

OIO No: 03/ADC/SRV/SRT-AIRPT/2025-26
F. No: VIII/26-14/AIU/CUS/2024-25



प्रधान आयुक्त का कार्यालय, सीमा शुल्क , अहमदाबाद

सीमा शुल्क भवन , "पहली मंजिल ,पुराने हाईकोर्ट के सामने ,नवरंगपुरा ,अहमदाबाद – 380 009.

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DIN: 20250671MN000021212B

PREAMBLE

A	फ़ाइल संख्या/ File No.	:	VIII/26-14/AIU/CUS/2024-25
B	कारण बताओ नोटिस संख्या-तारीख / Show Cause Notice No. and Date	:	VIII/26-14/AIU/CUS/2024-25 dated 07.11.2024
C	मूल आदेश संख्या/ Order-In-Original No.	:	03/ADC/SRV/SRT-AIRPT/2025-26
D	आदेश तिथि/ Date of Order-In-Original	:	30.06.2025
E	जारी करने की तारीख/ Date of Issue	:	30.06.2025
F	द्वारा पारित/ Passed By	:	Shree Ram Vishnoi, Additional Commissioner, Customs
G	आयातक/यात्री का नाम और पता / Name and Address of Importer / Passenger	:	Smt Sayrabibi Usman Shaikh Umarsadi, Machhiwad, Bhandarwad, Tal. Pardi, Valsad, Pin-396125, Gujarat
(1)	यह प्रति उन व्यक्तियों के उपयोग के लिए निःशुल्क प्रदान की जाती है जिन्हे यह जारी की गयी है।		
(2)	कोई भी व्यक्ति इस आदेश से स्वयं को असंतुष्ट पाता है तो वह इस आदेश के विरुद्ध अपील इस आदेश की प्राप्ति की तारीख के 60 दिनों के भीतर आयुक्त कार्यालय, सीमा शुल्क अपील चौथी मंजिल, 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।		

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BRIEF FACTS OF THE CASE:

Acting on information gathered through passenger profiling and intelligence received from DRI, Surat, one passenger, namely Smt. Sayrabibi Usman Shaikh (hereinafter referred to as the "Passenger/Noticee"), aged 47 years, (D/o Shri Usman Mohammed Shaikh), resident of Umarsadi, Machhiwad, Bhandarwad, Tal. Pardi, Valsad, Pin-396125, Gujarat, having passport No. N9794347 was intercepted by the officers of the Air Intelligence Unit (AIU) (hereinafter referred to as the "officers") in the presence of *panchas*, near the green channel of the Arrival Hall of the International Terminal of the International Airport, Surat. The passenger had arrived at Surat International Airport on 05.06.2024 from Sharjah in Indigo Flight No. 6E1508 dated 05.06.2024.

2. The passenger was found to be carrying two pieces of baggage, viz one violet colour trolley bag and one pink colour purse. The officers asked the passenger whether she had anything to declare, in reply to which the passenger denied. The officers then informed the passenger that they would be conducting a personal search and a detailed examination of her baggage. The officers then offered their personal search to the passenger, but it was politely denied by the passenger. Thereafter, the officers asked the passenger whether she wanted to be searched in the presence of the Executive Magistrate or the Superintendent (Gazetted Officer) of Customs, in reply to which the passenger gave her consent to be searched before the Superintendent of Customs. Thereafter, the officer and the passenger went inside the room meant for Baby Care located in the Arrival area where the passenger was asked to remove all the metallic objects from her body and the officer scanned her body with the hand-held metal detector. However, during scanning no beep sound was heard, indicating the absence of any objectionable/metallic substance on her clothes.

3. Thereafter, the officers passed the luggage carried by the passenger through the XBIS Scanner machine and thoroughly checked the luggage after withdrawing its contents; however, nothing objectionable/prohibited goods were found during this exercise.

4. Further, the Customs officers informed the passenger that they suspected that she had concealed some prohibited goods in her body, and therefore, her X-Ray of her body was required to be conducted. Accordingly, the passenger and the Customs officers proceeded to the residence of the Chief Judicial Magistrate, Surat, and after obtaining his permission, the passenger was taken to the Sunshine Global Hospital, Surat, for CT scan/X-Ray for detection of the contraband, if any, concealed in her body. In the X-ray of Smt. Sayrabibi Usman Shaikh, 02 (two) capsules shaped shadows were seen in her body. The passenger was again taken to the residence of the Hon'ble Chief Judicial Magistrate, Surat, for seeking his permission for the removal of capsules from her body. As per the direction of the Hon'ble Chief Judicial Magistrate, the passenger was again taken to Sunshine Global Hospital, and under proper medical supervision, 02 (two) capsules, wrapped in a black packet, were recovered from her body. The gross weight of both the capsules was 740.00 grams, and the passenger stated that the two capsules contained gold in paste form. Thereafter, in the morning dated 06.06.2024, after seeking permission and order from the Hon'ble Chief Judicial Magistrate, Surat, the passenger and the Customs officers proceeded for the extraction of metal from the said two capsules, which appeared to contain gold in paste form.

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5. Thereafter, the Customs officer, along with *panchas* and the passenger proceeded to M/s AK Gold Smith, 1/3844, Nani Desai Pole, Opp Maltiben Shah Hospital, Soni Falia, Surat for melting of the capsule wherein the gold was recovered in solid form post conclusion of the melting process. Thereafter, the gold bar and the remaining ashes so obtained were collected. Thereafter, Sri Salim Jafarbhaji Daginawala, Government Approved Valuer, was called for testing and valuation of the said item at the premises of M/s AK gold Smith. After weighing the said substance on his weighing scale, the Government Approved Valuer informed that the gold bar weighing 550.940 grams, of 24 karat, has been obtained from the paste recovered from the passenger. The market value of gold bar was ascertained at Rs. 41,32,050/ (Rupees Forty-One Lakh Thirty-Two Thousand Fifty Only) and Tariff value was calculated as Rs. 35,13,267/- (Rupees Thirty-Five Lakh Thirteen Thousand Two Hundred Sixty-Seven only) as per Notification No. 36/2024-Customs-(NT) dated 16.05.2024 and Notification No. 38/2024 Customs (NT) dated 31.05.2024. Thereafter, Sri Salim Jafarbhaji Daginawala, Government Approved Valuer, issued a valuation certificate dated 06.06.2024/32. The Customs officers again sealed the gold nugget weighing 550.940 grams and handed it over to the warehouse in charge of Customs, Surat International Airport, Surat.

6. Thereupon, the above mentioned 24 kt gold nugget weighing 550.940 grams having its Market Value Rs. 41,32,050/- (Rupees Forty-One Lakh Thirty-Two Thousand Fifty Only) and its Tariff value of Rs. 35,13,267/- (Rupees Thirty-Five Lakh Thirteen Thousand Two Hundred Sixty-Seven only) recovered from the passenger, Smt. Sayrabibi Usman Shaikh was placed under seizure under the provisions of Section 110 of the Customs Act 1962 vide Seizure order dated 06.06.2024 under *Panchnama* proceedings dated 05/06.06.2024, on a reasonable belief that the said gold was smuggled into India and was liable for confiscation under provisions of the Customs Act, 1962.

7. The following documents were withdrawn from the Passenger for further investigation:

- (i) Boarding Pass, from Dubai to Surat, of Indigo Flight No. 6E1508 dated 05.06.2024, Seat No. 16A and PNR No. C1U4YD.
- (ii) Copy of Aadhar Card No. 4897 8443 9398.
- (iii) Passport No. N9794347 issued at Surat on 11.08.2016 and valid up to 10.08.2026.

8. Further, a statement of Smt. Sayrabibi Usman Shaikh was recorded on 06.06.2024 under the provision of Section 108 of the Customs Act, 1962, wherein she inter alia stated:

- “ that her address as per passport is Umarsadi, Machhiwad, Bhandarwad, Tal. Pardi, Valsad, Pin-396125, Gujarat. However, presently she is residing at 202, Mahek-B Apartment, Fulwadi, Near Madina Masjid, Katargam, Surat with her daughter; that she is engaged in profession of tailoring as well as Beauty Parlour; that she had studied upto Std.VIII; that she can read, write and understand English, Gujarati and Hindi Languages.
- that she was shown and explained the *panchnama* dated 05/06/06.2024 drawn at International Airport, Surat by the officers of Customs AIU, International Airport, Surat, which was in English and after understanding the same she put her dated signature on the *panchnama* in token of acceptance of the facts stated therein.

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- *that she had visited to Dubai and Oman two times in search of her job; she had gone to Dubai on 30.05.2024 from Surat International Airport, Surat; that the gold Bar of 24 kt recovered from her possession does not belong to her and she was not the owner of the gold brought by her. She met Mr. Salimbhai there who has some work for her and met her in the hotel room where she was staying. There he handed her the capsules and asked her to conceal the same inside her body. She concealed the capsules inside her body and the person dropped her outside Dubai International Airport. He asked her to hand over the gold to a person, who will meet her outside Surat Airport. Mr. Salimbhai further informed that the person at Surat has her mobile number/photograph and he will identify her, once she exit the Surat Airport. she had met him two-three time at Dubai, however his full name, details or mobile number was not known to her that she did not declare the said gold as she was aware that import of Gold without payment of Customs duty is an offence about that the requirement of making declaration of said gold chain before Customs.*
- *that after clearing the immigration procedures, she collected her baggage and during checkout, she was intercepted by the Customs officials and further procedures as stated in Panchnama dated 05/06.06.2024 was carried out.”*

9. LEGAL PROVISIONS RELEVANT TO THE CASE:

a) As per Para 2.27 of the Foreign Trade Policy 2023 –

“Bona-fide household goods and personal effects may be imported as part of passenger baggage as per limits, terms and conditions thereof in Baggage Rules notified by Ministry of Finance.”

b) As per Section 3(2) of the Foreign Trade (Development and Regulation) Act, 1992 –

“ the Central Government may by Order make provision for prohibiting, restricting or otherwise regulating, in all cases or in specified classes of cases and subject to such exceptions, if any, as may be made by or under the Order, the import or export of goods or services or technology.”

c) As per Section 3(3) of the Foreign Trade (Development and Regulation) Act, 1992-

“All goods to which any Order under sub-section (2) applies shall be deemed to be goods the import or export of which has been prohibited under section 11 of the Customs Act, 1962 (52 of 1962) and all the provisions of that Act shall have effect accordingly.”

d) As per Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 –

“no export or import shall be made by any person except in accordance with the provisions of this Act, the rules and orders made thereunder and the foreign trade policy for the time being in force.”

e) As per Section 11(3) of the Customs Act, 1962-

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“Any prohibition or restriction or obligation relating to import or export of any goods or class of goods or clearance thereof provided in any other law for the time being in force, or any rule or regulation made or any order or notification issued thereunder, shall be executed under the provisions of that Act only if such prohibition or restriction or obligation is notified under the provisions of this Act, subject to such exceptions, modifications or adaptations as the Central Government deems fit.”

f) As per Section 2(3) of the Customs Act, 1962 – **“baggage”** includes unaccompanied baggage but does not include motor vehicles.

g) As per Section 2(22), of Customs Act, 1962 **definition of 'goods'** includes-

- a. vessels, aircrafts and vehicles;
- b. stores;
- c. baggage;
- d. currency and negotiable instruments; and
- e. any other kind of movable property;

h) As per Section 2(33) of Customs Act 1962-

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

i) As per Section 2(39) of the Customs Act 1962 –

*“**smuggling'** in relation to any goods, means any act or omission, which will render such goods liable to confiscation under Section 111 or Section 113.”*

j) 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.”*

k) As per **Section 110** of Customs Act, 1962-

“if the proper officer has reason to believe that any goods are liable to confiscation under this Act, he may seize such goods.”

l) As per **Section 111 (d)** of the Customs Act 1962-

“Any goods which are imported or attempted to be imported or brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force shall be liable to confiscation”.

m) As per **Section 111 (i)** of the Customs Act 1962-

“Any dutiable or prohibited goods found concealed in any manner in any package either before or after the unloading thereof are liable to confiscation”.

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n) As per Section 111 (j) of the Customs Act 1962-

“Any dutiable or prohibited goods removed or attempted to be removed from a customs area or a warehouse without the permission of the proper officer or contrary to the terms of such permission are liable to confiscation”.

o) As per Section 112 of the Customs Act 1962-

“any person,

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

(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing or in any manner dealing with any goods which he know or has reason to believe are liable to confiscation under Section 111, shall be liable to penalty.”

p) As per Section 119 of Customs Act 1962,

“ any goods used for concealing smuggled goods shall also be liable for confiscation.”

q) As per Section 123 of Customs Act 1962 (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

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(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.

r) As per Customs Baggage Declaration Regulations, 2013-

“all passengers who come to India and having anything to declare or are carrying dutiable or prohibited goods shall declare their accompanied baggage in the prescribed form.”

s) As per DGFT Notification No. 36/2015-2020 dated 18.12.2019-

“Import policy of gold in any form, other than monetary gold and silver in any form, is amended from ‘Free’ to ‘Restricted’; import is allowed only through nominated agencies as notified by RBI (in case of banks) and DGFT (for other agencies)”.

10. CONTRAVENTION AND VIOLATION OF LAWS

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Further, from the above, it appeared that:

- (a) Smt. Sayrabibi Usman Shaikh had actively been involved in the instant case of smuggling of gold into India. The said passenger had improperly imported gold bar of 24 kt weighing 550.940 grams (converted from 740.00 grams of gold paste) having Market Value Rs. 41,32,050/- (Rupees Forty-One Lakh Thirty-two Thousand Fifty Only) and Tariff value of Rs. 35,13,267/- (Rupees Thirty-Five Lakh Thirteen Thousand Two Hundred Sixty-Seven only) without declaring it to the Customs, by way of concealment in- person. She concealed the gold in her body with a deliberate and mala fide intention to smuggle the said gold into India and fraudulently circumvented the restrictions and prohibitions imposed under the Customs Act, 1962 and other allied Acts, Rules and Regulations. The gold improperly imported by her with commercial considerations without declaration before the proper officer of Customs cannot be treated as bona fide household goods or personal effects. The passenger has thus contravened the Foreign Trade Policy 2023, 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 and DGFT Notification No. 36/2015 2020 dated 18.12.2019.
- (b) By not declaring the value, quantity and description of the goods imported by her, the said passenger violated the provision of Baggage Rules, 2016, read with section 77 of the Customs Act, 1962, read with Regulation 3 of Customs Baggage Declaration Regulations, 2013.
- (c) The gold improperly imported by the passenger, by concealing the same in-person without declaring it to the Customs is thus liable for confiscation under Section 111(d), (i) and (j) read with Section 2 (22), (33), (39) of the Customs Act, 1962 and further read in conjunction with Section 11(3) of the Customs Act, 1962.
- (d) Smt. Sayrabibi Usman Shaikh, by her above-described acts of omission and commission on her part has rendered herself liable to penalty under Section 112 of the Customs Act, 1962.
- (e) As per Section 123 of the Customs Act, 1962, the burden of proving that the said improperly imported gold, weighing 550.940 grams, having Market Value Rs. 41,32,050/- (Rupees Forty-One Lakh Thirty-two Thousand Fifty Only) and Tariff value of Rs. 35,13,267/- (Rupees Thirty-Five Lakh Thirteen Thousand Two Hundred Sixty-Seven only) without declaring it to the Customs, are not smuggled goods, is upon the passenger/Noticee, Smt. Sayrabibi Usman Shaikh.

11. Therefore, Smt Sayrabibi Usman Shaikh was called upon to show cause in writing to the Additional/Joint Commissioner of Customs, In-charge of Surat International Airport, Surat, having his office situated on 4th Floor, Customs House, Beside SMC Ward Office, Althan- Bhimrad Road, Althan, Surat – 395007, within thirty days from the receipt of the notice as to why:

- (i) The recovered 24 carat gold bar weighing 550.940 grams having its Market Value Rs. 41,32,050/- (Rupees Forty-One Lakh Thirty-two Thousand Fifty Only) and its Tariff value of Rs. 35,13,267/- (Rupees Thirty-Five Lakh Thirteen Thousand Two Hundred Sixty-Seven only),

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seized vide Seizure Order dated 06.06.2024 under *panchnama* proceeding dated 05/06.06.2024 should not be confiscated under Section 111(d), 111(i) and 111(j) of the Customs Act, 1962;

- (ii) A penalty should not be imposed upon her under Section 112 of the Customs Act, 1962.

12. DEFENCE REPLY

In the Show Cause Notice dated 07.11.2024 issued to the noticee, it was asked to submit the written reply/defence submission within the stipulated time. However, no reply or defence submission to the Show Cause Notice was received from the noticee within the specified time or thereafter.

13.1 RECORD OF PERSONAL HEARING

“Audi alteram partem” is an essential principle of natural justice that dictates to hear the other side before passing any order. Therefore, the opportunity to be heard in person was granted to the noticee to appear for a personal hearing on 11.03.2025, 16.05.2025 & 13.06.2025, but she failed to appear and represent her case. The letters for personal hearing were served to the noticee via speed post at the address provided by the noticee in her statement dated 06.06.2024. Further, it has been observed that no one has turned up for the personal hearing on any of the scheduled dates. In light of the foregoing, it is evident that the noticee has exhibited a clear disregard for the ongoing adjudication proceedings and has failed to submit any representation or defence in response thereto. I am of the considered view that adequate and reasonable opportunities have been afforded to the noticee in accordance with the principles of natural justice. Therefore, it would not be judicious or warranted to keep the matter pending indefinitely and consequently, I proceed to adjudicate this case **ex-parte** based on the merits of the available records.

13.2 Before proceeding further, it should be brought to attention that the Hon’ble Supreme Court, High Courts and Tribunals have held, in several judgments/decisions, that an *ex-parte* decision will not amount to a violation of the principles of Natural Justice. To fortify my stand, I rely upon the following case laws/observations made by the Hon’ble Courts and other legal fora:

a) The Hon’ble Supreme Court in the matter of **Jethmal Versus Union Of India Reported In 1999 (110) E.L.T. 379 (S.C.)**, the Hon’ble Court has observed as under;

“ Our attention was also drawn to a recent decision of this Court in A.K. Kripak v. Union of India - 1969 (2) SCC 340, where some of the rules of natural justice were formulated in Paragraph 20 of the judgment. One of these is the well known principle of audi alteram partem and it was argued that an ex parte hearing without notice violated this rule. In our opinion this rule can have no application to the facts of this case where the appellant was asked not only to send a written reply but to inform the Collector whether he wished to be heard in person or through a representative. If no reply was given or no intimation was sent to the Collector that a personal hearing was desired, the Collector would be justified in thinking that the persons notified did not desire to appear before him when the case was to be considered and could not be blamed if he were to proceed on the material before him on the basis of the allegations in the show cause notice. Clearly he could not compel appearance

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before him and giving a further notice in a case like this that the matter would be dealt with on a certain day would be an ideal formality.”

b) Hon’ble High Court of Kerala in the case of **United Oil Mills Vs. Collector Of Customs & C. Ex., Cochin Reported In 2000 (124) E.L.T. 53 (Ker.)**, the Hon’ble Court has observed that:

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

c) Hon’ble High Court of Calcutta in the case of **Kumar Jagdish Ch. Sinha Vs. Collector Of Central Excise, Calcutta Reported In 2000 (124) E.L.T. 118 (Cal.) In Civil Rule No. 128 (W) Of 1961**, decided on 13-9-1963, the Hon’ble Court has observed that:

“ Natural justice - Show cause notice - Hearing - Demand - Principles of natural justice not violated when, before making the levy under Rule 9 of Central Excise Rules, 1944, the Noticee was issued a show cause notice, his reply considered, and he was also given a personal hearing in support of his reply - Section 33 of Central Excises & Salt Act, 1944. - It has been established both in England and in India [vide N.P.T. Co. v. N.S.T. Co. (1957) S.C.R. 98 (106)], that there is no universal code of natural justice and that the nature of hearing required would depend, inter alia, upon the provisions of the statute and the rules made there under which govern the constitution of a particular body. It has also been established that where the relevant statute is silent, what is required is a minimal level of hearing, namely, that the statutory authority must ‘act in good faith and fairly listen to both sides’ [Board of Education v. Rice, (1911) A.C. 179] and, “deal with the question referred to them without bias, and give to each of the parties the opportunity of adequately presenting the case” [Local Govt. Board v. Arlidge, (1915) A.C. 120 (132)]. [para 16]”

d) Hon’ble High Court of Delhi in the case of **Saketh India Limited Vs. Union Of India Reported In 2002 (143) E.L.T. 274 (Del.)**. The Hon’ble Court has observed that:

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

e) The Hon’ble CESTAT, Mumbai, in the case of **Gopinath Chem Tech. Ltd Vs. Commissioner Of Central Excise, Ahmedabad-II Reported In 2004 (171) E.L.T. 412 (Tri. - Mumbai)**, the Hon’ble CESTAT has observed that;

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

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

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

8. Having regard to the aforesaid discussions and admitted position with regard to non-submission of reply to the SCN, we failed to appreciate the contention of the petitioner that principle of natural justice has not been complied in the instant case. Since there is efficacious alternative remedy provided in the Act itself, we hold that the instant writ application is not maintainable.

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

14. DISCUSSION AND FINDINGS

I have carefully examined the facts and circumstances of the case. Despite being afforded sufficient opportunities to submit a written reply and to appear for a personal hearing, the noticee has failed to avail of the same and has neither filed any written submissions nor appeared for the personal hearing. It is not permissible for the adjudication proceedings to remain in abeyance indefinitely, awaiting the convenience of the noticee to participate. Accordingly, I proceed to adjudicate the matter *ex parte*, based on the evidence and material available on record.

15. In the instant case, I find that the main issue to be decided is whether:

- (i) The recovered 24 carat gold bar weighing 550.940 grams having its Market Value Rs. 41,32,050/- (Rupees Forty-One Lakh Thirty-two Thousand Fifty Only) and its Tariff value of Rs. 35,13,267/- (Rupees Thirty-Five Lakh Thirteen Thousand Two Hundred Sixty-Seven only), seized vide Seizure Order dated 06.06.2024 under *panchnama* proceeding dated 05/06.06.2024 should not be confiscated under Section 111(d), 111(i) and 111(j) of the Customs Act, 1962 or otherwise;
- (ii) A penalty should not be imposed upon her under Section 112 of the Customs Act, 1962 or otherwise.

16.1 Further, I find that the *panchnama* dated 05/06.06.2024 have drawn out the fact that the noticee, who had arrived from Dubai in Indigo Flight No. 6E1508 dated 05.06.2024 was intercepted by the Air Intelligent Unit (AIU) officers, Surat International Airport, Customs, Surat on the basis of passenger profiling and an intelligence received from the DRI, Surat, near the green channel of the Arrival Hall of International Terminal of International Airport, Surat. On being asked by the noticee whether she had anything to declare, she denied. Thereafter, the officer and the passenger went inside the room meant for Baby Care located in the Arrival area, where the passenger was asked to remove all the metallic objects from her body, and the officer scanned her body with the hand-held metal detector. However, during scanning, no beep sound was heard, indicating the absence of any objectionable/metallic substance on her clothes. Thereafter, the officers passed the luggage carried by the passenger through the XBIS Scanner machine and also thoroughly checked the luggage after withdrawing its contents; however, nothing objectionable/prohibited goods were found.

16.2 Thereafter, the customs officer informed the passenger that they suspected that the passenger had concealed some prohibited goods in her body, and

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therefore, her X-ray was required. Accordingly, the Customs officers, after receiving the due permission from the Chief Judicial Magistrate, Surat, for carrying out the body X-ray of the passenger, took the passenger to Sunshine Global Hospital, Surat, for a CT scan/ X-Ray for detection of the contraband, if any, concealed in her body. In the X-ray of Smt. Sayrabibi Usman Shaikh, 02 (two) capsules shaped shadows were seen in her body. Thereafter, the passenger was again taken to the residence of the Hon'ble Chief Judicial Magistrate, Surat, for seeking his permission for the removal of capsules from her body. The Hon'ble Chief Judicial Magistrate consented to the same, and, again, the passenger was taken to Sunshine Global Hospital and, under proper medical supervision, 02(two) capsules, wrapped in a black packet, were recovered from her body. The gross weight of both the capsules was 740.00 grams, and the passenger stated that the two capsules contained gold in paste form. Thereafter, in the morning dated 06.06.2024, after seeking permission and order from the Hon'ble Chief Judicial Magistrate, Surat, the passenger and the Customs officers proceeded for the extraction of metal from the said two capsules, which appeared to contain gold in paste form.

16.3 It is also on record that the Customs officer, along with panchas and the passenger, proceeded to M/s AK Gold Smith, 1/3844, Nani Desai Pole, Opp Maltiben Shah Hospital, Soni Falia, Surat for melting of the capsule. After completion of the melting process, the gold was recovered in solid form, and subsequently, the gold bar and the remaining ashes so obtained were collected. Further, Shri Salim Jafarbai Daginawala, Government Approved Valuer was called for testing and valuation of the said item at the premises of M/s AK gold Smith who after weighing the said substance on his weighing scale, informed that the gold bar weighing 550.940 grams, of 24 karat purity has been obtained from the paste recovered from the passenger. The market value of gold bar was certified as Rs. 41,32,050/ (Rupees Forty-One Lakh Thirty-two Thousand Fifty Only) and Tariff value was calculated as Rs. 35,13,267/- (Rupees Thirty-Five Lakh Thirteen Thousand Two Hundred Sixty-Seven only) as per Notification No. 36/2024-Customs-(NT) dated 16.05.2024 and Notification No. 38/2024 Customs (NT) dated 31.05.2024. Thereafter, Shri Salim Jafarbai Daginawala, Valuer, issued a valuation certificate dated 06.06.2024/32. Thereafter, the Customs officers again sealed the gold bar weighing 550.940 grams and handed it over to the warehouse in charge, Surat International Airport, Surat.

17. Further, upon going through the SCN, I also find that the passenger/noticee had neither questioned the manner of the *panchnama* proceedings at the material time nor controverted the facts detailed in the *panchnama* during the recording of her statement. Every procedure conducted during the *panchnama* by the Officers was well-documented and made in the presence of the *panchas* and the passenger/noticee. Upon going through her statement dated 06.06.2024, I find that the culpability of the noticee is established beyond doubt from her own categorical admission that she had travelled to Dubai on 30.05.2024 and, during her stay, she came into contact with Mr. Salimbhai who entrusted her with capsules containing 24 karat gold and had instructed her to conceal the same within her body and transport it illicitly into India through Surat International Airport. It can be inferred based on the facts above, that the noticee's deliberate act of physically concealing the said gold and her failure to declare the same before the Customs authorities upon arrival, and her acknowledgment of the legal requirement to declare dutiable goods—along with her awareness that non-declaration constitutes an offence under Indian law—clearly reflects her conscious and willful involvement in the act of smuggling. Her further admission that she was

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directed to deliver the contraband gold to an unidentified individual arranged by Mr. Salimbhai, who was supposed to identify her using her photograph and contact number, evidences her role as a knowing and willing carrier for the gold smuggling syndicate. It is pertinent to note here that the noticee, in her voluntary statement, has categorically admitted that she had intentionally refrained from declaring the said gold before the Customs authorities with the deliberate intention of clearing the same illicitly and evading payment of applicable Customs duty. She has further acknowledged her awareness of the fact that smuggling of gold without payment of Customs duty constitutes an offence under the Customs law. Such willful non-declaration and conscious attempt to evade duty on the part of the noticee amounts to a clear contravention of the provisions of the Customs Act, 1962, as well as the Baggage Rules, 2016, and thereby conclusively establishes her culpability in the commission of an act of smuggling.

18. Further, I find that the noticee has clearly confessed in her voluntary statement dated 06.06.2024 that she had not declared the said gold concealed in person to the Customs authorities. Based on the foregoing discussion, I am satisfied to affirm that it is a clear case of non-declaration with an intent to smuggle the gold into India. Accordingly, there is sufficient evidence to conclude that the passenger had failed to declare the gold before the Customs Authorities on her arrival at Surat International Airport, Surat. In her statement, she has also admitted that the gold was not purchased by her and a person named Mr. Salimbhai gave her the said gold in form of capsules at Dubai and for carrying the said gold to India. Further, I find that the noticee had given her statement voluntarily under Section 108 of the Customs Act, 1962. Therefore, in view of the foregoing, it is sufficiently proven that this is a case of smuggling of gold along with non-declaration of the carried goods before Customs authorities with an intent to evade payment of Customs duty. It is also proved beyond doubt that the passenger has violated Section 77 and Section 79 of the Customs Act for import/smuggling of gold, which was not for bona fide use and has thereby violated Rule 11 of the Foreign Trade Regulation Rules 1993, and Para 2.27 of the Foreign Trade Policy 2023. Further, it is pertinent to highlight that as per Section 123 of the Customs Act, 1962, gold is a notified item and when goods notified thereunder are seized under the Customs Act, 1962, on the reasonable belief that they are smuggled goods, the burden to prove that they are not smuggled, lies on the person from whose possession the goods have been seized which the noticee has failed to establish.

19. From the facts discussed above, it is evident that the passenger/noticee had brought gold of 24 kt weighing 550.940 grams., retrieved from the gold paste in the form of capsules concealed by the noticee in-person, while arriving from Dubai to Surat, with an intention to smuggle and remove the same without payment of Customs duty, thereby rendering the gold weighing 550.940 grams, seized under *panchnama* dated 10.07.2024 liable for confiscation, under the provisions of Sections 111(d), 111(i) and 111(j) of the Customs Act, 1962. By concealing the gold in the form of capsules in her body cavity and not declaring the same before the Customs, it is established beyond doubt that the passenger/noticee had a clear intention to smuggle the gold clandestinely to evade payment of customs duty. The commission of the above act has thus made the impugned goods fall within the ambit of '**smuggling**' as defined under Section 2(39) of the Act.

20. It is pertinent to note that, for the purpose of Customs clearance of arriving international passengers, a two-channel system is in place—namely, the Green Channel for passengers not carrying dutiable or prohibited goods, and the Red

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Channel for those carrying such goods. All arriving passengers are mandatorily required to make a truthful and accurate declaration of the contents of their baggage in accordance with the applicable Customs regulations. **I find that the Noticee had not filed the baggage declaration form and had not declared the said gold which was in her possession, as envisaged under Section 77 of the Act read with the Baggage Rules and Regulation 3 of Customs Baggage Declaration Regulations, 2013 as amended** and she tried to exit through the Green Channel which shows that the noticee was trying to evade the payment of applicable customs duty. Further, I would also like to draw attention to the definition of **“eligible passenger”** provided under Notification No. 50/2017-Customs New Delhi, the 30th June, 2017 wherein it is mentioned that - “eligible passenger” means a passenger of Indian origin or a passenger holding a valid passport, issued under the Passports Act, 1967 (15 of 1967), who is coming to India after a period of not less than six months of stay abroad; and short visits, if any, made by the eligible passenger during the aforesaid period of six months shall be ignored if the total duration of stay on such visits does not exceed thirty days. It is appropriate to point out that in the instant case, the noticee has not declared the gold before Customs authorities, and the said import of gold was also for non-bona fide purposes. Therefore, the said improperly imported gold weighing 550.940 grams concealed by the passenger, without declaring it to the Customs authorities on arrival in India, cannot be treated as bona fide household goods or personal effects. I unequivocally conclude that the noticee has thus contravened the provisions governing the lawful import of gold, as stipulated under the Foreign Trade Policy, 2023, and has thereby violated the provisions of Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992, read with Sections 3(2) and 3(3) of the said Act."

21. After reviewing the foregoing, I find it conclusively proved that by the above acts of contravention, the passenger/noticee has rendered gold of 24 kt weighing 550.940 grams, retrieved from gold paste concealed in the form of capsules in person by the noticee, having total Tariff Value of Rs.35,13,267/- and market Value of Rs.41,32,050/-, seized vide Seizure order dated 06.06.2024 under *Panchnama* proceedings dated 05/06.06.2024 liable to confiscation under the provisions of Sections 111(d), 111(i) and 111(j) of the Customs Act, 1962. By adopting the modus of concealing the gold in the form of capsules in person by the noticee and without declaring to the Customs on arrival in India, it is evident that the passenger/noticee was fully aware that the import of said goods was offending in nature. It is therefore very clear that she has knowingly carried the gold and failed to declare the same to the Customs on her arrival at the Airport with an intention to clear the same illicitly without payment of Customs duty. It also stands established that she has involved herself in carrying, keeping, concealing, and dealing with the impugned goods in a manner in which she knew or had reasons to believe that they were liable to confiscation under the Customs Act. It is therefore proved beyond doubt that the noticee has committed an offence of the nature described in Section 112 of the Customs Act, 1962, making her liable for a penalty under Section 112 of the Customs Act, 1962.

22. Further, I find that the passenger/noticee has confessed to carrying gold of 24 kt weighing 550.940 grams which she had attempted to clear illicitly from Surat International Airport by concealing it in person and without declaring it to the Customs Authorities and thereby violating the Para 2.27 of the Foreign Trade Policy 2023 and Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 read with Section 3(2) and 3(3) of the Foreign Trade (Development and Regulation) Act, 1992 further read in conjunction with Section 11(3) of Customs

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Act, 1962 and the relevant provisions of Baggage Rules, 2016 and Customs Baggage Declaration Regulations, 2013. As per Section 2(33) "**prohibited goods**" means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with. The improperly imported gold by the passenger without following the due process of law and without adhering to the conditions and procedures of import has thus acquired the nature of being prohibited goods in view of Section 2(33) of the Act.

23.1 After a detailed analysis of the foregoing, I find it irrefutably established that the gold was concealed and not declared to the Customs authorities with the sole intention of evading payment of Customs duty. The records available on file indicate that the passenger/noticee, upon arrival from a foreign destination, willfully opted for clearance through the Green Channel without declaring the prohibited/dutiable goods in her possession and thereby deliberately circumvented the mandatory disclosure requirements with the willful intent to smuggle the impugned goods. The 24 kt gold bar weighing 550.940 grams, having Market Value of Rs. 41,32,050/- and Tariff Value of Rs. 35,13,267/-, retrieved from the gold paste in the form of capsules concealed in person by the noticee, was placed under seizure vide *panchnama* dated 05/06.06.2024. The passenger/noticee has confessed in her statement that despite having knowledge that the goods had to be declared and such import is an offence under the Act and Rules and Regulations made thereunder, she attempted to remove the gold by concealing it in her body and by deliberately not declaring the same on her arrival at airport with the willful intention to smuggle the impugned gold into India. I observe that the statement was signed after due verification and does not bear any material contradiction, thus holding its evidentiary value. It is, therefore, apparent that the passenger was knowingly concerned in the commission of smuggling and has rendered herself liable for penal action under Section 112(b) of the Customs Act, 1962.

23.2. Further, I rely on the following rulings from various courts, which have underscored the evidentiary value of statements recorded under Section 108 of the Customs Act, 1962:

- The Hon'ble Apex Court in the case of ***Naresh Kumar Sukhwani vs Union of India 1996(83) ELT 285(SC)*** has held that the statement made under Section 108 of the Customs Act, 1962 is a material piece of evidence collected by the Customs Officials. That material incriminates the Petitioner, inculcating him in the contravention of provisions of the Customs Act. Therefore, the statements under Section 108 of the Customs Act, 1962 can be used as substantive evidence in connecting the applicant with the act of contravention.
- In the case, ***Collector of Customs, Madras, and Ors vs. D. Bhoormull-1983 (13) ELT 1546(S.C.)***, the Hon'ble Supreme Court has held that the Department was not required to prove its case with mathematical precision. The whole circumstances of the case appearing in the case records, as well as other documents, are to be evaluated, and necessary inferences are to be drawn from these facts as otherwise it would be impossible to prove everything in a direct way.
- In the case of ***Surjeet Singh Chabra vs. UOI 1997 (84) ELT (646) SC***. Hon'ble Supreme Court held that the statement made before the Customs

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Officer though retracted within six days, is an admission and binding since Customs Officers are not Police Officers. As such, the statement tendered before Customs is valid evidence under law.

In light of the judgments cited above, I am inclined to regard the noticee's statement as material evidence in this case. The statement has sufficient evidentiary value to demonstrate that the passenger, intercepted by the Customs officers on 05.06.2024, had attempted to smuggle the gold into India. Furthermore, in view of the foregoing discussions, I find that the passenger/noticee has committed an offence of the nature described in Section 112(b) of the Customs Act, 1962, making her liable for a penalty under the provisions of Section 112 of the Customs Act, 1962.

24. Further, I find that gold is not on the list of prohibited items, but the import of the same is controlled. The view taken by the ***Hon'ble Supreme Court in the case of Om Prakash Bhatia*** however in very clear terms lay down the principle that if importation and exportation of goods are subject to certain prescribed conditions, which are to be fulfilled before or after clearance of goods, non-fulfillment of such conditions would make the goods fall within the ambit of 'prohibited goods'. This makes the gold seized in the present case "prohibited goods" as the passenger, who was trying to smuggle the same was not an eligible passenger to bring or import gold into India in her baggage. The gold recovered was found concealed in the body of the passenger in the form of capsules and was kept undeclared with an intention to smuggle the same and evade payment of customs duty. By adopting this modus, it is proved beyond doubt that the goods are offending in nature and therefore prohibited on its importation. Here, the conditions for the lawful import of gold have not been fulfilled by the passenger.

25. In view of the foregoing discussions and evidentiary material on record, I hold that the 24-karat gold bar weighing 550.940 grams, recovered in the form of capsules from the body of the noticee and deliberately not declared before the Customs authorities with the intent to illicitly clear the same and evade payment of lawful Customs duty, is liable for **absolute confiscation** under the provisions of the Customs Act, 1962. Furthermore, the manner of concealment and the circumstances surrounding its importation unequivocally establish that the said gold was brought into India by the noticee in a clandestine manner, for extraneous consideration, in furtherance of a smuggling operation. Therefore, in the instant case, **I am not inclined to use my discretion to give an option to redeem the gold on payment of the redemption fine, as envisaged under Section 125 of the Act.**

26.1 In this context, I would like to reinforce my standing by placing my reliance on the case of ***Samynathan Murugesan [2009 (247) ELT 21 (Mad)]***, wherein 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 Samyanathan 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.

26.2 Further, I would like to draw support for my stand by placing my reliance on the case of ***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

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recorded that “restriction” also means prohibition. In Para 89 of the order, it was recorded as under;

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

26.3 In this context, I find support in the favor of my standing from the views expressed by 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.)** has held that -

“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.”

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

26.5 Furthermore, guidance in this regard is also derived from the decision of the **Hon’ble High Court of Delhi in the matter of Rameshwar Tiwari Vs. Union of India (2024) 17 Centax 261 (Del.)** wherein it has been held that-

“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

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held that the manner of concealment revealed his knowledge about the prohibited nature of the goods and proved his guilt knowledge/mens-rea.”

24.....

25.....

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

27. Given the facts of the present case before me and the judgments and rulings cited above, I find that the manner of concealment, in this case, clearly shows that the noticee had attempted to smuggle the seized gold to avoid detection by the Customs Authorities. Further, no evidence has been produced to prove the licit import of the seized derived gold bar. I find that the gold was not purchased by the noticee and same has been admitted in her voluntary statement recorded before the Customs Officers. Therefore, the noticee has failed to discharge the burden placed on her in terms of Section 123. Further, upon a careful examination of the SCN, the *Panchnama* and the statement of the noticee, I am satisfied to affirm that the manner the manner adopted for concealment of gold is **‘highly ingenious’** in nature, as the noticee concealed the gold in person in the form of capsules with an intention to smuggle the same into India and evade payment of customs duty. Therefore, the 24 Kt. Gold bar weighing 550.940 grams derived from the capsules concealed in person by the noticee is liable to be **confiscated absolutely. I hold in unequivocal terms that the gold bar weighing 550.940 grams, placed under seizure vide Panchnama proceedings dated 05/06.06.2024 would be liable to absolute confiscation under Section 111(d), 111(i) and 111(j) of the Act.**

28. Further, I find that the passenger had involved herself in the act of smuggling of gold weighing 550.940 grams of 24Kt. purity, retrieved from capsules concealed inside her body. Further, it is a fact that the passenger/noticee has travelled from Dubai to Surat with the impugned gold concealed inside her body despite knowing that the gold carried by her is an offence under the provisions of the Customs Act, 1962 and the Regulations made thereunder. In regard to imposition of penalty under Section 112 of Customs Act, 1962, I find that in the instant case, the principle of **‘mens-rea’** on behalf of noticee is clearly established as the noticee concealed the gold in form of capsules in her body, which shows her malafide intention to evade the detection from the Authority and removing it illicitly from Surat Airport without payment of duty. Accordingly, while determining the quantum of penalty in the present case, I deem it appropriate to consider the *ratio decidendi* laid down by the **Hon’ble Supreme Court in the judgment of M/s. Hindustan Steel Ltd Vs. State of Orissa**; wherein the Hon’ble Apex Court observed that “The discretion to impose a penalty must be exercised judicially. A penalty will ordinarily be imposed in case where the party acts deliberately in defiance of law, or is guilty of contumacious or dishonest conduct or act in conscious disregard of its obligation; but not in cases where there is technical or venial breach of the provisions of Act 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.” In the instant case, the noticee was attempting to evade the Customs Duty by not declaring the 24kt gold weighing 550.940 grams and, hence, the identity of the goods is not established and non-declaration at the time of import is considered as an act of omission on her part. Thus, it is clear that the noticee has concerned herself with carrying, removing, keeping, concealing and dealing with the smuggled gold which she knew or had reason to believe that the same are liable for confiscation under Section 111 of the Customs Act, 1962. Therefore, I find that the passenger/noticee

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is liable for penal action under Sections 112(b) of the Customs Act, 1962 and I hold accordingly.

29. Accordingly, in the exercise of the powers vested in me as the Adjudicating Authority, I hereby issue the following order:

ORDER

(i) I order **absolute confiscation** of the 24 Karat Gold Bar weighing **550.940 grams** having Market Value of **Rs.41,32,050/-** (Rupees Forty-One Lakh Thirty-Two Thousand Fifty only) and Tariff Value **Rs.35,13,267/-** (Rupees Thirty-Five Lakh Thirteen Thousand Two Hundred Sixty-Seven only) derived from the capsules concealed in her body by the passenger/noticee Smt. Sayrabibi Usman Shaikh and placed under seizure vide Seizure order dated 06.06.2024 under *Panchnama* proceedings dated 05/06.06.2024 under Section 111(d), 111(i) and 111(j) of the Customs Act, 1962;

(ii) I impose a penalty of **Rs. 10,00,000** (Rupees Ten Lakhs Only) on Smt Sayrabibi Usman Shaikh under the provisions of Section 112(b)(i) of the Customs Act 1962.

30. Accordingly, the Show Cause Notice No. VIII/26-14/AIU/CUS/2024-25 dated 07.11.2024 stands disposed of.

(Shree Ram Vishnoi)
Additional Commissioner

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Date: 30.06.2025

DIN: 20250671MN000021212B**BY SPEED POST A.D.**

To,
Smt Sayrabibi Usman Shaikh
Umarsadi, Machhiwad, Bhandarwad,
Tal. Pardi, Valsad, PIN-396125, Gujarat.

Copy to:

1. The Principal Commissioner of Customs, Ahmedabad. (Kind Attn: RRA Section).
2. The Deputy/Assistant Commissioner of Customs (TRC), Ahmedabad.
3. The Superintendent (Recovery), Customs, Surat International Airport.
4. The System In-Charge, Customs, H.Q., Ahmedabad, for uploading on the official website (via email)
5. Guard File.