



प्रधान आयुक्त का कार्यालय, सीमा शुल्क ,अहमदाबाद
 ,”सीमाशुल्कभवन“पहलीमंजिल ,पुरानेहाईकोर्टकेसामने ,नवरंगपुरा ,अहमदाबाद- 380009
 दूरभाष :(079) 2754 4630 E-mail: cus-ahmd-adj@gov.in, फ़ैक्स :(079) 2754 2343
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PREAMBLE

A	फ़ाइल संख्या/ File No.	:	VIII/10-28/SVPIA-C/O&A/HQ/2025-26
B	कारण बताओ नोटिस संख्या-तारीख Show Cause Notice No. and Date	:	VIII/10-28/SVPIA-C/O&A/HQ/2025-26 Dated: 15.07.2025
C	मूल आदेश संख्या/ Order-In-Original No.	:	182/ADC/SRV/O&A/HQ/2025-26
D	आदेश तिथि/ Date of Order-In-Original	:	18.12.2025
E	जारी करने की तारीख/ Date of Issue	:	18.12.2025
F	द्वारा पारित/ Passed By	:	Shree Ram Vishnoi, Additional Commissioner Customs, Ahmedabad
G	आयातक का नाम और पता / Name and Address of Importer / Passenger	:	Shri Ahmed Iqbalhussain Saiyed, Panjrigar Mohalla, Cross Char Rasta, Fatehpura, Vadodara, Gujarat-390006
1	यह प्रति उन व्यक्तियों के उपयोग के लिए निःशुल्क प्रदान की जाती है जिन्हें 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।		

BRIEF FACTS OF THE CASE:

On the basis of specific intelligence that a passenger would be carrying huge foreign currency with him, the officers of Air Intelligence Unit (AIU), SVPIA, Customs Ahmedabad, intercepted a male passenger named **Shri Ahmed Iqbalhussain Saiyed** (D.O.B. 12.11.1982) (hereinafter referred to as the said "passenger/Noticee"), residing at Panjrigar Mohalla, Cross Char Rasta, Fatehpura, Vadodara-390006, Gujarat, India (address as per passport), holding an Indian Passport No.X2909152, who was about to fly to Dubai (DXB) from Ahmedabad(AMD) on 23.01.2025 via Spice Jet Flight No. SG-15, from the Boarding Gate No.08, First Floor of the departure hall of the Terminal-2 of SVPIA, Ahmedabad, without making any declaration to the Customs authority for the said currency. Further, the passenger was waiting to board the Spice Jet flight No. 15 which was scheduled to depart to Dubai, after clearing Immigration and CISF Security scanning. As the final scanning of the checked in baggage of the passengers was performed at the Level-4 located at ground floor of Terminal -02, the AIU Officers, the panchas, the passenger accompanied by Airlines staff and the CISF Officers went to the Level-4. Passenger's personal search and examination of his baggage was conducted in presence of two independent witnesses, Airlines staff and CISF Officers and the proceedings thereof were recorded under the Panchnama dated 23.01.2025.

2. The Customs officers gave their introduction to the above said passenger showing their identity card and informed him that they intend to carry out his personal search and search of his baggage. The said passenger was asked whether he wished to be searched before a Gazetted officer or Magistrate for which he agreed to being searched by a Gazetted officer. Before conducting the search, the AIU officers offered their personal search to which he politely denied by imposing faith in the officers and said that it is not necessary. Thereafter, Customs officers asked the said passenger if he is having anything to declare before Customs, in reply to which he denied.

2.1 Whereas during personal search of the passenger Shri Ahmed Iqbalhussain Saiyed, the officers recovered 1000 US Dollars from the back pocket of the pant of the passenger and on scanning the magenta colour trolley bag, the officers found suspicious image (pertaining to currency) in the x-ray machine. After removing all the items from the said magenta colour trolley bag and on examining the empty trolley bag, the officers observed that the bag has been tampered and then sealed in the sideways. Therefore, the officers teared open the side frame of the trolley bag and recovered five bundles of US Dollars separately wrapped in plastic covering, concealed by way of sticking them in between the side frame of the trolley bag. The photograph of the trolley bag and the currency recovered are as under:



3. Whereas, the Customs officers further informed that the search and preparation of detailed inventory at the current spot (i.e. Level -4 in departure area) is not convenient and therefore, it was decided to conduct the same at the AIU Office located at the Arrival Hall of Terminal-2 of the SVPI Airport and requested the said passenger to carry his baggage in as such condition. The officers along with the passenger, the panchas walked towards the office of AIU after completing the formalities of cancelling the immigration stamp and informing the CISF in the Security Hold area regarding off-loading of said passenger.

4. On reaching the AIU Office at the arrival hall of Terminal -2 building, the officers asked the passenger to remove all the metallic objects from his body/clothes and pass through the Door Frame Metal Detector placed in front of Belt No.4 near green channel at the arrival hall of Terminal-2, SVPI Airport. However, no beep sound was heard when the passenger passed through the DFMD Machine. The Officers, then in presence of the passenger and the panchas started counting the foreign currency notes recovered from the passenger and prepared a detailed inventory of the same. During counting, it was noticed that five bundles of currency notes, each containing 60 USD currency notes of each denomination of \$100, thus 6000 USD in each bundle (totaling 6000x5 = 30000 USD) were recovered and 1000 USD carried by the said passenger in person (Total 30000+1000=31000 USD).

5. The following currency in its denomination and number were found to be carried by the passenger:

Sr. No	Foreign Currency	Foreign Currency Notes	Number of Notes	Exchange Rate of One Unit of Foreign Currency Equivalent to Indian Rupees as Per Noti. No. 15/2024-Cus (N.T.) Dated 17.01.2025 (Taken as Per Exported Goods)	Value Equivalent to Indian Currency (Taken as Per Exported Goods)	Net Total Rs.
1	US Dollar	100	310	85.40	26,47,400/-	26,47,400/-

6. The value of foreign currency in Indian rupees as per exchange rate on dated 17.01.2025 was comes to **Rs.26,47,400/-**. The Custom officers asked the said passenger whether he has any receipt of purchase of foreign currency to which he said that he did not have any receipt of purchase of foreign currency.

7. The passenger was further brought to AIU office situated at Arrival Hall, Terminal-2, SVPI airport, Ahmedabad for further investigation. The following documents were withdrawn from **Shri Ahmed Iqbal Hussain Saiyed** for further investigation:

1. Copy of Passport No.X2909152 (date of issue 05.03.2024 and valid up to 04.03.2034) of Shri Ahmed Iqbal Hussain Saiyed.
2. Boarding Pass of Spice Jet Flight No. SG15 dated 23.01.2024 having Seat No. 32A from Ahmedabad to Dubai.
3. Copy of Aadhar Card No. 623551608292 of Shri Ahmed Iqbalhussain Saiyed.
4. Copy of PAN Card No, QRCPS9557P of Shri Ahmed Iqbalhussain Saiyed.

8. Thereafter, the above said total foreign currency equivalent to Indian **Rs.26,47,400/-** (Rupees Twenty Six Lacs Forty Seven Thousands and Four Hundred Only) was placed under seizure by the officers of Customs under the reasonable belief that the said foreign currency was liable for confiscation under the Customs Act, 1962 and Foreign Exchange Management Act, 1999 read with Foreign Exchange Management (Export and Import of Currency) Regulations, 2016. The detailed list of serial number of currencies was also prepared. The said foreign currency equivalent to **Rs.26,47,400/-** and the trolley bag of Magenta Colour used for packing and concealment of the said foreign currency were seized under Seizure Memo/Packing List dated 23.01.2025 in respect of case of smuggling of foreign currency booked against **Shri Ahmed Iqbalhussain Saiyed**.

STATEMENT OF SHRI AHMED IQBALHUSSAIN SAIYED:

9. A statement dated 23.01.2025 of **Shri Ahmed Iqbalhussain Saiyed** was recorded under Section 108 of the Customs Act, 1962 after issuing summons to him, wherein he inter alia stated that:

- His personal details like name, address, date of birth as mentioned in the statement are true and correct; that he is an auto rickshaw driver by occupation and his present residential address is Panjrigar-Mohalla, Cross Char Rasta, Near Kalu-Sahid Balu-Sahid Dargah, Fatehpura, Vadodara-390006 Gujarat. He also stated that he has studied upto 8th standard and his E-mail Id is ahmedsiyad147@gmail.com.

- On being asked he further stated that the purpose of his visit to Dubai was to meet his brother-in-law, Shri Qureshi Farooque Ahmed, who is staying at Diera, Dubai and to search a job as four-wheeler driver at Dubai. His brother-in-law only booked his tickets to Dubai and send it through his friend Irfanbhai, who is residing at Jamalpur, Ahmedabad.
- Regarding procurement of foreign currency, he stated that he has not bought this foreign currency i.e. US Dollars from any authorized dealer/agent and have no legitimate documents regarding procurement of foreign currency. On the direction of his brother-in-law Shri Qureshi Farooque Ahmed, he took the Magenta colour trolley bag and his air tickets from Shri Irfanbhai, friend of brother-in-law.
- He also stated that his brother-in-law promised him to give full financial support to meet his expenses at Dubai in lieu of delivery of the said Magenta color trolley bag at Dubai.
- He further admitted that he attempted to carry foreign currency illegally to Dubai, therefore, he had not disclosed and declared the foreign currency which was majorly concealed in the magenta color trolley bag to smuggle the same out of India.
- He was fully aware that carrying foreign currency in huge amount without any legitimate documents and without declaring before Customs is an offence under the provisions of the Customs Act, 1962 and that he neither filed any declaration form for declaring foreign currency to Customs nor produced any legitimate documents regarding procurement of foreign currency from any authorized currency exchanger. He also knew if the concealed foreign currency is detected by the Customs Officers, the same is liable for seizure and confiscation under the Customs Act, 1962.
- He perused the Panchnama dated 23.01.2025 and put his dated signature on it in token of having agreed with the proceedings thereof.

10. Shri Ahmed Iqbalhussain Saiyed then filed an application dated 24.01.2025 for withdrawal of his statement /reply before the Additional Chief Judicial Magistrate, Metropolitan Court, Ahmedabad. Copy of the said application was also marked to the Superintendent, Customs (AIU), SVPI Airport, Ahmedabad. In the said application, retracting to his above statement, he stated that on being asked by the Customs Officer, he himself had informed the Officers that he was carrying 310 Notes of 100 denomination of US Dollars in his trolley bag and that these foreign currency belong to him and he was carrying the same to Dubai so as to start business and buy mobile accessories, branded perfumes, blankets, ladies purses, chappals, cosmetics, etc. He also stated that he was made to sign the statement recorded in English by way of threat. On receipt of the said application and with a view to record further statement in connection to his letter/application dated 24.01.2025, three summons dated 27.5.2025, 4.6.2025 and 8.6.2025 were issued to Shri Ahmed Iqbalhussain Saiyed requesting him to appear before the investigating officer on 31.5.2025, 08.06.2025 and 16.6.2025, respectively. These summonses were sent through the mail at the given e-mail address of Shri Ahmed Iqbalhussain Saiyed and also to his advocate. However, **Shri Ahmed Iqbalhussain Saiyed** did not turn up on any of the given dates for recording of his further statement with reference to his application dated 24.01.2025. Moreover, against the retraction letter dated 24.01.2025, a rebuttal letter dated 10.07.2025 was issued to passenger denying his allegation put forth in the retraction letter dated 24.01.2025. It appears that the allegation levelled in the said letter are completely false, malicious and have been concocted in nature, to divert the investigation.

In view of the above, it appears that the noticee is merely engaging in delaying tactics to derail the investigation by not appearing before investigating officers and not submitting the documents and it appears that he has contradicts himself as on one hand he has admitted that the foreign currency was not belong to him and same was given by shri Irfanbhai, a friend of his brother in law, on direction of his brother in law Shri Qureshi Farooque Ahmed and on other hand

in retraction application, he submitted that seized foreign currency belongs to him, however not submitting any supporting documents in this regard. His failure to provide supporting documents despite repeated reminders, reflects a clear attempt to avoid accountability. This conduct further strengthens the findings of the investigation that the noticee was knowingly involved in the act of smuggling out of foreign currency in violation of Customs laws.

11. RELEVANT LEGAL PROVISIONS:

A. The Custom Act, 1962:

Section 2(22): "goods" includes (a) vessels, aircrafts and vehicles; (b) stores; (c) baggage; (d) currency and negotiable instruments; and (e) any other kind of movable property;

Section 2(33): "prohibited goods" 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;

Section 2(39): "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;

Section 11H(a): "illegal export" means the export of any goods in contravention of the provisions of the Act or any other law for the time being in force;

Section 113: Confiscation of goods attempted to be improperly exported, etc.—The following export goods shall be liable to confiscation: -

(d) any goods attempted to be exported or brought within the limits of any Customs area for the purpose of being exported, contrary to any prohibition imposed by or under the Act or any other law for the time being in force;

(e) any goods found concealed in a package which is brought within the limits of a Customs area for the purpose of exportation;

*(h) any ¹ [***] 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;*

Section 114: Penalty for attempt to export goods improperly, etc.—Any person who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 113, or abets the doing or omission of such an act, shall be liable, -

(i) in the case of goods in respect of which any prohibition is in force under the Act or any other law for the time being in force, to a penalty not exceeding three times the value of the goods as declared by the exporter or the value as determined under the Act, whichever is greater;

Section 119: Confiscation of goods used for concealing smuggled goods: Any goods used for concealing smuggled goods shall also be liable to confiscation.

Explanation: *In this section, "goods" do not include a conveyance used as a means of transport.*

Section 117: Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding ¹[four lakh rupees].

B. The Foreign Exchange Management Act, 1999:

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

Section 3. Dealing in foreign exchange, etc.—Save as otherwise provided in this Act, rules or regulations made thereunder, or with the general or special permission of the Reserve Bank, no person shall-

(a) deal in or transfer any foreign exchange or foreign security to any person not being an authorised person;

C. Notification No. FEMA-6(R)/RB-2015 dated 29/12/2015 {Foreign Exchange Management (Export and import of currency) Regulations, 2015} [Earlier Notification No. FEMA-6/RB-2000 dated 03/05/2000 {Foreign Exchange Management (Export and Import of Currency) Regulations, 2000}]:

Regulation 5: Prohibition on export and import of foreign currency: -

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

Regulation 7: Export of foreign exchange and currency notes:

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

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

a. Cheques drawn on foreign currency account maintained in accordance with Foreign Exchange Management (Foreign Currency Accounts by a person resident in India) Regulations, 2000;

b. foreign exchange obtained by him by drawal from an authorised person in accordance with the provisions of the Act or the rules or regulations or directions made or issued thereunder;

c. currency in the safes of vessels or aircrafts which has been brought into India or which has been taken on board a vessel or aircraft with the permission of the Reserve Bank;

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

a. foreign exchange possessed by him in accordance with the Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulations, 2015;

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

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

D. The Baggage Rules, 2016 (Earlier Baggage Rules, 1998 as amended from time to time):

Rule 7. Currency. - *The import and export of currency under these rules shall be governed in accordance with the provisions of the Foreign Exchange Management (Export and Import of Currency) Regulations, 2000, and the notifications issued thereunder.*

12. From the records and evidences discussed in the foregoing paras, it appears that in the instant case Foreign Currency equivalent to Indian **Rs.26,47,400/-** concealed by the passenger, Shri Ahmed Iqbalhussain Saiyed, in his magenta colour trolley bag and in his back pocket of pant, with an intent to export it out of India without having any legal procurement documents of the same and without declaring the same to the Customs. Further, Shri Ahmed Iqbalhussain Saiyed was unable to produce any legal documents showing legitimate procurement of the said seized foreign currency from any legal source during search, seizure and even investigation of the case also.

13. In terms of Foreign Exchange Management (Export and import of currency) Regulations, 2015 issued by Reserve Bank of India under Notification No. FEMA-6(R)/RB-2015 dated 29/12/2015, it appears that in terms of Regulation 5 no person shall, without the general or special permission of the Reserve Bank, export or send out of India, any foreign currency. Similarly, Regulation 7 *ibid deals with export of foreign exchange and currency notes. Regulation 7 inter alia states that "Any person may take or send out of India, - foreign exchange obtained by him by drawl from an authorized person in accordance with the provisions of the Act or the rules or regulations or directions made or issued there under.* On the basis of Regulation 7 *ibid*, a person is entitled to take or send out foreign exchange drawn from an Authorized Person in accordance with the provisions of the Act or the rules or regulations or directions made or issued there under. Whereas, during the search in person and of the baggage of Shri Ahmed Iqbalhussain Saiyed no documents with respect to foreign currency whatsoever were found which could prove the legal purchase of foreign currency recovered from him from any authorized person in terms of Regulation 7 *ibid*.

14. Further, the said passenger Shri Ahmed Iqbalhussain Saiyed was unable to produce any document evidencing a legitimate procurement of the said seized foreign currency. On the basis of the above, it appears that Shri Ahmed Iqbalhussain Saiyed carried the foreign currencies illegally and with an intent to export the same illegally in violation of the rules/regulations in force from time to time. Regulation 7(3) and 7(4) would come into force only when a proper declaration before the Customs Officer had been made.

15. In view of the discussions in forgoing paras, it appears that the seized foreign currency cannot be cleared as a part of personal baggage without having proper legal and legitimate documents. Therefore, the attempt to carry foreign currency in the baggage is considered as violation of the restrictions imposed under Foreign Exchange Management (Export and import of currency) Regulations, 2015, appears to fall under the ambit of "prohibited goods" as defined under Section 2(33) of the Customs Act, 1962. Further, in terms of Section 11H(a) of the Customs Act, 1962; the act again amounts to "Illegal export" of foreign currencies by Shri Ahmed Iqbalhussain Saiyed in as much as he failed to produce any legitimate/legal document in support of purchase of foreign currency from an authorised person at the time of interception, seizure and during the course of investigation and makes the seized currency liable for confiscation under Section 113 of Customs Act, 1962. He had admitted in his statement recorded under Section 108 of the Customs Act, 1962 that he had attempted to export the seized foreign currencies. He also admitted in his statement that he was aware that carrying foreign currency without obtained from authorised dealer is an offence and the regulation is about the same and he reiterated that he has indeed committed offence. The acts of Shri Ahmed Iqbalhussain Saiyed as discussed above has rendered him liable for penalty under Section 114(i) of the Customs Act, 1962 and Section 117 of Customs Act, 1962.

16. Hon'ble Supreme Court in the case of Om Prakash Bhatia reported at 2003 (155) ELT 423 (SC) has held that if importation and exportation of goods are subject to certain prescribed conditions, which are to be fulfilled before or after clearance of goods, goods would fall within the ambit of 'prohibited goods' if such conditions are not fulfilled. In the instant case, the foreign currencies were kept undeclared, concealed and were being carried by the passenger, are to be treated as "goods" prohibited in nature.

17. Accordingly, a Show Cause Notice was issued to the passenger i.e. Shri Ahmed Iqbalhussain Saiyed, residing at Panjrigar Mohalla, Cross Char Rasta, Near Kalu Sahid Balu Sahid Durgah, Fatepura, Vadodara-390006, as to why:

- i.** Total 310 Notes of US Dollars of 100 denomination (total amount of 31000 USD) having equivalent value in Indian **Rs.26,47,400/- (Rupees Twenty Six Lakhs Forty Seven Thousand Four Hundred Only)** attempted to smuggle out of India by way of concealing the same in the side frame of the trolley bag and in his back pocket of his pant, contrary to the prohibition imposed in terms of Notification No. FEMA-6(R)/RB-2015

dated 29/12/2015 [Foreign Exchange Management (Export and Import Currency) Regulations, 2015 read with Customs Act, 1962 and Baggage Rules, 2016 which were seized vide Panchnama dated 23.01.2025 and Seizure Memo dated 23.01.2025, should not be confiscated under Section 113(d), 113(e) & 113(h) of the Customs Act, 1962 read with the FEMA Regulations and Rule 7 of the Baggage Rules;

- ii.** The empty trolley bag of Magenta Colour used to conceal the foreign currency, seized vide Panchnama dated 23.01.2025 and Seizure Memo dated 23.01.2025 as packing and concealment material of the foreign currency attempted to be illegally exported/ smuggled, should not be confiscated under Section 119 of the Customs Act, 1962;
- iii.** Penalty under Section 114(i) of the Customs Act, 1962 should not be imposed upon him.
- iv.** Penalty under Section 117 of the Customs Act, 1962 should not be imposed upon him.

DEFENCE REPLY AND PERSONAL HEARING:

18. Noticee has not submitted any defence reply to the Show Cause Notice.

19. Noticee was given opportunity to appear for personal hearing on 30.08.2025, 16.09.2025 and 29.09.2025. However, noticee or his authorised representative not appear in personal hearing.

DISCUSSION AND FINDINGS:

20. I have carefully gone through the facts of this case and found that the noticee has neither submitted reply to show cause notice nor appear in personal hearing. I therefore proceed to decide the instant case ex-parte on the basis of evidences and documents available on record.

21. The sole issue for consideration is the proposal for confiscation of foreign currency equivalent to **Rs.26,47,400/- (Rupees Twenty Six Lakhs Forty Seven Thousands and Four Hundred Only)** attempted to be exported out of India in contrary to the provisions of Foreign Exchange Management (Export and Import of Currency) Regulations, 2000 and Rule 7 of the Baggage rules read with Customs Act, 1962 placed under seizure vide Panchnama drawn on 23.01.2025. The seizure was made under Section 110 of Customs Act, 1962 on the reasonable belief that the said foreign currency was liable for confiscation under the Customs Act, 1962 and FEMA Regulations, 2016.

22. I find that the Panchnama dated 23.01.2025 clearly draws out the fact that the passenger was intercepted by the officers of Air Intelligence Unit (AIU), SVPIA, Customs Ahmedabad, from the Boarding Gate No. 08, first floor of the departure hall of the Terminal-2 of SVPIA, was detected carrying Foreign Currency who was about to fly to Dubai (DXB) from Ahmedabad (AMD) on 23.01.2025 via Spice Jet Flight No. SG 15. As per the Panchnama, the passenger's personal search and examination of his baggage was conducted in presence of two independent witnesses, Airlines staff and CISF officers when the passenger was waiting to board the Spice Jet flight No.15, which was scheduled to depart to Dubai, by the Custom Officers. Thereafter, Customs officers asked the said passenger if he was having anything to declare before Customs, in reply to which he denied. Whereas during personal search of the passenger **Shri Ahmed Iqbalhussain Saiyed**, the officers recovered \$1000 US Dollars from the back pocket of the pant of the passenger and on scanning the Magenta colour trolley bag, the officers recovered five bundles of US Dollars separately wrapped in plastic covering, concealed by way of sticking them in between the side frame of the trolley bag. The Officers, then in presence of the passenger and the panchas started counting the foreign currency notes recovered from the passenger and found total **\$31000**. The value of foreign currency in Indian rupees as per exchange rate on dated 17.01.2025 was comes to **Rs.26,47,400/-**. The Custom officers asked the said passenger

whether he had any receipt of purchase of foreign currency to which he said he did not have any receipt of purchase of foreign currency. Thereafter, the above said total foreign currency equivalent to **Rs.26,47,400/-** (Rupees Twenty-Six Lakhs Forty-Seven Thousand and Four Hundred Only) was placed under seizure by the officers of Customs under the reasonable belief that the said foreign currency was liable for confiscation under the Customs Act, 1962 and Foreign Exchange Management Act, 1999 read with Foreign Exchange Management (Export and Import of Currency) Regulations, 2016. The said foreign currency equivalent to Rs.26,47,400/- and the trolley bag of Magenta Colour used for packing and concealment of the said foreign currency were seized under Seizure Memo/Packing List dated 23.01.2025. The passenger had accepted the correctness of the Panchnama in his deposition dated 23.01.2025 Further, every procedure conducted during the panchnama by the officers is well documented and is made in the presence of the panchas / witnesses. Therefore, it is conclusively established that the passenger had neither voluntarily come forward to declare to the Customs about possession of the said foreign currency nor had any document evidencing a legitimate procurement of the said foreign currency and it came to light only after by the officers of Air Intelligence Unit (AIU), SVPIA, Customs Ahmedabad intercepted the passenger during X-ray screening of his checked-in baggage. This act of the passenger establishes his *mens rea* beyond doubt that he tried to smuggled out the said foreign currency out of India by illegal and malafide manner.

23. I find that the said passenger Shri Ahmed Iqbalhussain Saiyed in his statement dated 23.01.2025 inter alia stated that he was an auto rickshaw driver by occupation and the purpose of his visit to Dubai was to meet his brother-in-law, Shri Qureshi Farooque Ahmed, who was staying at Diera, Dubai and to search a job as four-wheeler driver at Dubai. His brother-in-law only booked his tickets to Dubai and send it through his friend Irfanbhai, who was residing at Jamalpur, Ahmedabad. Further, regarding procurement of foreign currency, he stated that he has not bought this foreign currency i.e. US Dollars from any authorized dealer/ agent and have no legitimate documents regarding procurement of foreign currency. He stated that, he took the Magenta colour trolley bag and air tickets from Shri Irfanbhai, in the direction of his brother-in-law Shri Qureshi Farooque Ahmed. He also stated that his brother-in-law promised him to give full financial support to meet his expenses at Dubai in lieu of delivery of the said Magenta color trolley bag at Dubai. He further admitted that he attempted to carry foreign currency illegally to Dubai, therefore, he had not disclosed and declared the foreign currency which was majorly concealed in the magenta color trolley bag to smuggle the same out of India. He was fully aware that carrying foreign currency in huge amount without any legitimate documents and without declaring before Customs is an offence under the provisions of the Customs Act, 1962 and that he neither filed any Declaration form for declaring foreign currency to Customs nor produced any legitimate documents regarding procurement of foreign currency from any authorized currency exchanger. He also knew if the concealed foreign currency is detected by the Customs Officers, the same is liable for seizure and confiscation under the Customs Act, 1962. From above it is very much clear that the said passenger had not declared the said foreign currency before the Customs Authorities on his departure from at SVPI Airport, Ahmedabad, voluntarily/ 'suo-moto' as he wanted to clear it illicitly.

24. I find that the passenger Shri Ahmed Iqbalhussain Saiyed then filed an application dated 24.01.2025 for withdrawal of his statement/ reply before the Additional Chief Judicial Magistrate, Metropolitan Court, Ahmedabad and a copy of the said application was also marked to the Superintendent, Customs (AIU), SVPI Airport, Ahmedabad. In the said application, retracting to his above statement, he stated that on being asked by the Customs Officer, he himself had informed the Officers that he was carrying 310 Notes of 100 denomination of US Dollars in his trolley bag and that these foreign currency belong to him and he was carrying the same to Dubai so as to start business and buy mobile accessories, branded perfumes, blankets, ladies purses, chappals, cosmetics, etc. He also stated that he was made to sign the statement recorded in English by way of threat. I also find that, on receipt of the said application and with a view to record further statement in connection to his letter/application dated 24.01.2025,

three summons dated 27.5.2025, 4.6.2025 and 8.6.2025 were issued by the Customs Officer to Shri Ahmed Iqbalhussain Saiyed requesting him to appear before the investigating officer on 31.5.2025, 08.06.2025 and 16.6.2025, respectively. However, Shri Ahmed Iqbalhussain Saiyed did not turn up on any of the given dates for recording of his further statement with reference to his application dated 24.01.2025. Moreover, against the retraction letter dated 24.01.2025, a rebuttal letter dated 10.07.2025 was issued to passenger denying his allegation put forth in the retraction letter dated 24.01.2025. I find that the allegation levelled in the said letter are completely false, malicious and have been concocted in nature, to divert the investigation. In view of the above, it is cleared that the noticee was merely engaging in delaying tactics to derail the investigation by not appearing before investigating officers and not submitting the documents and he has contradicts himself as on one hand he has admitted that the foreign currency was not belong to him and same was given by shri Irfanbhai, a friend of his brother in law, on direction of his brother in law Shri Qureshi Farooque Ahmed and on other hand in retraction application, he submitted that seized foreign currency belongs to him, however not submitting any supporting documents in this regard. His failure to provide supporting documents despite repeated reminders, reflects a clear attempt to avoid accountability. This conduct further strengthens the findings of the investigation that the noticee was knowingly involved in the act of smuggling out of foreign currency in violation of Customs laws.

25. I find that the legal provisions for taking foreign currency out of India is very clear and does not leave any scope for any ambiguity. If the whole set of incidents is examined, first it is seen that the passenger was international passenger in a sense that he was to travel Dubai (DXB) from Ahmedabad (AMD) on 23.01.2025 via Spice Jet Flight No. SG 15. The passenger was intercepted by the officers of Air Intelligence Unit (AIU), SVPIA, Customs Ahmedabad which enables a passenger to board international flight. Thus, the passenger was bound by the Baggage Rules, 2016 framed under the Customs Act, 1962. There cannot be any denial for the applicability of Baggage Rules, 2016 in respect of the passenger.

26. Now, I find that Rule 7 of the Baggage Rules, 2016 is about currency and it lays down that the import or export of currency is governed by the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015 and Notifications issued there under. Thus, I find that there cannot be any denial in respect of the fact that regulations and notifications framed under the said Foreign Exchange Management (Export and Import of Currency) Regulations, 2015 were applicable to the passenger as he was primarily bound to follow Baggage Rules, 2016.

27. Regulation 5 read with Regulation 7 of the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015, unequivocally **prohibits the export or import of any foreign currency** except with **general or special permission** of the Reserve Bank of India (RBI).

In the present case, the passenger has **failed to produce any document whatsoever** issued by any authorised authority to establish that he was granted **special permission** by the RBI to carry the foreign currency that he attempted to take out of India. In the absence of such special permission, the passenger could only have been governed by the **general permission**, and if the general permission was not applicable, the act was **absolutely prohibited** under the said Regulations.

I find that **Regulation 7(2)(b)** of the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015 provides the **relevant general permission** applicable to the facts and circumstances of the present case. As per this provision, a person is permitted to take foreign exchange out of India **only if such foreign exchange has been obtained by drawal from an authorised person**.

However, in the instant case, the passenger has **once again failed to produce any documentary evidence** to establish that the foreign currencies recovered from his possession were drawn from any authorised dealer or

authorised source. This deliberate omission clearly demonstrates **non-compliance with the conditions of the general permission.**

Therefore, the act of the passenger in attempting to export foreign currency without establishing lawful acquisition from an authorised source constitutes a **clear and conscious violation of Rule 7 of the Baggage Rules**, read with **Regulations 5 and 7** of the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015.

28. I also find that there is a plethora of judgments in favour of release as well as against release of goods on payment of duty, redemption fine and penalty, once it is established that the goods in question comes under the ambit of “prohibited goods” as defined under Section 2(33) of Customs Act, 1962 and the act of malafide intention in relation to subject items fall within the meaning of “smuggling”, as defined under Section 2(39) of Customs Act, 1962. I find that it is a settled legal position that ratio of one case law should not be blindly applied to another case without examining the facts & circumstances of each case. The Hon’ble Supreme Court in the case of CCE, Calcutta Vs. Alnoori Tobacco Products [2004 (170) ELT 135 (SC)] has stressed the need to discuss how the facts of decision relied upon first factual situation of a given case and to exercise caution while applying the ration of one case to another. This has been reiterated in judgment in the case of Escort Ltd. Vs. CCE, Delhi [2004 (173) ELT 113 (SC)] and in case of CC (Port), Chennai Vs Toyota Kirloskar [2007 (213) ELT 4 (SC)]. In the instant case it has been established beyond doubt that the foreign currency was kept undeclared and concealed in his check-in baggages and trouser, falls within the meaning of “prohibited goods” and the act of malafide intention in relation to attempting to export concealed foreign currency falls within the meaning of “smuggling”. It is also seen that the passenger admitted that he had not bought this foreign currency i.e. US Dollars from any authorized dealer/ agent and had no legitimate documents regarding procurement of foreign currency. He stated that, he took the Magenta colour trolley bag and air tickets from Shri Irfanbhai, in the direction of his brother-in-law Shri Qureshi Farooque Ahmed. He further admitted that he attempted to carry foreign currency illegally to Dubai, therefore, he had not disclosed and declared the foreign currency which was majorly concealed in the magenta color trolley bag to smuggle the same out of India. He was fully aware that carrying foreign currency in huge amount without any legitimate documents and without declaring before Customs is an offence under the provisions of the Customs Act, 1962 and that he neither filed any Declaration form for declaring foreign currency to Customs nor produced any legitimate documents regarding procurement of foreign currency from any authorized currency exchanger. He also knew if the concealed foreign currency is detected by the Customs Officers, the same is liable for seizure and confiscation under the Customs Act, 1962. Hon’ble Supreme Court in case of Dropti Devi & Anr reported in [(2012)6 S.C.R. 307] has observed and taken a serious view of smuggling activities. The smugglers by flouting the regulations and restrictions by their misdeeds directly effect the national economy and thereby endanger the security of the country. I think their citation of various judgments have been answered.

29. Further I find that in the 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).

In the case before me, as I have recorded hereinabove, the foreign currencies were illegally procured and were attempted to be smuggled out in clear violation

of Foreign Exchange Management (Export and Import of Currency) Regulations, 2015 which required the passenger to obtain foreign currencies from authorized dealers only. The condition contained in the regulation itself has thus been violated by the passenger in the case before me which in turn makes the foreign currencies very much prohibited. I am therefore the view that the foreign currencies seized is liable for absolute confiscation.

30. Further, I find that in the case of *Samynathan Murugesan* [2009 (247) ELT 21(Mad)], the High Court upheld the absolute confiscation, ordered by the adjudicating authority and thereby allowed the departmental appeal. While upholding absolute confiscation, it was observed by the Hon'ble High Court t as under:

"...From the aforesaid definition, it can be stated that (a) if there is any prohibition of import or export of goods under the Act or any other law for the time being in force, it would be considered to be prohibited goods; and (b) this would not include any such goods in respect of which the conditions, subject to which the goods are imported or exported, have been complied with. This would mean that if the conditions prescribed for import or export of goods are not complied with, it would be considered to be prohibited goods. This would also be clear from Section 11 which empowers the Central Government to prohibit either 'absolutely' or 'subject to such conditions' to be fulfilled before or after clearance, as may be specified in the notification, the import or export of the goods of any specified description. The notification can be issued for the purposes specified in Sub-section (2). Hence, prohibition of importation or exportation could be subject to certain prescribed conditions to be fulfilled before or after clearance of goods. If conditions are not fulfilled, it may amount to prohibited goods...."

In the case before me, the export of foreign currencies is conditional, applying the ratio of the decision cite above, I do not have any qualms to hold that noncompliance of such conditions makes foreign currencies prohibited for the purpose of export. I am therefore the view that the foreign currencies in the present case are liable for absolute confiscation.

31. From the facts discussed hereinabove, it is clearly established that the passenger was carrying foreign currency notes and had attempted to export and smuggle the same out of India to Dubai. The passenger attempted to export the said foreign currency without possessing any legitimate or lawful documents issued by an authorised source, as mandatorily required under Regulations 5 and 7 of the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015.

It is pertinent to note that Section 2(22) of the Customs Act, 1962 defines the term "goods", which expressly includes currency. Therefore, foreign currency notes are squarely covered within the ambit of goods under the Act. By attempting to export foreign currency without any valid authorisation or documentary evidence of lawful acquisition, it is conclusively established that the passenger had a clear and deliberate intention to export the foreign currency clandestinely and in contravention of the statutory provisions contained in Regulations 5 and 7 of the FEMA Regulations.

I further find that the act of carrying and attempting to export foreign currency notes without legitimate purchase or drawal documents from authorised sources amounts to "illegal export" as contemplated under Section 11H(a) of the Customs Act, 1962.

Further, Section 2(33) of the Customs Act, 1962 defines "prohibited goods" as 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, unless the conditions subject to which such goods are permitted to be imported or exported have been duly complied with. In the present case, the passenger has miserably failed to comply with the mandatory conditions governing export of foreign currency.

These deliberate acts of omission and commission in respect of the subject foreign currency clearly fall within the ambit of "smuggling" as defined under Section 2(39) of the Customs Act, 1962. Accordingly, I hold that the foreign currency recovered from the passenger constitutes prohibited goods and is

therefore liable for absolute confiscation under the provisions of the Customs Act, 1962.

32. Hon'ble Supreme Court in the case of *Om Prakash Bhatia* reported at 2003 (155) ELT 423 (SC) has held that if importation and exportation of goods are subject to certain prescribed conditions, which are to be fulfilled before or after clearance of goods, goods would fall within the ambit of 'prohibited goods' if such conditions are not fulfilled. In the instant case, the foreign currencies were kept undeclared, concealed and were being carried by the passenger, are to be treated as "goods" prohibited in nature.

33. In 2014 (310) E.L.T. 231 (Mad.) the High Court of Judicature at Madras in the matter of Commissioner of Customs, Chennai Versus Savier Poonolly (Civil Miscellaneous Appeal No. 514 of 2006 & C.M.P. No. 1941 of 2006) decided on 4.9.2014, it was held that absolute confiscation of currency was justified for violation of Regulation 5 of Foreign Exchange Management (Export and Import of Currency) Regulations, 2000, read with Section 113 of Customs Act, 1962 - Though Clause 8 of Schedule III of Foreign Exchange Management (Current Account Transactions) Rules, 2000, allows release of foreign exchange, exceeding \$25,000 US for specified purposes, said drawal of foreign currency should be only from authorized person in terms of Rule 2(b) ibid hence, it cannot be said that amount not exceeding \$25,000 US may be freely taken out of India and the order of the Tribunal setting aside the absolute confiscation was set aside and the absolute confiscation ordered by the Original Authority was restored.

In the present case, Shri Ahmed Iqbalhussain Saiyed has categorically admitted that he did not purchase the subject foreign currency, namely US Dollars, from any authorised dealer or authorised agent, and that he was not in possession of any legitimate document evidencing lawful procurement of the foreign currency. He further stated that he had received the magenta-coloured trolley bag and air tickets from Shri Irfanbhai, acting on the directions of his brother-in-law, Shri Qureshi Farooque Ahmed.

The passenger has also unequivocally admitted that he attempted to illegally carry foreign currency to Dubai, and that for this reason he deliberately neither disclosed nor declared the foreign currency to the Customs authorities. The foreign currency was consciously and strategically concealed in the magenta-coloured trolley bag with the clear intention to smuggle the same out of India.

It is evident that the passenger was fully aware that carrying foreign currency in substantial quantities without legitimate documents and without declaration before Customs constitutes an offence under the provisions of the Customs Act, 1962. He has further admitted that he neither filed any declaration form for foreign currency nor produced any document to show procurement of the currency from any authorised money changer or authorised dealer. He was also conscious of the fact that, if detected by Customs officers, the concealed foreign currency would be liable to seizure and confiscation under the Customs Act, 1962.

In view of these clear admissions and the deliberate and conscious nature of the act, I hold that the foreign currency recovered from the passenger is clearly liable to absolute confiscation under the provisions of the Customs Act, 1962. Accordingly, I am not inclined to exercise discretion to grant the option of redemption of the said foreign currency on payment of a redemption fine, as contemplated under Section 125 of the Customs Act, 1962.

34. Further I find that in the case decided by the CESTAT, West Zonal Bench, Mumbai, reported at in 2018 (364) E.L.T. 1064 (Tri. - Mumbai) in respect of Aramex India Pvt. Ltd. Vs. Commissioner of Cus-II, Airport, Mumbai-II the CESTAT while imposing penalty under Section 117 of the Customs Act, 1962. In Para 9 of the order, it was recorded as under;

"9. As regards penalty-imposed under Section 117 of the Customs Act, 1962, I find that the said provisions are validly invoked in the said case as there is definitely a contravention of the provisions of Customs Act, 1962 on the part of die appellatant

herein. The contravention has to be viewed in holistic manner to hold against the appellant herein as there are violations of the Customs Act.”

Accordingly, I find that Shri Ahmed Iqbalhussain Saiyed is liable to penalty under Section 117 of the Customs Act, 1962.

35. In view of the foregoing findings, it is conclusively established that Shri Ahmed Iqbalhussain Saiyed, in blatant violation of the Baggage Rules, 2016 framed under the Customs Act, 1962, and the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015, deliberately attempted to smuggle a huge quantity of foreign currency out of India.

Further, I find that when questioned during the investigation, Shri Ahmed Iqbalhussain Saiyed falsely claimed that the foreign currency recovered from his checked-in baggage did not belong to him, despite overwhelming evidence to the contrary brought on record during the course of investigation. Such conduct clearly demonstrates an intent to mislead the investigating authorities and evade legal consequences.

It is well recognised that smuggling of foreign currency has serious and adverse repercussions on the Indian economy. The conduct of Shri Ahmed Iqbalhussain Saiyed reflects an apparent and utter disregard for the laws of the land. I further find that he did not cooperate with the investigation and made false and misleading statements, thereby aggravating the gravity of the offence.

In the present case, the existence of mens rea on the part of the passenger is clearly and unequivocally established, as evidenced by the conscious concealment of foreign currency, non-declaration to Customs, lack of lawful procurement documents, and false statements made during investigation.

By the aforesaid acts and omissions, Shri Ahmed Iqbalhussain Saiyed has rendered the subject goods liable to confiscation under the provisions of Sections 113(d), 113(e), and 113(h) of the Customs Act, 1962, read with Rule 7 of the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015, issued by the Reserve Bank of India under Notification No. FEMA 6(R)/RB-2015 dated 29.12.2015, and Rule 7 of the Baggage Rules, 2016 (earlier Baggage Rules, 1998, as amended from time to time).

Accordingly, I hold that Shri Ahmed Iqbalhussain Saiyed is liable for penal action under Section 114(i) and Section 117 of the Customs Act, 1962, and I therefore impose penalty upon him under the said provisions.

36. Accordingly, I pass the following order;

ORDER

- i I order absolute confiscation of 310 Notes of US Dollars of 100 denomination (Total \$31000 USD) having equivalent value in Indian Rs.26,47,400/- (Rupees Twenty Six Lakhs Forty Seven Thousand Four Hundred Only) attempted to smuggle out of India by way of concealing the same in the side frame of the trolley bag and in his back pocket of his pant, contrary to the prohibition imposed in terms of Notification No. FEMA 6 (R)/RB-2015 dated 29/12/2015 [Foreign Exchange Management (Export and Import Currency) Regulations, 2015 read with Customs Act, 1962 and Baggage Rules, 2016 which were seized vide Panchnama dated 23.01.2025 and Seizure Memo dated 23.01.2025, under the provisions of Section 113(d), 113(e) & 113(h) of the Customs Act, 1962 read with the FEMA Regulations and Rule 7 of the Baggage Rules, 2016;**
- ii I order absolute confiscation of the goods i.e. trolley bag of Magenta Colour used to conceal the foreign currency, seized vide Panchnama dated 23.01.2025 and Seizure Memo dated 23.01.2025 as packing and**

concealment material of the foreign currency attempted to be illegally exported/ smuggled, under the provisions of Section 119 of the Customs Act, 1962;

iii I impose a penalty of Rs.6,50,000/-(Rupees Six Lakhs Fifty Thousand Only) on Shri Ahmed Iqbalhussain Saiyed, under the provisions of Section 114(i) of the Customs Act 1962.

iv I impose a penalty of Rs.1,00,000/-(Rupees One Lakh Only) on Shri Ahmed Iqbalhussain Saiyed, under the provisions of Section 117 of the Customs Act 1962.

37. Accordingly, the Show Cause Notice No. VIII/10-28/SVPIA-C/O&A/HQ/2025-26 dated 15.07.2025 stands disposed of.

(Shree Ram Vishnoi)
Additional Commissioner
Customs, Ahmedabad

DIN: 20251271MN0000414814

F. No: VIII/10-28/SVPI-C/O&A/HQ/2022-23

By Speed Post Ad / E-Mail

Date:18.12.2025

To

Shri Ahmed Iqbalhussain Saiyed,
Panjrigar Mohalla, Cross Char Rasta,
Near Kalu Sahid Balu Sahid Durgah,
Fatepura, Vadodara-390006 (Guj.)
E-Mail ID: ahmedsiyad147@gmail.com

Copy to:

- (i) The Commissioner of Customs, Ahmedabad. (Kind Attn: RRA Section)
- (ii) The Dy. Commr. of Customs (AIU), SVPIA, Ahmedabad.
- (iii) The Dy. Commr. of Customs, SVPIA, Ahmedabad.
- (iv) The Dy./Asstt. Commissioner of Customs (TRC), Ahmedabad.
- (v) The System In charge, Customs HQ, Ahmedabad for uploading on official web-site i.e. <http://www.ahmedabadcustoms.gov.in>
- (vi) Guard File.