** as held by Hon'ble Supreme Court in case of K.I Pavunny Vs. Assistant Collector (HQ), Central Excise Cochin (1997) 3 SSC 721.

v. Hon'ble High Court of Mumbai in FERA Appeal No. 44 of 2007 in case of Kantilal M Jhala Vs. Union of India, held that ***"Confessional Statement corroborated by the Seized documents admissible even if retracted."***

vi. In the case of Rajesh Kumar Vs CESTAT reported at 2016 (333) ELT 256 (Del), the Hon'ble High Court of Delhi has observed as under:

Learned counsel for the appellant strenuously argued that a substantial question of law regarding the admissibility of the confessions allegedly made by the Sh. Kishori Lal and Sh. Rajesh Kumar arises for our consideration. We regret our inability to accept that submission. The statements made before the Customs Officers constitute a piece of evidence available to the adjudicating authority for passing an appropriate order of confiscation and for levy of penalty. Any such confessional statement even if retracted or diluted by any subsequent statement had to be appreciated in the light of other circumstances and evidence available to the adjudicating authority while arriving at a conclusion whether the goods had been cleared without payment of duty, mis declared or undervalued.

vii. The Hon'ble Apex Court in the case of Badaku Joti Svant Vs. State of Mysore reported at 1978 (2) ELT J 323(SC) held as "ln this view of the matter the statement made by the appellant to the Deputy Superintendent of Customs and Excise would not be hit by Section 25 of the Evidence Act and would be admissible in evidence unless the appellant can take advantage of Section 24 of the Evidence Act. As to that it was urged on behalf of the appellant in the High Court that the confessional statement was obtained by threats. This was not accepted by the High Court and therefore, Section 24 of the Evidence Act has no application in the present case. it is not disputed that if this statement is admissible, the conviction of the appellant is correct. As we have held that a Central Excise Officer is not a Police officer within the meaning of those words in Section 25 of the Evidence Act, the appellant's statement is admissible. It is not ruled out by anything in Section 24 of the Evidence Act and so the appellant's conviction is correct and the appeal must be dismissed. "

viii. In the case of **K. P. Abdul Majeed reported at 2017 (51) STR 507 (Ker)**, the Hon'ble High Court of Kerala has observed as under:

Having regard to the legal implications evolved from the aforesaid factual situation, it is clear that confession statement of co-accused can be treated as evidence, provided sufficient materials are available to corroborate such evidence. ***As far as retraction statement is concerned, it is for the person who claims that retraction has been made genuinely to prove that the statements were obtained under force, duress, coercion, etc., otherwise, the materials indicate that statements were given voluntarily.*** *When the statute permits such statements to be the basis of finding of guilt even as far as co-accused is concerned, there is no reason to depart from the said view.*

ix. The Hon'ble Supreme Court in the case of K.T.M.S. Mohd. v. Union of India - (1992) 3 SCC 178 held as under:

"34. We think it is not necessary to recapitulate and recite all the decisions on this legal aspect. But suffice to say that the core of all the decisions of this

Court is to the effect that the voluntary nature of any statement made either before the Custom Authorities or the officers of Enforcement under the relevant provisions of the respective Acts is a sine qua non to act on it for any purpose and if the statement appears to have been obtained by any inducement, threat, coercion or by any improper means that statement must be rejected brevi manu. At the same time, it is to be noted that merely because a statement is retracted, it cannot be recorded as involuntary or unlawfully obtained. It is only for the maker of the statement who alleges inducement, threat, promise etc. to establish that such improper means has been adopted. However, even if the maker of the statement fails to establish his allegations of inducement, threat etc. against the officer who recorded the statement, the authority while acting on the inculpatory statement of the maker is not completely relieved of his obligations in at least subjectively applying its mind to the subsequent retraction to hold that the inculpatory statement was not extorted. It thus boils down that the authority or any Court intending to act upon the inculpatory statement as a voluntary one should apply its mind to the retraction and reject the same in writing. It is only on this principle of law, this Court in several decisions has ruled that even in passing a detention order on the basis of an inculpatory statement of a detenu who has violated the provisions of the FERA or the Customs Act etc. the detaining authority should consider the subsequent retraction and record its opinion before accepting the inculpatory statement lest the order will be vitiated..."

(emphasis supplied)

x. Further, burden is on the accused to prove that the statement was obtained by threat, duress or promise like any other person as was held in **Bhagwan Singh v. State of Punjab - AIR 1952 SC 214, Para 30**.

30. A combined reading of the above-mentioned legal provisions under the Foreign Trade Policy, the Customs Act, 1962, and the notifications issued thereunder clearly indicates that the import of gold, including gold jewellery, through passenger baggage is restricted. Conditions have been imposed on such import, including that the passenger should be of Indian origin or an Indian passport holder, and should have resided abroad for a minimum period of six months, among others. Only passengers who satisfy these mandatory conditions can import gold as part of their bona fide personal baggage, and the same must be declared to the Customs authorities upon arrival, with applicable duty paid in foreign currency/exchange.

30.1 In this connection, I also note the Board's instructions issued vide F. No. 495/6/97-Cus.VI dated 06.05.1996, reiterated in F. No. 495/19/99-Cus.VI dated 11.04.2000, wherein it was clearly stated that the import of goods, including gold in commercial quantities, is not permissible under the Baggage Rules, even on payment of duty. From the above findings and guidelines, it is evident that the noticee does not fall within the ambit of an "eligible passenger" to bring the gold as claimed in his submissions.

30.2 Further, the manner of concealment of the gold indicates that the act was not only premeditated but also ingeniously executed. The noticee has admitted to possession, carriage, non-declaration, concealment, and subsequent recovery of the gold. I also find that all procedures conducted during the Panchnama by the officers were properly documented and carried out in the presence of the panchas as well as the passenger/noticee.

31. In view of the non-declaration and the noticee's admission to the carriage and possession of the impugned gold, it is established that the noticees failed to declare the 09 gold cut bars weighing 750.700 grams to the Customs authorities as required under Section 77 of the Customs Act, 1962. It is therefore evident that the noticee intended to evade duty, having not made a true and correct declaration of the dutiable goods in their possession.

31.1 Moreover, the noticees violated Sections 77 and 79 of the Customs Act, 1962, in relation to the import/smuggling of gold, which was not intended for bona fide use. Consequently, the noticees also contravened Rule 11 of the Foreign Trade (Regulation) Rules, 1993, and paragraph 2.26 of the Foreign Trade Policy, 2015–20.

31.2 Further, as gold is a notified item, when goods notified thereunder are seized under the Customs Act, 1962, on the reasonable belief that they are smuggled goods, the burden of proving that such goods are not smuggled lies on the person from whose possession the goods have been seized, in terms of Section 123 of the Customs Act, 1962.

32. I find that the noticee (i) Shri Akash Manoharlal Dengra has clearly admitted that he did not declare the gold (in the form of 09 gold cut bars, which were concealed in the socks wore by him) to the Customs authorities. This is a clear case of non-declaration with the intent to smuggle the gold. Accordingly, there is sufficient evidence to conclude that the noticee failed to declare the foreign-origin gold before the Customs authorities upon their arrival at Sardar Vallabhbhai Patel International Airport, Ahmedabad.

32.1 Therefore, it is a case of smuggling gold without declaration, with the intent to evade payment of Customs duty, which is conclusively proved. Consequently, it is established that the noticee violated Sections 77 and 79 of the Customs Act, 1962, in relation to the import/smuggling of gold which was not for bona fide use, and thereby also contravened Rule 11 of the Foreign Trade (Regulation) Rules, 1993, and paragraph 2.26 of the Foreign Trade Policy, 2015–20.

32.2 Further, as gold is a notified item, when such goods are seized under the Customs Act, 1962, on the reasonable belief that they are smuggled, the burden of proof that they are not smuggled lies on the person from whose possession the goods have been seized, in terms of Section 123 of the Customs Act, 1962. In the instant case, the noticees have failed to submit any documentary evidence to discharge this burden.

33. From the facts discussed hereinabove, it is evident that the passenger/noticee namely (i) Shri Akash Manoharlal Dengra brought into India gold of 24 Kt. purity (999.0), weighing 750.700 grams, in the form of nine gold cut bars, which were clandestinely concealed in the socks wore by him while arriving from Dubai to Ahmedabad. The seizure effected under the panchnama dated 09.08.2025 clearly establishes that the said noticee acted with a deliberate and premeditated intention to smuggle the gold into India and evade payment of applicable Customs duty. Accordingly, the said gold weighing 750.700 grams is liable for confiscation under Sections 111(d) and 111(l) of the Customs Act, 1962.

33.1 By secreting the gold in socks wearing by him and wilfully failing to declare the same before the Customs authorities upon arrival, it stands conclusively established that the noticee had a clear intent to smuggle the gold clandestinely. Such acts squarely fall within the definition of "smuggling" as provided under Section 2(39) of the Customs Act, 1962. It is thus evident that the noticees knowingly carried and attempted to improperly import the said gold without declaration, in contravention of the provisions of the Act.

33.2 Further, it is observed that the said noticees actively engaged in carrying, concealing, and dealing with the impugned goods in a manner which he knew, or had reason to believe, rendered such goods liable to confiscation under the Customs Act,

1962. Consequently, I hold that the noticees have rendered themselves liable for penalty under Section 112 of the Customs Act, 1962.

33.3 From the material available on record, it is further established that Shri Jethanand Bansilal Meghani is the mastermind behind a well-organized gold smuggling syndicate engaged in the illegal import of gold into India through SVPI Airport, Ahmedabad, from Dubai. He orchestrated and financed the entire operation by arranging travel and logistics for the carriers, namely Shri Akash Manoharlal Dengra, by supplying gold cut bars in Dubai with specific instructions to conceal the same to evade Customs detection. He also offered monetary consideration linked to the quantity of gold successfully smuggled, thereby confirming his central role in a systematic and organized smuggling network.

33.4 Investigations reveal that Shri Jethanand Bansilal Meghani is the owner of the seized gold weighing 750.700 grams, valued at approximately **Rs.78,29,801/-** for which he failed to produce any licit documents. In view of the foregoing, I conclude that Shri Jethanand Bansilal Meghani has knowingly contravened the provisions of the Foreign Trade Policy, the Baggage Rules, applicable Customs Notifications, and the provisions of the Customs Act, 1962. Being the owner and key facilitator of the impugned goods, and having failed to discharge the burden of proof under Section 123 of the Act, the seized gold is liable for confiscation under Sections 111(d) and 111(l) of the Customs Act, 1962. He is also liable to penalty under Sections 112(a) and 112(b) of the said Act. Despite being repeatedly summoned by investigating authorities, he neither appeared nor provided any evidence or explanation. This non-compliance was treated as a deliberate disregard of legal proceedings, making him further liable for penalty under Section 117 of the Customs Act, 1962.

34. It is observed that, for the purpose of Customs clearance of arriving passengers, a two-channel system is in operation, namely, the Green Channel for passengers not carrying dutiable goods and the Red Channel for passengers carrying dutiable goods. All passengers are mandatorily required to make a true and correct declaration of their baggage.

34.1 In the present case, I find that the noticee failed to file the requisite baggage declaration form and did not declare the gold in their possession, as required under Section 77 of the Customs Act, 1962, read with the Baggage Rules, 2016 and Regulation 3 of the Customs Baggage Declaration Regulations, 2013, as amended.

34.2 Further, Notification No. 50/2017-Customs dated 30.06.2017 defines an "eligible passenger" as a passenger of Indian origin or a passenger holding a valid passport issued under the Passports Act, 1967, who is returning to India after a stay abroad of not less than six months. It is also stipulated that short visits made during the said period shall be ignored, provided the total duration of such visits does not exceed thirty days.

34.3 On examination of the facts on record, I find that the noticee namely (i) Shri Akash Manoharlal Dengra, neither declared the impugned gold before the Customs authorities nor satisfied the conditions prescribed for an "eligible passenger" under the Notification. It is further evident that the import of the said gold was not for bona fide purposes.

34.4 Accordingly, the gold weighing 750.700 grams, which was clandestinely concealed and imported without declaration, cannot be treated as bona fide household goods or personal effects. The said acts amount to contravention of the provisions of the Foreign Trade Policy, 2015–20, and Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992, read with Sections 3(2) and 3(3) of the said Act.

35. It is evident from the foregoing discussions that the impugned gold was deliberately concealed and not declared to the Customs authorities with the sole intention of smuggling the same into India and evading payment of applicable Customs duty. The records available on file clearly establish that the passengers/noticees wilfully chose not to declare the said dutiable goods and made a conscious attempt to smuggle the impugned goods.

35.1 09 gold bars, weighing 750.700 grams, having a **Market Value of Rs.78,29,801/- and Tariff Value of Rs.70,70,228/**, were seized under panchnama dated 09.08.2025, having been clandestinely concealed in the socks wearing by him. The passenger/noticee have unequivocally admitted that, despite being aware of the legal requirement to declare such goods and the penal consequences under the Customs Act, 1962 and the rules and regulations framed thereunder, they deliberately refrained from declaring the same upon arrival, with the wilful intent to smuggle the gold into India.

35.2 In view of the above, I find that the passenger/noticee have committed acts of omission and commission rendering the goods liable to confiscation and have thereby attracted the provisions of Section 112 of the Customs Act, 1962, making them liable for penalty under the said section.

35.3 Further, the method of concealment adopted by the noticee clearly demonstrates a calculated attempt to evade detection by the Customs authorities. No documentary evidence has been produced to establish the licit import or lawful possession of the seized gold at the time of interception. From the Show Cause Notice, panchnama, and the statements recorded, it is conclusively established that the noticees had no intention to declare the impugned goods and had attempted to remove the same clandestinely with the intent to evade payment of Customs duty.

35.4 It is settled by the judgment of the Hon'ble Supreme Court in *Garg Wollen Mills (P) Ltd vs. Additional Collector of Customs, New Delhi [1998 (104) ELT 306 (SC)]* that the option to release 'prohibited goods' on payment of redemption fine is discretionary. In *Raj Grow Impex (Supra)*, the Hon'ble Supreme Court held that the exercise of discretion must be guided by law, reason, and justice, and based on relevant considerations. The Hon'ble Delhi High Court in *Raju Sharma [2020 (372) ELT 249 (Del.)]* held that the exercise of discretion by judicial or quasi-judicial authorities' merits interference only where it is perverse, tainted by patent illegality, or influenced by oblique motive. Further, in orders dated 21.08.2023 in W.P (C) Nos. 8902/2021, 9561/2021, 13131/2022, 531/2022 & 8083/2023, the Hon'ble Delhi High Court held that an infraction of a condition for import of goods falls within the ambit of Section 2(33) of the Act, and their redemption and release become subject to the discretionary power of the Adjudicating Officer.

35.5 Considering the above judicial pronouncements, the nature of concealment, and the facts of the present case, I am not inclined to exercise my discretion to permit redemption of the gold on payment of a redemption fine under Section 125 of the Customs Act, 1962.

36. Further, to support my view, I also relied upon the following judgment which are as:

36.1 Before the Kerala High Court in the case of Abdul Razak [2012(275) ELT 300 (Ker)], the petitioner had contended that under the Foreign Trade (Exemption from application of rules in certain cases) Order, 1993, gold was not a prohibited item and can be released on payment of redemption fine. The Hon'ble High Court held as under:

"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."

The case has been maintained by the Hon'ble Supreme Court in Abdul Razak Vs. Union of India 2017 (350) E.L.T. A173 (S.C.) [04-05-2012]

36.2 In the case of Samynathan Murugesan [2009 (247) ELT 21 (Mad)], the High Court upheld the absolute confiscation, ordered by the adjudicating authority, in similar facts and circumstances. Further, in the said case of smuggling of gold, the High Court of Madras in the case of Samynathan Murugesan reported at 2009 (247) ELT 21(Mad) has ruled that as the goods were prohibited and there was concealment, the Commissioner's order for absolute confiscation was upheld.

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

89. While considering a prayer for provisional release, pending adjudication, whether all the above can wholly be ignored by the authorities, enjoined with a duty, to enforce the statutory provisions, rules and notifications, in letter and spirit, in consonance with the objects and intention of the Legislature, imposing prohibitions/restrictions under the Customs Act, 1962 or under any other law, for the time being in force, we are of the view that all the authorities are bound to follow the same, wherever, prohibition or restriction is imposed, and when the word, "restriction", also means prohibition, as held by the Hon'ble Apex Court in Om Prakash Bhatia's case (cited supra).

36.4 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.

36.5 In 2019 (370) E.L.T. 1743 (G.O.I.), before the Government of India, Ministry of Finance, [Department of Revenue - Revisionary Authority]; Ms. Mallika Arya, Additional Secretary in Abdul Kalam Ammangod Kunhamu vide Order No. 17/2019-Cus., dated 07.10.2019 in F. No. 375/06/B/2017-RA stated that it is observed that C.B.I. & C. had issued instruction vide Letter F. No. 495/5/92-Cus. VI, dated 10.05.1993 wherein it has been instructed that "in respect of gold seized for non-declaration, no option to redeem the same on redemption fine under Section 125 of the Customs Act, 1962 should be given except in very trivial cases where the adjudicating authority is satisfied that there was no concealment of the gold in question".

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

*"**23.** There is no merit in the contention of learned counsel for the Petitioner that he was not aware of the gold. Petitioner was carrying the packet containing gold. The gold items were concealed inside two pieces of Medicine Sachets which were kept inside a Multi coloured zipper jute bag further kept in the Black coloured zipper hand bag that was carried by the Petitioner. The manner of concealing the gold clearly establishes knowledge of the Petitioner that the goods were liable to be confiscated under section 111 of the Act. The Adjudicating Authority has rightly held that the manner of concealment revealed his knowledge about the prohibited nature of the goods and proved his guilt knowledge/mens-rea."*

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

37. In the present case, after considering all the facts and submissions, I find that the noticee deliberately violated the law by failing to make the mandatory declaration as required under Section 11 and Section 77 of the Customs Act, 1962, and further contravened para 2.20 of the Foreign Trade Policy read with the Baggage Rules, 2016. The passengers found in possession of gold in bullion form worth Rs.78,29,801/- clearly demonstrates an intention to evade payment of Customs duty and avoid compliance with the legal obligations laid down for import of gold into India under the Customs Act, 1962 and other applicable laws.

37.1 The impugned gold was in standard form and was ingeniously concealed by the passenger in the socks wearing by him, which could be recovered only after detailed checking. The concealment was premeditated, deliberate, and designed to evade detection during routine checks and surveillance.

37.2 Accordingly, based on the foregoing discussion and findings, the gold weighing 750.700 grams of 24Kt./ 999.0 purity, in the form of 09 gold cut bars, found concealed in the socks wearing by the passenger, is liable to be confiscated absolutely. I therefore hold unequivocally that the gold weighing 750.700 grams of 24Kt./ 999.0 purity, seized under Panchnama, is liable to **absolute confiscation under Sections 111(d) and 111(l) of the Customs Act, 1962**. **Additionally, the packing materials used for concealing the gold were also considered liable for confiscation under Section 119 of the Customs Act, 1962, as they were used in the act of concealment.**

38. In regard to the imposition of penalty under Section 112 of the Customs Act, 1962, I find that in the instant case, the principle of *mens-rea* is established beyond doubt from the documentary evidence on record and the discussions above. While deciding the penalty, I also take note of the observations of the Hon'ble Apex Court in *M/s. Hindustan Steel Ltd vs. State of Orissa*, wherein it was held that:

"The discretion to impose a penalty must be exercised judicially. A penalty will ordinarily be imposed where the party acts deliberately in defiance of law, or is guilty of contumacious or dishonest conduct, or acts in conscious disregard of its obligation; but not in cases of technical or venial breach or where the breach flows from a bona fide belief that the offender is not liable to act in the manner prescribed by the statute."

38.1 Despite having full knowledge and belief that carrying the gold in question constituted an offence under the Customs Act, 1962 and the rules and regulations made thereunder, the noticee attempted to smuggle 750.700 grams of 24Kt./ 999.0 purity gold by concealing it inside the socks. It is, therefore, evident that the noticees concerned themself with carrying, removing, keeping, concealing, and dealing with the smuggled gold, which they knew, or had reason to believe, were liable for confiscation under Section 111 of the Customs Act, 1962.

38.2 The act of bringing into India goods contravening the provisions of the Customs Act and omitting to declare them under Section 77 clearly falls within the scope of Section 112(a), which covers "acts or omissions rendering goods liable to confiscation, or abets the doing or omission of such act." Further, the ingenious manner of concealment adopted by the noticee falls squarely within Section 112(b) of the Customs Act, 1962.

38.3 I also find that during the further investigation of the case, and reassess the facts, repeated summons were issued to Shri Akash Manoharlal Dengra as well as to Shri Govinda Hareshkumar Meghani and Shri Jethanand Bansilal Meghani alias Jackybhai Meghani; however, none of them appeared before the investigating officers or responded to the summons. For these omission and commission on their part, Shri Akash Manoharlal Dengra as well as to Shri Govinda Hareshkumar Meghani and Shri Jethanand Bansilal Meghani alias Jackybhai Meghani have also rendered themself liable for penalty under **Section 117** of Customs Act, 1962.

38.4 Accordingly, I find that Shri Akash Manoharlal Dengra was actively involved as a key figure in the gold smuggling operation and apprehended for attempting to smuggle 750.700 grams of 24 Kt. gold, valued at ₹78,29,801/-, by concealing it in his socks while arriving from Dubai to Ahmedabad on 9 August 2025, in violation of the Customs Act, 1962 and related regulations. Investigations revealed that Shri Govinda Hareshkumar Meghani played a key role in planning and facilitating the act by accompanying Dengra to Dubai, arranging the purchase of the gold, and offering him ₹15,000/- to carry it into India without declaration. Further, Shri Jethanand Bansilal Meghani alias Jackybhai Meghani was identified as the mastermind who financed and organized the operation, with the smuggled gold allegedly belonging to him and travel arrangements made under his direction. Accordingly, all three individuals are liable for penalties under Sections 112(a), 112(b), and 117 of the Customs Act, 1962 for abovementioned acts of commission and omission.

38.5 Thus, the said gold is liable for absolute confiscation under Sections 111(d) and 111(l) of the Customs Act, 1962. Additionally, the packing materials i.e. pair of socks worn by the passenger Shri Akash Manoharlal Dengra used for concealing the gold were also considered liable for confiscation under Section 119 of the Customs Act, 1962.

39. Accordingly, given my above findings, I pass the following Order:

<u>O R D E R</u>

i) **I Order Absolute Confiscation of** 06 Gold TT Bars and 03 Pieces of Gold Cut Bars totally weighing 750.700 grams having purity of 24Kt/999.0 and Market Value of **Rs.78,29,801/-**(Rupees Seventy Eight Lakhs Twenty Nine Thousand Eight Hundred and One Only) and Tariff Value of Rs.70,70,228/- (Rupees Seventy Lakhs Seventy Thousand Two Hundred Twenty Eight Only), found concealed inside the socks worn by Shri Akash Manoharlal Dengra, who arrived from Dubai to Ahmedabad on 09.08.2025 via Spicejet Flight No. SG-016, at Terminal-2 of SVPI Airport, Ahmedabad, Placed Under

Seizure Under Panchnama Proceedings Dated 09.08.2025 and Seizure Memo Order dated 09.08.2025, under the provision of Section 111(d) and 111(l) of the Customs Act, 1962;

ii) **I Order Absolute Confiscation of the** pair of socks used for concealment of the aforesaid six (06) Gold TT Bars and three (03) Pieces of Cut Gold Bars seized vide Seizure Memo Dated 09.08.2025, under the provision of Section 119 of the Customs Act, 1962;

iii) **I Impose a Penalty of Rs.15,00,000/- (Rupees Fifteen Lakhs Only) on Shri Akash Manoharlal Dengra** under the provisions of Section 112(a) and Section 112(b) of the Customs Act, 1962;

iv) **I Impose a Penalty of Rs.1,00,000/- (Rupees One Lakh Only) on Shri Akash Manoharlal Dengra** under the provisions of Section 117 of the Customs Act, 1962;

v) **I Impose a Penalty of Rs.15,00,000/- (Rupees Fifteen Lakhs Only) on Shri Govind Hareshkumar Meghani** under the provisions of Section 112(a) and Section 112(b) of the Customs Act, 1962;

vi) **I Impose a Penalty of Rs.1,00,000/- (Rupees One Lakh Only) on Shri Govind Hareshkumar Meghani** under the provisions of Section 117 of the Customs Act, 1962;

vii) **I Impose a Penalty of Rs.15,00,000/- (Rupees Fifteen Lakhs Only) on Shri Jethanand Bansilal Meghani** under the provisions of Section 112(a) and Section 112(b) of the Customs Act, 1962;

viii) **I Impose a Penalty of Rs.1,00,000/- (Rupees One Lakh Only) on Shri Jethanand Bansilal Meghani** under the provisions of Section 117 of the Customs Act, 1962;

40. Accordingly, the Show Cause Notice No. VIII/10-64/SVPIA-A/O&A/HQ/2025-26 dated 04.02.2026 stands disposed of.

Digitally signed by
SHREE RAM VISHNOI
Date: 23-04-2026
16:06:00

(Shri Ram Vishnoi)
Additional Commissioner
Customs, Ahmedabad

DIN: 20260471MN000000C1DE
F.No. VIII/10-64/SVPIA-A/O&A/HQ/2025-26 **Date:23.04.2026**
By Post/ E-mail

To,

1) **Shri Akash Manoharlal Dengra,**
H. No. 3, Haridarshan Flat,
Opp. Sukhramdas Darbar Kubernagar,
Ahmedabad, Gujarat- 382340

2) **Shri Govinda Hareshkumar Meghani,**
H. No, A-20, Ashram Society,
Thakkar Bapa Nagar, Ahmedabad

3) **Shri Jethanand Bansilal Meghani,**
Gate No. 2, House No. 60, Ved Bungalows,
Near Toyota Showroom,
Nana Chiloda, Ahmedabad-380009

Copy to:

(i) The Principal Commissioner of Customs, Ahmedabad (Kindly Attention to RRA)

(ii) The Deputy/Assistant Commissioner of Customs, Recovery Cell, Ahmedabad

(iii) The Deputy/Assistant Commissioner of Customs, SVPIA, Ahmedabad

(iv) The Deputy Commissioner of Customs (AIU), SVPIA, Ahmedabad

(v) The System In-Charge, Customs, HQ., Ahmedabad for uploading on the official web-site i.e. http://www.ahmedabadcustoms.gov.in

(vi) Guard File.