



## प्रधान आयुक्त का कार्यालय, सीमा शुल्क, अहमदाबाद

“सीमा शुल्क भवन,” पहली मंजिल, पुरानेहाईकोर्ट के सामने, नवरंगपुरा, अहमदाबाद – 380 009.

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### PREAMBLE

A	फाइल संख्या / File No.	:	VIII/10-12/SVPIA/O&A//2017 & VIII/10-137/SVPIA/O&A/HQ/2018
B	कारणबता ऑनोटिस संख्या-तारीख / Show Cause Notice No. and Date	:	VIII/10-12/SVPIA/O&A/2017 Dated 09.08.2017 and VIII/10-137/SVPIA/O&A/HQ/2018 Dated 04.02.2019
C	मूल आदेश संख्या / Order-In-Original No.	:	<b>01 &amp; 02/ADC/VM/O&amp;A/2024-25</b>
D	आदेश तिथि / Date of Order-In-Original	:	<b>03.04.2024</b>
E	जारी करने की तारीख / Date of Issue	:	<b>03.04.2024</b>
F	द्वारा पारित / Passed By	:	<b>Vishal Malani,</b> Additional Commissioner, Customs, Ahmedabad.
G	आयातक का नाम और पता / Name and Address of Importer / Passenger	:	(1) <b>Shri Deepak Natvarlal Soni</b> , 12, Motikunj Society, Opp. Audit Bhavan, Ishwar Bhuvan Road, Navrangpura, Ahmedabad – 380 009. (2) <b>Smt. Hansaben Natvarlal Soni</b> , 12, Motikunj Society, Opp. Audit Bhavan, Ishwar Bhuvan Road, Navrangpura, Ahmedabad – 380 009. (3) <b>Smt. Falguni Deepak Soni</b> , 12, Motikunj Society, Opp. Audit Bhavan, Ishwar Bhuvan Road, Navrangpura, Ahmedabad – 380 009. (1) <b>Shri Deepak Natvarlal Soni</b> , Suvam Ratnam, 5-6, Dwarkesh Complex, Off. C.G. Road, Ahmedabad. (2) <b>Smt. Hansaben Natvarlal Soni</b> , Suvam Ratnam, 5-6, Dwarkesh Complex, Off. C.G. Road, Ahmedabad. (3) <b>Smt. Falguni Deepak Soni</b> , Suvam Ratnam, 5-6, Dwarkesh Complex, Off. C.G. Road, Ahmedabad.
(1)	यह प्रति व्यक्ति के उपयोग के लिए निःशुल्क प्रदान किया जाता है जिन्हे यह जारी किया जाता है।		
(2)	कोई भी व्यक्ति इस आदेश से स्वयं को असंतुष्ट पाता है तो वह इस आदेश के विरुद्ध अपील इस आदेश की प्राप्त किया तारीख के 60 दिनों के भीतर आयुक्त कार्यालय, सीमा शुल्क (अपील), छवि मंजिल, हुड़को अवन, ईश्वर भुवन मार्ग, नवरंगपुरा, अहमदाबाद में कर सकता है।		

(3)	अपील के साथ केवल पांच (5.00) रुपये पे न्यायलय 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 साथकेवल पांच (5.00) रुपये पे न्यायलय शुल्क टिकिट लगा होना चाहिए।
(4)	इस आदेश के विरुद्ध अपील करने इच्छुक व्यक्ति को ७.५% अधिकतम १० करोड़ शुल्क हम करना होगा जहां शुल्क या ड्रूटी 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, १९६२ के धरा १२९ के प्रावधानों का अनुपालन नहीं करने के लिए अपील को खारिज कर दिया जायेगा।

**Brief facts of the case :**

Three passengers, viz. (1) Shri Deepak Natvarlal Soni, (2) Smt. Hansaben Natvarlal Soni and (3) Smt. Falguni Deepak Soni arrived from Sharjah to Ahmedabad on 11.02.2017. On suspicion, the passengers were intercepted and baggage of the passengers were checked. On checking their baggage, two iPhone 7 Plus 256 GB valued at Rs.1,27,300/- along with gold articles/ jewellery was recovered.

**2. Shri Deepak Soni**, one of the passengers and Noticee, was asked to pass through the DFMD machine and while passing through the DFMD, a beep sound was heard indicating there was some metallic substance on his body/ cloth. On sustained interrogation, Shri Deepak Soni removed his belt admitting that the Buckle of the belt was made of gold and rhodium coating. He further removed two chains of yellow metal which was worn in his neck and one Kada of yellow metal from his pant pockets.

**3. Smt. Hansaben Soni**, one of the passengers and Noticee, was also asked to pass through the DFMD machine and while passing through the DFMD, a beep sound was heard indicating there was some metallic substance on her body/ cloth. On sustained interrogation, Smt. Hansaben Soni removed two chains and two bangles worn by her and also four pieces of raw bangles of yellow metal and four ornament sets of yellow metal from handkerchief/ polythene bags concealed in her undergarments.

4. **Smt. Falguni Soni**, one of the passengers and Noticee, was also put through the DFMD, where a beep sound was heard indicating the presence of metallic substances in her body. On sustained interrogation, Smt. Falguni Soni removed two chains and four bangles worn by her and also four pieces of crude gold bangles made of yellow metal and five ornament sets of yellow metal (each having one neck piece and two ear pieces) from polythene bags concealed in her undergarments.

5. The Government Approved Valuer after testing and valuation of the said yellow metal, informed that the yellow metal was made of pure gold having purity of 22 Kt. (916). The report indicated that four (4) pieces of gold items recovered from Shri Deepak Soni weighed **448.260** grams having market value of **Rs.12,12,095/-** and tariff value of **Rs.10,90,540/-**; 20 pieces of gold items recovered from Smt. Hansaben Soni weighed **565.100** gams having market value of **Rs.15,28,030/-** and tariff value of **Rs.13,74,792/-**; and 25 pieces of gold items recovered from Smt. Falguni Soni weighed **741.050** grams having market value of **Rs.20,03,799/-** and tariff value of **Rs.18,02,849/-**. All the gold items were having purity of 22 Kt. (916).

6. In view of the above, a Show Cause Notice was issued to all the three Noticees, alleging that -

In case of Shri Deepak Natvarlal Soni -

- (i) two gold chains, one gold kada and one gold buckle, totally weighing **448.260** grams having tariff value of **Rs.10,90,540/-** and market value of **Rs.12,12,095/-**, seized vide Panchnama drawn on 11.02.2017, is liable to be confiscated under the provisions of Section 111(d), 111(i), 111(l) & 111(m) of the Customs Act, 1962;
- (ii) **2 Apple i-phones** 7 plus 256 GB mobile phones valued at **Rs.1,27,300/-** seized vide Panchnama drawn on 11.02.2017, is liable to be confiscated under the provisions of Section 111(d), 111(i), 111(l) & 111(m) of the Customs Act, 1962;

- (iii) Penalty should not be imposed upon the passenger under Sections 112 (a) and 112 (b) of the Act; and
- (iv) Penalty should not be imposed upon the passenger under Section 114AA of the Act.

In case of Smt. Hansaben Soni -

- (i) two gold chains, 2 bangles, 4 pieces of raw bangles and 4 ornament sets (2 sets containing one neck piece + two ear pieces and 2 sets containing one pendant + two ear piece each) totally weighing **565.100** grams having tariff value of **Rs.13,74,792/-** and market value of **Rs.15,28,030/-** seized vide Panchnama drawn on 11.02.2017, under the under the provisions of Section 111(d), 111(i), 111(l) & 111(m) of the Customs Act, 1962;
- (ii) Penalty should not be imposed upon the passenger under Sections 112 (a) and 112 (b) of the Act; and
- (iii) Penalty should not be imposed upon the passenger under Section 114AA of the Act.

In case of Smt. Falguni Soni -

- (i) two gold chains, 4 bangles, 4 pieces of crude gold bangles and 5 ornament sets (each one containing one neck piece + two ear pieces) totally weighing **741.050** grams, having tariff value of **Rs.18,02,849/-** and market value of **Rs.20,03,799/-** seized vide Panchnama drawn on 11.02.2017, under the under the provisions of Section 111(d), 111(i), 111(l) & 111(m) of the Customs Act, 1962;
- (ii) Penalty should not be imposed upon the passenger under Sections 112 (a) and 112 (b) of the Act; and
- (iii) Penalty should not be imposed upon the passenger under Section 114AA of the Act.

7. The said Show Cause Notice was served by dropping the same in the presence of two independent Panchas, inside the residence of Shri Deepak Soni on 10.08.2017 through grill, as it was not feasible to affix the show cause notice dated 09.08.2017 on the wall of

residence due to heavy rains. The show cause notice was also affixed on the Notice Board of the Custom House on 10.08.2017 in terms of provisions of Section 153(b) of the Customs Act, 1962.

**8.** Accordingly, the said Show Cause Notice was adjudicated by the Additional Commissioner of Customs, Ahmedabad, vide Order-in-Original No. 19/ADC-MSC/SVPIA/O&A/2018-19 dated 30.07.2018 wherein the Additional Commissioner passed order as under:

- (i) I order absolute confiscation of two gold chains, one gold kada and one gold buckle, totally weighing **448.260** grams recovered from **Shri Deepak Soni** having tariff value of **Rs.10,90,540/-** and market value of **Rs.12,12,095/-**, seized vide Panchnama drawn on 11.02.2017, under the provisions of Section 111(d), 111(i), 111(l) & 111(m) of the Customs Act, 1962;
- (ii) I order absolute confiscation of two gold chains, two gold bangles, 4 pieces of raw gold bangles and 4 ornament sets made of gold (2 sets containing one neck piece + two ear piece + 2 sets containing one pendent + two ear piece each), totally weighing **565.100** grams recovered from **Smt. Hansaben Soni**, having tariff value of **Rs.13,74,792/-** and market value of **Rs.15,28,030/-**, seized vide Panchnama drawn on 11.02.2017, under the provisions of Section 111(d), 111(i), 111(l) & 111(m) of the Customs Act, 1962;
- (iii) I order absolute confiscation of two gold chains, four gold bangles, 4 pieces of crude gold bangles and 5 ornament sets made of gold (each one containing one neck piece + two ear pieces) totally weighing **741.050** grams recovered from Smt. Falguni Soni, having tariff value of **Rs.18,02,849/-** and market value of **Rs.20,03,799/-** seized vide Panchnama drawn on 11.02.2017, under the provisions of Section 111(d), 111(i), 111(l) & 111(m) of the Customs Act, 1962;
- (iv) I order absolute confiscation of 2 Apple iPhones 7 Plus 256 GB valued at Rs.1,27,300/- seized vide Panchnama drawn on

11.02.2017, under the under the provisions of Section 111(d), 111(i), 111(l) & 111(m) of the Customs Act, 1962;

- (v) I impose a penalty of Rs.5,00,000/- (Rupees Five Lakhs only) on Shri Deepak Soni under the provisions of Sections 112(a) & (b) of the Act;
- (vi) I impose a penalty of Rs.10,00,000/- (Rupees Ten Lakhs only) on Shri Deepak Soni under the provisions of Sections 114AA of the Act;
- (vii) I impose a penalty of Rs.5,50,000/- (Rupees Five Lakhs Fifty Thousand only) on Smt. Hansaben Soni under the provisions of Sections 112(a) & (b) of the Act;
- (viii) I impose a penalty of Rs.7,00,000/- (Rupees Seven Lakhs only) on Smt. Hansaben Soni, under the provisions of Sections 114AA of the Act;
- (ix) I impose a penalty of Rs.7,00,000/- (Rupees Seven Lakhs only) on Smt. Falguni Soni, under the provisions of Sections 112(a) & 112(b) of the Act;
- (x) I impose a penalty of Rs.9,00,000/- (Rupees Nine Lakhs only) on Smt. Falguni Soni, under the provisions of Sections 114AA of the Act.

In the meantime, i.e. after issuance of show cause notice dated 09.08.2017 and adjudication order dated 30.07.2018, the said passengers filed Special Civil Application No. 17472 dated 22.09.2017, before the Hon'ble High Court of Gujarat.

**9.** The Hon'ble High Court of Gujarat vide its Oral Order dated 10.09.2018, in Para 15, passed the following order:

**"15. As conjoint reading of the above, we are of the considered view of that action of respondent authorities in not returning the goods seized upon failure to comply with Sections 110(2), 124 and 153 of the Customs Act, is illegal and we allow this writ petition by directing the respondent Nos. 2 and 3 herein to return to the petitioners within 8 weeks from today all gold ornaments/ gold items and two apple I-phones seized under Panchnama dated**

**11.02.2017 unconditionally subject to adjudication process to be carried out a fresh in accordance with law."**

**10.** In compliance of the order of the Hon'ble High Court of Gujarat, the gold items and two apple iPhones were released on 31.10.2018 by the Assistant Commissioner of Customs, SVPIA, Ahmedabad. The passengers did not pay duty at the time of such release of the gold items and iPhones though they were imported in violation of the Customs Act, 1962.

**11.** Since the goods in question were brought inside India from a foreign destination by the way of smuggling, the same still is 'import' as per the definition of import given in Section 2 (23) of the Customs Act, 1962. The gold items and iPhones were brought into India by the passengers travelling by Air Arabia Flight No. G9-483 as passenger baggage and hence the same are classifiable under the Customs Tariff Head No. 98030000 and subject to the duty at the rate of 35% ad valorem under the first Schedule to the Customs Tariff Act, 1975 as notified vide Notification No. 26/2016-Cus dated 31.03.2016.

**12.** Since there is nothing on record which suggest that the appropriate duty was paid by the passengers and the fact that the said passengers have not paid the duty at the time of taking possession of the gold items and iPhones subsequent to order of the Hon'ble High Court of Gujarat to release the goods. It appeared that the duty on any goods brought into India from any foreign destination is statutory obligation and the same is required to be paid by the person importing such goods unless exemption from payment of duty is granted by the Government. The Customs duty not paid by the passengers is required to be recovered by invoking the provisions of Section 28(1) of the Customs Act, 1962.

**13.** Therefore, a Show Cause Notice bearing F. No. VIII/10-137/SVPIA/O&A/HQ/2018 dated 04.02.2019 was issued to all the three passengers as to why :

In case of Shri Deepak Natvarlal Soni –

- (i) Customs duty amounting to Rs.3,93,140/- (Rupees Three Lakhs Ninety-Three Thousand One Hundred Forty only) should not be imposed on seized gold totally weighing 448.260 grams having tariff value of Rs.10,90,540/- and market value of Rs.12,12,095/- placed under seizure vide Panchnama dated 11.02.2017 and released subsequent to order dated 10.09.2018 pronounced by the Hon'ble High Court of Gujarat in SCA No. 17472 or 2017;
- (ii) Customs duty amounting to Rs.45,892.00 (Rupees Forty Five Lakhs Eight Hundred Ninety-Two only) should not be imposed on two apple iPhones 7 plus 256 GB mobile phones valued at Rs.1,27,300/- placed under seizure vide Panchnama dated 11.02.2017 and released subsequent to order dated 10.09.2018 pronounced by the Hon'ble High Court of Gujarat in SCA No. 17472 of 2017.

In case of Smt. Hansaben Natvarlal Soni –

- (i) Customs duty amounting to Rs.4,95,613.00 (Rupees Four Lakhs Ninety-Five Thousand Six Hundred and Thirteen only) should not be demanded and recovered under Section 28(1) of the Customs Act, 1962 on the seized gold totally weighing 565.100 grams having tariff value of Rs.13,74,792/- and a market value of Rs.15,28,030/- placed under seizure vide Panchnama dated 11.02.2017 and released subsequent to order dated 10.09.2018 pronounced by the Hon'ble High Court of Gujarat in SCA No. 17472 of 2017.

In case of Smt. Falguni Deepak Natvarlal Soni –

- (i) Customs duty amounting to Rs.6,49,927.00 (Rupees Six Lakhs Fourty-Nine Thousand Nine Hundred Twenty-Seven only) should not be demanded and recovered under Section 28(1) of the Customs Act, 1962 and recovered on the seized gold totally weighing 565.100

grams having tariff value of Rs.13,74,792/- and a market value of Rs.15,28,030/- placed under seizure vide Panchnama dated 11.02.2017 and released subsequent to order dated 10.09.2018 pronounced by the Hon'ble High Court of Gujarat in SCA No. 17472 of 2017.

**14.** The Department preferred Special Leave Petition (CIVIL), in the Hon'ble Supreme Court of India, Diary No (s) 11161/2019 against the above referred order of the Hon'ble Gujarat High Court. The Hon'ble Supreme Court dismissed the said Petition, vide its Order dated 03.01.2024. The Hon'ble Supreme Court ordered as follows:

*"Delay Condoned.*

*Heard the learned counsel appearing for the petitioners.*

*We are not inclined to interfere with the impugned judgement and order passed by the High Court. Hence, the Special Leave Petition is dismissed. However, question of law, if any, is kept open."*

**15.** In view of the ongoing Special Leave Petition (CIVIL), in the Hon'ble Supreme Court of India, Diary No (s) 11161/2019, the case was transferred to Call Book and retrieved from Call Book on 30.01.2024 for undertaking fresh adjudication proceedings as per the directions of the Hon'ble High Court of Gujarat (supra).

#### **PERSONAL HEARING:**

**16.** Personal Hearing in this case was fixed on 20.02.2024, 29.02.2024, 13.03.2024 and 28.03.2024. None of the Noticees appeared for personal hearing on the given dates. However, the letters for personal hearing sent to the Noticees have been returned by the Postal Authority with a remark "Left".

## DISCUSSION & FINDINGS

**17.** I have carefully gone through the facts of this case. Ample opportunities were given to the Noticees for personal hearing but they do not appear for it and I therefore proceed to decide the instant case on the basis of evidences and documents available on record. I have also gone through the Oral Order dated 10.09.2018 passed by the Hon'ble high Court of Gujarat wherein the case has been remitted to pass a fresh speaking order with a direction to ascertain the facts, examine the documents, submission and case laws relied upon by the appellants and provisions of law. Further, judicial discipline, principal of natural justice and legal provisions should be followed while passing fresh order. I, therefore, proceed to decide both the Show Cause Notices, i.e. VIII/10-12/SVPIA/O&A/2017 Dated 09.08.2017 and VIII/10-137/SVPIA/O&A/HQ/2018 Dated 04.02.2019.

**18.** I have carefully gone through the two Show Cause Notices, relevant case records. Since both the Show Cause Notices, referred above have emanated from a common investigation, I proceed to examine the merits of these Show Cause Notices together. The issues for consideration in these two Show Cause Notices before me are as under:

**19.** In the instant case I find that the main issues that are to be decided is whether 4 pieces of gold items recovered from Shri Deepak Soni weighed **448.260** grams having market value of **Rs.12,12,095/-** and tariff value of **Rs.10,90,540/-**; 2 Apple i-phones 7 plus 256 GB valued at Rs.1,27,300/-; 20 pieces of gold items recovered from Smt. Hansaben Soni weighed **565.100** gams having market value of **Rs.15,28,030/-** and tariff value of **Rs.13,74,792/-**; and 25 pieces of gold items recovered from Smt. Falguni Soni weighed **741.050** grams having market value of **Rs.20,03,799/-** and tariff value of **Rs.18,02,849/-**brought in by the passengers which was placed under seizure vide Panchnama drawn on 11.02.2017 on the reasonable belief that the said goods were smuggled into India, are liable for confiscation under Section 111 of the Customs Act, 1962 (herein after referred to as "the Act") or not and whether the passenger is liable for penalty under Section 112 (a), 112 (b) and 114AA of the Act. The gold items totally weighing 1754.410 grams having tariff value of

Rs.42,68,181/- and market value of Rs.47,43,924/- having purity of 22kt. (916).

**20.** I find that the Panchnama clearly draws out the fact that the passengers were intercepted and on suspicion, personal search of the passengers and their baggage was conducted. The passengers did not declare the gold and denied to have dutiable goods. The passengers were asked to pass through the Door Frame Metal Detector (DFMD), and while passing through the DFMD, the Customs officers recovered 2 apple i-phones valued at Rs.1,27,300/- and the above referred gold items, i.e. totally weighing **1754.410 grams** having tariff value of **Rs.42,68,181/-** and market value of **Rs.47,43,924/-** having purity of 22kt. (916) from all three passengers. It is on record that the passengers had admitted that they were carrying gold & iPhone which was intended to smuggle without declaring before the Customs Officers. It is also on record that the government approved valuer had tested and certified these gold items totally weighing 1754.410 grams having tariff value of Rs.42,68,181/- and market value of Rs.47,43,924/- having purity of 22kt. (916), which was placed under seizure order and Panchnama both dated 11.02.2017, in the presence of the passenger and Panchas.

**21.** I find that it is quite clear that the passengers have neither questioned the manner of the Panchnama proceedings at the material time nor controverted the facts detailed in the Panchnama during the course of recording of their statements. Every procedure conducted during the Panchnama by the Officers was well documented and made in the presence of the Panchas as well as the passengers. The passengers have not dislodged any of the facts narrated in their deposition. In fact, in their respective statements, they have clearly admitted that they had intentionally kept undeclared gold items (supra) and had not declared the same on their arrival before the Customs with an intent to clear them illicitly and evade payment of Customs duty and thereby, violated provisions of Customs Act, the Baggage Rules, the Foreign Trade (Development & Regulations) Act, 1992, the Foreign Trade (Development & Regulations) Rules, 1993 and the Foreign Trade Policy 2015-2020.

**22.** Further, all the 3 passengers have accepted that they had not declared the gold/ iPhone on their arrival to the Customs authorities in order to evade payment of Customs duty. It is clear case of non-declaration with an intent to smuggle the gold. Accordingly, there is sufficient evidence to say that the passengers had kept the gold/ iPhone which was in their possession and failed to declare the same before the Customs Authorities on their arrival at SVPIA, Ahmedabad. The case of smuggling of gold recovered from their possession and which was kept undeclared with intent of clear the same and in order to evade payment of Customs duty is conclusively proved. Thus, it is proved that passengers violated Section 77, Section 79 of the Customs Act for import/ smuggling of gold/ iPhone which were not for bonafide use and thereby violated Rule 11 of the Foreign Trade Regulation Rules 1993, and para 2.26 of the Foreign Trade Policy 2015-20. Further as per Section 123 of the Customs Act, 1962, gold/ iPhone 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, shall be on the person from whose possession the goods have been seized.

**23.** From the facts discussed above, it is evident that the passengers had imported gold items & iPhone with an intention to clear the same without payment of Customs duty, thereby rendering the gold totally weighing 1754.410 Grams, liable for confiscation, under the provisions of Sections 111(d), 111(i), 111(l) & 111(m) of the Customs Act, 1962. By concealing/ hiding the gold/ iPhone and not declaring before the Customs, it is established that the passengers had a clear intention to clear the gold/ iPhone clandestinely with the deliberate intention to evade payment of Customs duty. The commission of above act made the impugned goods fall within the ambit of 'smuggling' as defined under Section 2(39) of the Act.

**24.** It is seen that the passenger had not filed the baggage declaration form and had not declared the gold/ iPhone which was in their possession, as envisaged under Section 77 of the Act read with the Baggage Rules and Regulation 3 of Customs Baggage Declaration Regulations, 2013.

**25.** I find that the Noticees had carried gold totally weighing 1754.41 grams, having market value of Rs.47,43,924/- and tariff value of Rs.42,68,181/- and 2 apple iPhones 7 Plus 256GB, involving total Customs Duty of Rs.15,84,572/- as detailed above and had not declared the same in the baggage declaration as required under Section 77 of the Customs Act, 1962. The said quantity of 1754.41 kgs. of gold the discussions have been made hereinabove and I have already found that the same is liable for confiscation in terms of the provisions of Sections 111(d), 111(i), 111(l) and 111(m) of the Customs Act, 1962.

**26.** Further, Section 125(1) of the Customs Act, 1962 stipulates that in the case of import of prohibited goods, the officer adjudging the confiscation of goods may give an option to pay fine in lieu of confiscation. Further, Section 125(2) of the Customs Act, 1962 stipulates that in cases where fine in lieu of confiscation of goods is imposed, the Customs Duty payable on such goods shall be paid in addition to the redemption fine. The relevant text of the said statute is reproduced under for ease of reference:

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

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

**27.** In the instant case, I have already come to the conclusion that redemption fine is imposable on the entire quantity of 1754.41 grams of gold and 2 apple iPhones 7 Plus 256 GB carried by the Noticees in India. Further, the said goods have been found to have been smuggled in India. Thus, by virtue of the provisions of Section 125(2) of the Customs Act, 1962, the Customs Duty leviable on such quantity totally

weighing 1754.41 grams, having market value of Rs.47,43,924/- and tariff value of Rs.42,68,181/-, involving total Customs Duty of Rs.15,84,572/-, is required to be demanded and recovered along with applicable interest in terms of the provisions of Section 28AA of the Customs Act, 1962.

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

**29.** The Hon'ble Gujarat High Court, vide its oral order dated 10.09.2018 remitted the case back with direction to return the petitioners within 8 weeks of from today all gold ornaments/ gold items and two apple iPhones seized under Panchnamā dated 11.02.2017 unconditionally subject to adjudication process to be carried out afresh in accordance with law.

**30.** I find that in the case of Ashok Kumar Verma reported at 2019 (369) ELT 1677 (G0I), the Revisionary Authority set aside the order of absolute confiscation noting that gold was not a prohibited item under the Customs Act, 1962. The Revisionary Authority in Para 4 observed as under:

*.... While there is no dispute in this case that the gold brought by the applicant from Sharjah is liable for confiscation because he did not follow the proper procedure for import thereof in India and attempted to smuggle it without payment of customs duties, it is beyond any doubt that the gold is not a prohibited item under Customs Act. The Hon'ble Madras High Court, in its decision in the case of T. Elavarasan v. CC (Airport), Chennai, 2011 (266) E.L.T. 167 (Mad.), has held that gold is not a prohibited goods and a mandatory option is available to the owner of the goods to redeem the confiscated gold on payment of fine under Section 125 of Customs Act, 1962. Even the Hon'ble High Court of*

*Andhra Pradesh in the case of Shaikh Jamal Basha v. GOI, 1997 (91) E.L.T. 1277 (A.P.), has also held that as per Rule 9 of Baggage Rules, 1979 read with Appendix-B, gold in any form other than ornament could be imported on payment of customs duty only and if the same was imported unauthorisedly the option to owner of the gold is to be given for redemption of the confiscated gold on payment of fine. In fact, the Commissioner (Appeals), Delhi and the Government of India have consistently held the same view in a large number of cases that gold is not prohibited goods as it is not specifically notified by the Government.*

**31.** I also find that in order no: 245/2021-CUS9WZ)/ASAR/MUMBAI dated 29.09.2021 in case of Shri Memon Anjum, the Revisionary Authority set aside the order of absolute confiscation. The Revisionary Authority in Para 14 observed as under:

*"Government notes that there is no past history of such offence/violation vt the applicant. The part of impugned gold jewellery was concealed but this at times is resorted to by travellers with a view to keep the precious goods secure and safe. The quantity/type of gold being in form of gold chain and 3 rings is jewellery and is not commercial in nature. Under the circumstance, the Government opines that the order of absolute confiscation in the impugned case is in excess and unjustified. The order of the Appellate authority is therefore liable to be set aside and the goods are liable to be allowed redemption on suitable redemption fine and penalty."*

**32.** In case of Mohd. Hussain Ayub Chilwan reported in 2017 (358) ELT 1275 (Commr. Appl.) Mumbai III, the passenger brought 232 grams of gold bars on his arrival from Kuwait on 22.11.2013 and produced purchase invoice for the gold brought by him for his sister's marriage. Commr. (A) has set aside the order of absolute confiscation and at para 11 of the order observed that, the passenger was working abroad, had produced purchase invoice and was not a carrier bringing the gold for consideration. He allowed redemption noting that gold is not an item of import of which any circumstances would danger or be detriment to health, welfare or moral of people as a whole and therefore liable to be release on payment of redemption fine.

**33.** I find that this issue of re-demption of gold has travelled through various appellate fora. I find that in the following cases, Hon'ble Supreme Courts, High Courts, the appellate fora allowed redemption of seized goods;

- i. Sapna Sanjeev Kohli vs. Commissioner – 2010 (253) E.L.T. A52 (S.C.).

- ii Union of India vs. Dhanak M Ramji – 2010 (252) E. L. T. A102 (S.C.).
- iii Shaikh Jamal Basha Vs. G.O.I. – 1997(91) E. L. T. 277 (A.P.).
- iv Commissioner of Cust. & C. Ex. Nagpur-I Vs. Mohd. Ashraf Armar – 2019 (369) E. L. T. 1654 (Tri. Mumbai).
- v Shri R. P. Sharma, Additional Secretary in RE Ashok Kumar Verma – 2019 (369) E. L. T. 1677 (G. O. I.).
- vi Suresh Bhosle Vs. Commissioner of Customs (Prev.) Kolkatta – 2009 (246) E. L. T. 77(Cal.).
- vii T. Elavarasan Versus Commissioner of Customs (Airport), Chennai reported at 2011 (266) E.L.T. 167 (Mad.).

**34.** I find that when there are judgements favouring redemption, there are contra judgement which provide for absolute confiscation of seized gold attempted to be smuggled into India as follows;

i. Abdul Razak Vs., U. O. I. – 2012 (275) E. L. T. 300 (Ker.) maintained by Hon'ble Supreme Court – 2017 (350) E. L. T. A173 (SC).

**35.** I further find that ingenious concealment is one of the important aspects for deciding on the redemption/ non-redemption of the goods. Further, while deciding the case, the CBIC Circular / Instruction F. No: 275/17/2015-CX. 8A dated 11.03.2015 is also looked into, which emphasized that Judicial discipline should be followed while deciding pending show cause notices/ appeals.

**36.** I find that, the option to redemption has been granted and absolute confiscation is set-a-side vide order No. 12/2021-CUS(WZ)/ASAR dated 18.01.2021 by the Revision authority, GOI issued under F. No: 371/44/B/2015-RA/785 dated 29.01.2021. Similar view was taken by Revision Authority vide Order No. 287/2022-CUS (WZ)/ASAR/Mumbai dated 10.10.2022; Order No. 245/2021-CUS (WZ)/ASAR dated 29.09.2021 issued under F. No: 371/44/B/15-RA/2020 dated 06.10.2021 and Order No: 314/2022-Cus (WZ)/ASAR/Mumbai dated 31.10.2022 issued from F. No: 371/273/B/WZ/2018 dated 03.11.2022. All the above mentioned 3 orders of RA has been accepted by the department.

**37.** I find that wearing the seized goods on body and hiding the same by the passenger cannot be considered as an ingenious concealment even though the charge of non-declaration of the seized gold is

established. Further, being a precious goods one can take care to carry the same by hiding from the view of other people in fear of theft. Looking to the facts that this is not a case of ingenious concealment, I am of the considered opinion that under Section 125 of the Customs Act, 1962, the option for redemption can be granted.

I also find that Shri Deepak Soni was in the list of Government approved valuers registered under Section 34AB of the WT Act, 1957 read with Public Notice No. 69/2003 dated 28.07.2003 issued by the Commissioner of Customs, Ahmedabad. As per the said Public Notice, the service of the members of this expert trade panel was to be utilized for verification of the purity and weight of gold jewellery. It is obvious that Shri Deepak Soni knew beforehand as a valuer that gold items were dutiable and had to be declared on their arrival at the Airport. Despite this knowledge, he has brought the gold items in his person and has not declared them on his arrival. He has further knowingly used Smt. Hansaben Soni and Smt. Falguni Soni to bring in the gold items without declaring them on their arrival. Smt. Hansa and Smt. Falguni have also knowingly abetted in the carriage of the gold items. Therefore, the passengers cannot escape their liability for penal action under Sections 112(a) & (b) of the Act as they have clearly contravened the sub-clauses of Section 112(i) of the Act. They are also liable for separate penal action under Section 114AA of the Act. Shri Deepak would be liable for a greater quantum of penalty for his clear knowledge as discussed above.

**38.** I further find that all the three passengers had involved themselves and abetted the act of carrying the impugned 2 iPhones & gold having total weight of 1754.410 Grams and hiding the same. They have agreed and admitted in the statements recorded that they travelled with the said gold/ iPhones from Sharjah to Ahmedabad. Despite their knowledge and belief that the concealed gold/ iPhones carried by them and undeclared in their person is an offence under the provisions of the Customs Act, 1962 and the Regulations made under it, the passengers attempted to carry and clear the said goods. The passengers in their statements admitted that they did not declare the impugned goods as they wanted to clear the same illicitly and evade

the Customs Duty. Thus, it is clear that the passengers have involved themselves in carrying, removing, keeping, concealing and dealing with the gold/ iPhones brought by them, which they knew very well and have reason to believe that the same are liable for confiscation under Section 111 of the Customs Act, 1962. Therefore, I find that the passengers are liable for penal action under provisions of Sections 112 of the Act and I hold accordingly. They are also liable for separate penal action under Section 114AA of the Act.

**39.** Given my above findings, I pass the following Orders:

### **ORDER**

- (i) I order confiscation of two gold chains, one gold kada and one gold buckle, totally weighing **448.260** grams recovered from **Shri Deepak Natvarlal Soni**, having purity of 22kt. (916) and having tariff value of **Rs.10,90,540/-** and market value of **Rs.12,12,095/-**, seized vide Panchnama drawn on 11.02.2017, under the provisions of Section 111(d), 111(i), 111(l) & 111(m) of the Customs Act, 1962;
- (ii) I give an option to Deepak Natvarlal Soni to redeem the impugned goods, having total weight of 448.260 Grams on payment of redemption fine of **Rs.3,00,000/-** (Rupees Three Lakhs Only) under Section 125(1) of the Customs Act, 1962. In addition to redemption fine, the passenger would be liable for payment of applicable duties and other levies/ charges in terms of Section 125(2) of the Customs Act, 1962;
- (iii) I confirm the demand of Customs Duty to the tune of **Rs.3,93,140/- (Rupees Three Lakhs Ninety-Three Thousand Fourty only)** on the above quantity of gold and order recovery of the same from **Shri Deepak Natvarlal Soni** in terms of the provisions of Section 125(2) read with Section 28 (4) of the Customs Act, 1962;
- (iv) I order confiscation of 2 Apple iPhones 7 Plus 256 GB valued at Rs.1,27,300/- recovered from **Shri Deepak Natvarlal Soni** seized vide Panchnama drawn on 11.02.2017, under the

under the provisions of Section 111(d), 111(i), 111(l) & 111(m) of the Customs Act, 1962;

- (v) I give an option to Shri Deepak Natvarlal Soni to redeem the impugned goods, having total value of Rs.1,27,300 on payment of redemption fine of **Rs.25,000/-** (Rupees Twenty-Five Thousand Only) under Section 125(1) of the Customs Act, 1962. In addition to redemption fine, the passenger would be liable for payment of applicable duties and other levies/ charges in terms of Section 125(2) of the Customs Act, 1962;
- (vi) I confirm the demand of Customs Duty to the tune of **Rs.45,892/- (Rupees Fourty-Five Thousand Eight Hundred Ninety-Two only)** on 2 apple iPhones 7 Plus 256 GB and order recovery of the same from **Shri Deepak Natvarlal Soni** in terms of the provisions of Section 125(2) read with Section 28 (4) of the Customs Act, 1962;
- (vii) I impose a penalty of Rs.5,00,000/- (Rupees Five Lakhs only) on Shri Deepak Soni under the provisions of Sections 112(a) & (b) of the Act;
- (viii) I impose a penalty of Rs.10,00,000/- (Rupees Ten Lakhs only) on Shri Deepak Soni under the provisions of Sections 114AA of the Act;
- (ix) I order confiscation of two gold chains, two gold bangles, 4 pieces of raw gold bangles and 4 ornament sets made of gold (2 sets containing one neck piece + two ear piece + 2 sets containing one pendent + two ear piece each), totally weighing **565.100** grams recovered from **Smt. Hansaben Soni**, having purity of 22kt. (916) and having tariff value of **Rs.13,74,792/-** and market value of **Rs.15,28,030/-**, seized vide Panchnama drawn on 11.02.2017, under the provisions of Section 111(d), 111(i), 111(l) & 111(m) of the Customs Act, 1962;
- (x) I give an option to Smt. Hansaben Soni to redeem the impugned goods, having total weight of 565.100 Grams on payment of redemption fine of **Rs.3,50,000/-** (Rupees Three Lakhs Fifty Thousand Only) under Section 125(1) of the

Customs Act, 1962. In addition to redemption fine, the passenger would be liable for payment of applicable duties and other levies/ charges in terms of Section 125(2) of the Customs Act, 1962;

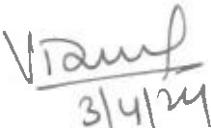
- (xi) I confirm the demand of Customs Duty to the tune of **Rs.4,95,613/- (Rupees Four Lakhs Ninety-Five Thousand Six Hundred Thirteen only)** on the above quantity of gold and order recovery of the same from **Smt. Hansaben Natvarlal Soni** in terms of the provisions of Section 125(2) read with Section 28 (4) of the Customs Act, 1962;
- (xii) I impose a penalty of Rs.5,50,000/- (Rupees Five Lakhs Fifty Thousand only) on Smt. Hansaben Soni under the provisions of Sections 112(a) & (b) of the Act;
- (xiii) I impose a penalty of Rs.7,00,000/- (Rupees Seven Lakhs only) on Smt. Hansaben Soni, under the provisions of Sections 114AA of the Act;
- (xiv) I order confiscation of two gold chains, four gold bangles, 4 pieces of crude gold bangles and 5 ornament sets made of gold (each one containing one neck piece + two ear pieces) totally weighing **741.050** grams recovered from **Smt. Falguni Soni**, having purity of 22kt. (916) and having tariff value of **Rs.18,02,849/-** and market value of **Rs.20,03,799/-** seized vide Panchnama drawn on 11.02.2017, under the provisions of Section 111(d), 111(i), 111(l) & 111(m) of the Customs Act, 1962;
- (xv) I give an option to Smt. Falguni Soni to redeem the impugned goods, having total weight of 741.050 Grams on payment of redemption fine of **Rs.4,50,000/- (Rupees Four Lakhs Fifty Thousand Only)** under Section 125(1) of the Customs Act, 1962. In addition to redemption fine, the passenger would be liable for payment of applicable duties and other levies/ charges in terms of Section 125(2) of the Customs Act, 1962;
- (xvi) I confirm the demand of Customs Duty to the tune of **Rs.6,49,927/- (Rupees Six Lakhs Fourty-Nine Thousand Nine Hundred Twenty-Seven only)** on the

above quantity of gold and order recovery of the same from **Smt. Falguni Deepak Soni** in terms of the provisions of Section 125(2) read with Section 28 (4) of the Customs Act, 1962;

(xvii) I impose a penalty of Rs.7,00,000/- (Rupees Seven Lakhs only) on Smt. Falguni Soni, under the provisions of Sections 112(a) & 112(b) of the Act;

(xviii) I impose a penalty of Rs.9,00,000/- (Rupees Nine Lakhs only) on Smt. Falguni Soni, under the provisions of Sections 114AA of the Act.

**40.** Accordingly, both the Show Cause Notice bearing No. VIII/10-12/SVPIA/O&A/2017 dated 09.08.2017 & VIII/10-137/SVPIA/O&A/HQ/2018 dated 04.02.2019 stands disposed of.

  
3/4/24

**(Vishal Malani)**

Additional Commissioner  
Customs, Ahmedabad

F. No. VIII/10-92/SVPIA/O&A/HQ/2023-24

Date: 03.04.2024

F. No. VIII/10-137/SVPIA/O&A/HQ/2018

**DIN: 20240471MN00002782F4**

**BY SPEED POST A.D.**

To,

(1) <b>Shri Deepak Natvarlal Soni,</b> 12, Motikunj Society, Opp. Audit Bhavan, Ishwar Bhuvan Road, Navrangpura, Ahmedabad – 380 009.	(1) <b>Shri Deepak Natvarlal Soni,</b> Suvam Ratnam, 5-6, Dwarkesh Complex, Off. C.G. Road, Ahmedabad.
(2) <b>Smt. Hansaben Natvarlal Soni,</b> 12, Motikunj Society, Opp. Audit Bhavan, Ishwar Bhuvan Road, Navrangpura, Ahmedabad – 380 009.	(2) <b>Smt. Hansaben Natvarlal Soni,</b> Suvam Ratnam, 5-6, Dwarkesh Complex, Off. C.G. Road, Ahmedabad.
(3) <b>Smt. Falguni Deepak Soni,</b> 12, Motikunj Society, Opp. Audit Bhavan, Ishwar Bhuvan Road, Navrangpura, Ahmedabad – 380 009.	(3) <b>Smt. Falguni Deepak Soni,</b> Suvam Ratnam, 5-6, Dwarkesh Complex, Off. C.G. Road, Ahmedabad.

**Copy to:**

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



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Office of the Principal Commissioner of Customs  
Custom House, Near All India Radio, Navrangpura, Ahmedabad 380 009  
Tel: (079) 27544630      Fax: (079) 27542343      E-mail: customsoa@gmail.com

IF No VIII/10-12/SVPIA/O & A/2017

Date: August 9, 2017

### Show Cause Notice

1. Mr Deepak Natvarlal Soni, Ms Hansaben Soni and Ms Falguni Soni (hereinafter referred to as the 'passengers'), holding Indian passports had arrived at Ahmedabad by Air Arabia Flight No G9 483 from Sharjah to Ahmedabad. On suspicion, the passengers were intercepted. The passengers were carrying 4 check-in bags, 2 ladies purse, one back pack and 2 pouches. On checking their baggage, two Iphone 7 plus 256 GB valued at Rs 1,27,300/- was recovered. Mr Deepak Soni was put through the Door Metal Frame Detector ('DFMD') where a beep sound was heard indicating the presence of metallic substances in his body. Despite questioning, Mr Deepak Soni denied having any dutiable goods in his person. Mr Deepak Soni finally removed his belt admitting that the buckle of the belt was made of gold and rhodium coating. He further removed two chains of yellow metal which was worn in his neck and one Kada of yellow metal from his pant pockets. Ms Hansaben Soni also was put through the DFMD where a beep sound was heard indicating the presence of metallic substances in her body. Ms Hansaben Soni finally removes two chains and 2 bangles, worn by her and also 4 pieces of raw bangles of yellow metal and 4 ornament sets of yellow metal from handkerchief/polyethene bags concealed in her undergarments. Ms Falguni Soni was also put through the DFMD where a beep sound was heard indicating the presence of metallic substances in her body. Ms Falguni Soni finally removed two chains and 4 bangles worn by her and also 4 pieces of crude gold bangles made of yellow metal and 5 ornament sets of yellow metal(each having one neck piece and two ear pieces) from polyethene bags concealed in her undergarments.

2. Based on the primary inferences, the Government approved valuer Mr Kartikey Soni was called upon for testing of the items. The valuer gave his report on 11.2.2017 stating that all the items of yellow metal were made of pure gold having purity of 22 Kt (916). The report indicated that 4 pieces of gold items recovered from Mr Deepak Soni weighed 448.260 grams with a market value of Rs 12,12,095/- and a tariff value of Rs 10,90,540/- (Annexure A to the panchnamra drawn on 11.2.2017 refers). 20 pieces of gold items recovered from Ms Hansaben Soni weighed 565.100 grams having a market value of Rs 15,28,030/- and a tariff valued of Rs 13,74,792/- (Annexure B to the panchnamra drawn on 11.2.2017 refers) and 25 pieces of gold items recovered from Ms Falguni Soni weighed 741.050 grams having a market value of Rs 20,03,799/- and a tariff value of Rs 18,02,849/-. All the gold items were having a purity of 22 Kt(916). The valuation was done on the basis of the tariff values taken on the basis of Notifications 6/2017-Customs(NT) dated 31.1.2017 and 9/2017-Customs(NT) dated 2.2.2017.

3 A total of two gold chains, one gold kada and gold buckle recovered from Mr Deepak Soni concealed in his person weighing 448.260 grams, two gold chains, 2 bangles, 4 pieces of raw bangles and 4 ornament sets(2 sets containing one neck piece + two ear piece and 2 sets containing one pendent + two ear piece each) recovered from the person of Ms Hansaben Soni weighing 565.100 grams and two gold chains, 4 bangles , 4 pieces of crude gold bangles and five ornament sets(each one containing one neck piece + two ear pieces) recovered from the person of Ms Falguni Soni weighing 741.050 grams. all of them totally weighing 1754.41 grams having a market value of Rs 47,43,924/- and a tariff value of Rs 42,68,181/- were placed under seizure vide panchnama drawn on 11.2.2017. The 2 Apple Iphone 7 plus 256 GB mobile phones bought by Mr Deepak Soni under Invoice No 33584 of 7.2.2017 were also placed under seizure. The seizure was made under the provisions of Customs Act, 1962 on the reasonable belief that the said goods were smuggled into India and liable for confiscation.

4 Mr Deepak Soni, Ms Hansaben Soni and Ms Falguni Soni produced the following documents

- i. Boarding pass from Sharjah to Ahmedabad of Air Arabia Flight No G9 483 dated 11.2.2017 – Seat No 4A and Passport No Z3170035 in respect of Mr Deepak Soni
- ii. Boarding pass from Sharjah to Ahmedabad of Air Arabia Flight No G9 483 dated 11.2.2017 – Seat No 4C and Passport No Z3169969 in respect of Ms Hansaben Soni
- iii. Boarding pass from Sharjah to Ahmedabad of Air Arabia Flight No G9 483 dated 11.2.2017 – Seat No 4B and Passport No Z3170041 in respect of Mr Falguni Soni

5 Statement of Mr Deepak Soni was recorded on 11.2.2017 under Section 108 of the Customs Act, 1962('hereinafter referred to as the 'Act'). He admitted that he was carrying the gold chains & gold kada and the buckle of the belt was also made of gold. He also accepted that the gold items recovered from Ms Hansaben Soni, his mother and Ms Falguni Soni, his wife were brought by them. He stated that he had paid for the purchase of the entire gold items from his account in Saad General Trading, Dubai and these gold items were brought by the three of them for making jewellery. He further accepted that he was well aware of the Customs Law and had brought the gold items in order to evade the payment of customs duty.

6 Statement of Ms Hansaben Soni was recorded on 11.2.2017 under Section 108 of the Act. She admitted that all the gold items recovered from her person were brought by her in order to help his son's business.

7 Statement of Ms Falguni Soni was recorded on 11.2.2017 under Section 108 of the Act. She admitted that all the gold items recovered from her person were brought by her in order to help his husband's business.

8 Four summons were issued on 5.6.2017, 21.6.2017, 22.6.2017 and 17.7.2017 to Mr Deepak Soni for recording his further statement. For the summons dated 5.6.2017, Mr Deepak Soni under his letter dated 13.6.2017 replied that he was not fit to depose before the Officers as he had cardiac issues. For the summons dated 21.6.2017, Mr Deepak Soni under his reply dated 28.6.2017 repeated the same reasons. In case of the summons dated 21.6.2017, Mr

Deepak Soni again stated his inability to depose before the Officers as he was suffering from cardiac problems. Further, in case of summons dated 17.7.2017, Mr Deepak Soni replied under a letter dated 20.7.2017(received on 18.2017) that he had suffered a heart attack on 6.7.2017 and was admitted for cardiac surgery on 6.7.2017 at Apex Heart Institute, Ahmedabad. Subsequently, several calls made to Mr Deepak Soni went unanswered. On 5.8.2017, the Superintendent(AIU), Customs, Ahmedabad also visited the shop of Mr Deepak Soni at Suvernaratnam, Off CG Road, Ahmedabad but Mr Deepak Soni was not available. His son, Mr Jaydeep Soni stated that his father was admitted to the hospital for cardiac surgery and he had gone in depression after the surgery and was not in a position to depose or appear before the Officers to record his statement. It appears that despite several attempts, Mr Deepak Soni has not come forward to record his statement before the Officers.

9 From the foregoing paras, it appears Mr Deepak Soni had brought two gold chains, one gold kada and gold buckle in his person. Ms Hansaben Soni had brought two gold chains, 2 bangles 4 pieces of raw bangles and 4 ornament sets(2 sets containing one neck piece + two ear piece and 2 sets containing one pendant + two ear piece each) in her person. Ms Falguni Soni had brought two gold chains, 4 bangles, 4 pieces of crude gold bangles and five ornament sets(each one containing one neck piece + two ear pieces) in her person. It further appears that Mr Deepak Soni had further brought two Apple Iphone 7 plus 256 GB mobile phones in his baggage. It appears that the three passenger by not declaring the gold chains, kadas, bangles, ornament sets as well as the mobile phones had an intention to evade payment of customs duty and thereby have violated the provisions contained in the Customs Act, 1962, the Foreign Trade(Development & Regulations) Act, 1992, the Foreign Trade(Development & Regulations) Rules, 1993 and the Foreign Trade Policy 2015-2020.

10 From the facts and circumstances discussed above, it appears that Mr Deepak Soni had attempted to smuggle two gold chains, one gold kada and gold buckle in his person totally weighing 448.260 grams having a market value of Rs 12,12,095/- and tariff value of Rs 10,90,540/- in his person. Ms Hansaben Soni had attempted to smuggle two gold chains, 2 bangles, 4 pieces of raw bangles and 4 ornament sets(2 sets containing one neck piece + two ear piece and 2 sets containing one pendant + two ear piece each) concealed in her person totally weighing 565.100 grams having a market value of Rs 15,28,030/- and a tariff value of Rs 13,74,792/. Ms Falguni Soni had attempted to smuggle two gold chains, 4 bangles, 4 pieces of crude gold bangles and five ornament sets(each one containing one neck piece + two ear pieces) concealed in her person totally weighing 741.050 grams having a market value of Rs 20,03,799/- and tariff value of Rs 18,02,849/-. Further, it appears that Mr Deepak Soni had attempted to smuggle two Apple Iphone 7 plus 256 GB in his baggage. All the three passengers have attempted to smuggle the gold items/iphones into India with an intention to evade payment of customs duty. All the gold items totally weighing 1754.410 grams having a market value of Rs 47,43,924/- and a tariff value of Rs 42,68,181/- as well as 2 Apple Iphone 7 plus 256 GB mobile phones valued at Rs 1,27,300/- were brought into India by the passenger for commercial purpose and cannot be construed as 'bonafide baggage' within the meaning of Section 79 of the Act read with Para 2.26 of the Foreign Trade Policy, 2015-2020. As per Para 2.26 of the Foreign Trade Policy, a passenger is allowed to import bonafide household and personal effect only, as his bonafide baggage. It appears that the import of goods in

commercial quantity is with an intent to earn profit and not covered within the ambit of 'bonafide baggage'. Therefore, import of such goods are not permitted through the baggage mode. It also appears that the passenger attempted to smuggle the goods without filing the customs declaration form, which appears to be in contravention of Section 77 of the Act read with the Baggage Rules, 2016 ('Baggage Rules') and Regulation 3 of the Customs Baggage Declaration Regulations, 2013 ('Baggage Regulations'). The above act on the part of the passenger appears to be amounting to smuggling within the meaning of Section 2(39) of the Act.

11 The passengers have contravened the provisions of:

- Section 77 of the Act as Mr Deepak Soni has failed to make a declaration of the imported two gold chains, one gold kada and gold buckle as well as 2 apple Iphone 7 plus 256 GB mobile phones. Ms Hansaben Soni has failed to make a declaration of the two gold chains, 2 bangles 4 pieces of raw bangles and 4 ornament sets(2 sets containing one neck piece + two ear piece and 2 sets containing one pendant + two ear piece each) and Ms Falguni Soni has failed to make a declaration of the imported two gold chains, 4 bangles , 4 pieces of crude gold bangles and five ornament sets(each one containing one neck piece + two ear pieces), which were recovered from the possession of the three passenger;
- Section 79 of the Act as Mr Deepak Soni has imported two gold chains, one gold kada and gold buckle as well as 2 apple Iphone 7 plus 256 GB mobile phones, Ms Hansaben Soni has imported two gold chains, 2 bangles 4 pieces of raw bangles and 4 ornament sets(2 sets containing one neck piece + two ear piece and 2 sets containing one pendant + two ear piece each) and Ms Falguni Soni has imported two gold chains, 4 bangles , 4 pieces of crude gold bangles and five ornament sets(each one containing one neck piece + two ear pieces) for commercial purpose which were not for their bonafide use;
- Rule 11 of the Foreign Trade(Regulation) Rules, 1993 as Mr Deepak Soni has failed to declare the value, quantity and description of the two gold chains, one gold kada and gold buckle as well as 2 apple Iphone 7 plus 256 GB mobile phones, Ms Hansaben Soni has failed to declare the value, quantity and description of the two gold chains, 2 bangles 4 pieces of raw bangles and 4 ornament sets(2 sets containing one neck piece + two ear piece and 2 sets containing one pendant + two ear piece each) and Ms Falguni Soni has failed to declare the value, quantity and description of the two gold chains, 4 bangles , 4 pieces of crude gold bangles and five ornament sets(each one containing one neck piece + two ear pieces), imported by the three passengers
- Para 2.26 of the Foreign Trade Policy 2015-2020 as the three passengers have acted contrary to the restrictions imposed and imported non bonafide baggage.

12 It appears that the passengers had not filed the baggage declaration form. Mr Deepak Soni had not declared the two gold chains, one gold kada and gold buckle as well as 2 apple Iphone 7 plus 256 GB mobile phones, Ms Hansaben Soni had not declared the two gold chains 2 bangles, 4 pieces of raw bangles and 4 ornament sets(2 sets containing one neck piece + two ear piece and 2 sets containing one pendant + two ear piece each) and Ms Falguni Soni had not declared the two gold chains, 4 bangles , 4 pieces of crude gold bangles and five ornament

sets(each one containing one neck piece + two ear pieces), which were in the possession of the three passengers, as envisaged under Section 77 of the Act read with the Baggage Rules and Baggage Regulations. It also appears that the imports were for non bonafide purpose too. Moreover, gold or silver, in raw form is not allowed free of duty. Further, one kg of gold can also be imported by an eligible passenger as envisaged under Notfication No. 12/2012-Cus dated 17.3.2012(Sr No 321) wherein an "eligible passenger" means a passenger of Indian origin or a passenger holding a valid passport, issued under the Passports Act, 1967, who is coming to India after a period of not less than six months of stay abroad; and short visits, if any, made by the eligible passenger during the aforesaid period of six months shall be ignored if the total duration of stay on such visits does not exceed thirty days and such passenger has not availed of the exemption under this notification or under the notification being superseded at any time of such short visits. In the present case, the passengers had gone to Dubai on 8.2.2017 by the Air Arabia flight and returned on 11.2.2017 by the Air Arabia flight. It, therefore, appears that all the above acts of contravention on the part of the passenger have rendered the seized goods namely two gold chains, one gold kada and gold buckle as well as 2 apple Iphone 7 plus 256 GB mobile phones in respect of Mr Deepak Soni, two gold chains, 2 bangles, 4 pieces of raw bangles and 4 ornament sets(2 sets containing one neck piece + two ear piece and 2 sets containing one pendent + two ear piece each) in respect of Ms Hansaben Soni and two gold chains, 4 bangles, 4 pieces of crude gold bangles and five ornament sets(each one containing one neck piece + two ear pieces) in respect of Ms Falguni Soni, as liable to confiscation under the provisions of Sections 111(d), (i), 111(l) and 111(m) of the Act. It further appears that all the gold items referred above as well as the 2 Apple iphone 7 plus 256 GB mobile phones imported by the passenger is to be construed as 'smuggling' within the meaning of Section 2(39) of the Act. It remains a fact that Mr Deepak Soni was in the list of approved valuers registered under Section 34AB of the WT Act, 1957 under Public Notice No 69/2003 dated 28.7.2003 issued by the Commissioner, Customs, Ahmedabad. As per the Public Notice, the services of the members of this expert trade panel was to be utilized for verification of the purity and weight of gold jewellery by the Assistant/Deputy Commissioner of Customs, Air Cargo Complex, Ahmedabad. It, therefore, appears that Mr Deepak Soni was well aware of the Customs Rules and Regulations in respect of gold imports. It also appears that he had a pre-knowledge that imported gold was to be declared with the Customs authorities at the time of his arrival at the airport and also were to be cleared on payment of appropriate duty leviable. Though he had a pre knowledge about this, it appears that he had used Ms Hansaben Soni and Ms Falguniben Soni in carrying the gold with an intent to evade the payment of customs duty. It, therefore, appears that the three passengers were fully aware that the goods would be offending in nature on its import and had carried the gold items as referred above in their person. Further Mr Deepak Soni has carried 2 Apple Iphone 7 plus 256 GB mobile phones. All the three passengers have also omitted to declare the gold items referred above and Mr Deepak Soni has also omitted to declare the two apple Iphones on their arrival at the airport in order to evade payment of the duty of customs. It appears that all the three passengers have involved themselves in carrying, keeping, concealing and has dealt with the offending goods in a manner which they knew or had reasons to believe were liable to confiscation under the Act. It, therefore, appears that all the three passengers have rendered themsleves liable for penal action, under the provisions of Section 112(a) and 112(b) of the Act. The three passengers also

appear to have rendered themselves liable for a separate penal action, under the provisions of Section 114AA of the Act for their act of non-declaration/concealment

14 Mr Deepak Soni is called upon to show cause in writing to the Additional Commissioner of Customs, 6th Floor, Mridul Towers, Near H K House, Opposite Bata Show Room, Off Ashram Road Ahmedabad 380 009 as to why:

- i. the two gold chains, one gold kada and gold buckle totally weighing 448.260 grams having tariff value of Rs 10,90,540/- (Rupees Ten lacs ninety thousand five hundred forty only) and a market value of Rs 12,12,095/- (Rupees Twelve lacs twelve thousand ninety five only), placed under seizure vide panchnama drawn on 11.2.2017, should not be confiscated under the provisions of Sections 111(d), (i), 111(l) and 111(m) of the Act;
- ii. the 2 apple Iphones 7 plus 256 GB mobile phones valued at Rs 1,27,300/- (Rupees One lac twenty seven thousand three hundred only) placed under seizure vide panchnama drawn on 11.2.2017, should not be confiscated under the provisions of Sections 111(d), (i), 111(l) and 111(m) of the Act;
- iii. penalty should not be imposed upon the passenger under Sections 112(a) and 112(b) of the Act; and
- iv. penalty should not be imposed upon the passenger under Section 114AA of the Act.

15 Ms Hansaben Soni is called upon to show cause in writing to the Additional Commissioner of Customs, 6th Floor, Mridul Towers, Near H K House Opposite Bata Show Room, Off Ashram Road, Ahmedabad 380 009 as to why:

- i. the two gold chains, 2 bangles, 4 pieces of raw bangles and 4 ornament sets(2 sets containing one neck piece + two ear piece and 2 sets containing one pendent + two ear piece each) totally weighing 565.100 grams having tariff value of Rs 13,74,792/- (Rupees Thirteen lacs seventy four thousand seven hundred ninety two only) and a market value of Rs 15,28,030/- (Rupees Fifteen lacs twenty eight thousand thirty only), placed under seizure vide panchnama drawn on 11.2.2017, should not be confiscated under the provisions of Sections 111(d), (i), 111(l) and 111(m) of the Act;
- ii. penalty should not be imposed upon the passenger under Sections 112(a) and 112(b) of the Act; and
- iii. penalty should not be imposed upon the passenger under Section 114AA of the Act.

16 Ms Falguni Soni is called upon to show cause in writing to the Additional Commissioner of Customs, 6th Floor, Mridul Towers, Near H K House, Opposite Bata Show Room, Off Ashram Road, Ahmedabad 380 009 as to why:

- i. the two gold chains, 4 bangles, 4 pieces of crude gold bangles and five ornament sets(each one containing one neck piece + two ear pieces) totally weighing 741.050 grams having tariff value of Rs 18,02,849/- (Rupees Eighteen lacs two thousand eight hundred forty nine only) and a market value of Rs 20,03,799/- (Rupees Twenty lacs three thousand seven hundred ninety nine only), placed under seizure vide panchnama

drawn on 11.2.2017, should not be confiscated under the provisions of Sections 111(d).

- (i). 111(l) and 111(m) of the Act;
- ii. penalty should not be imposed upon the passenger under Sections 112(a) and 112(b) of the Act; and
- iii. penalty should not be imposed upon the passenger under Section 114AA of the Act.

17 Mr Deepak Soni, Ms Hansaben Soni and Ms Falguni Soni, all residents of 12, Motikunj Society, Opp Audit Bhavan, Ishwar Bhuvan Road, Navrangpura, Ahmedabad 380 009 are requested to file their written submission and produce evidences which they intend to rely at the time of showing cause.

18 The three passengers are requested to inform if they desire to be heard in person before the case is adjudicated. If no mention is made in their submissions, it would be presumed that they do not desire a personal hearing. If no cause is shown by the three passengers against the action proposed against them within 30 days of the receipt of this notice or if they do not appear before the adjudicating authority, when the case is posted for hearing, the case would be decided ex-parte on merits.

19 This notice is without prejudice to any other action that may be taken against the three passengers under this Act or any other law for the time being in force in India.

20 The documents relied on in the notice are listed as Annexure 'A' and are enclosed with this notice.

  
(M L Mehta)  
Additional Commissioner

F No VIII/10-12/SVPIA/O & A/2017

  
Date August 9, 2017

By Registered Post AD

Mr Deepak Soni  
12, Motikunj Society  
Opp Audit Bhavan  
Ishwar Bhuvan Road  
Navrangpura  
Ahmedabad 380 009

Ms Hansaben Soni  
12, Motikunj Society  
Opp Audit Bhavan  
Ishwar Bhuvan Road  
Navrangpura  
Ahmedabad 380 009

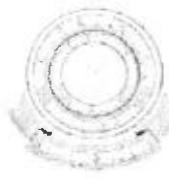
Ms Falguni Soni  
12, Motikunj Society  
Opp Audit Bhavan  
Ishwar Bhuvan Road  
Navrangpura  
Ahmedabad 380 009

Handed 3 original copies  
for service & 1 for  
office

Chaudhary  
09/08/17  
(Vijay Patel)  
Super (CAU)

Copy to:

- The Assistant/Deputy Commissioner of Customs, SVPIA, Ahmedabad
- Guard File



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प्रधान आयुक्त का कार्यालय  
OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS  
सीमा शुल्क भवन, नवरंगपुरा, अहमदाबाद - 380009  
"Custom House", Navrangpura, AHMEDABAD-380009.

## PREAMBLE

A	फाइल नंबर/ File No.	VIII/10-12/SVPIA/O & A/2017
B	कारण के बारे में ज्ञापन/Show Cause Notice No and date	VIII/10-12/SVPIA/O & A/2017 dated 09.08.2017
C	मूल आदेश नंबर/ Order-In-Original No	19/ADC-MSC/SVPIA/O & A/2018-19
D	आदेश द्वारा दिया गया/ Passed By	M S. Chauhan Additional Commissioner, Customs, Ahmedabad
E	आदेश तिथि/ Date of Order	26.07.2018
F	प्राप्त करने वाले तिथि/ Date of Issue	30.07.2018
G	आयातक का नाम और पता /Name and Address of Importer/noticee	Mr Deepak Soni 12, Motikunj Society Opp Audit Bhavan, Ishwar Bhuvan Road, Navrangpura, Ahmadabad 380 009
		Ms Hansaben Soni 12, Motikunj Society Opp Audit Bhavan, Ishwar Bhuvan Road, Navrangpura, Ahmadabad 380 009
		Ms Falguni Soni 12, Motikunj Society Opp Audit Bhavan, Ishwar Bhuvan Road, Navrangpura, Ahmadabad 380 009

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### Brief facts of the case

1 Mr Deepak Soni ('Deepak'), Ms Hansaben Soni ('Hansa') and Ms Falguni Soni ('Falguni') (also collectively referred to as the 'passengers') arrived at the Ahmedabad Airport on 11.2.2017 by the Air Arabia Flight No G9 483. The Officers, on suspicion, intercepted the passengers. On checking the baggage of Deepak, two iPhone 7 plus 256 GB valued at Rs 1,27,300/- was recovered. Deepak was put through the Door Frame Metal Detector ('DFMD'). He admitted that the buckle of his belt was made of gold and coated with rhodium. He further removed two chains of yellow metal worn in his neck and one kada of yellow metal from his pant pocket. On putting Hansa through the DFMD, she removed two chains and two bangles worn by her, 4 pieces of raw bangles of yellow metal and 4 ornament sets of yellow metal from handkerchief/polythene bags concealed in her undergarments. On putting Falguni through the DFMD, she removed two chains and 4 bangles worn by her, 4 pieces of crude gold bangles made of yellow metal and 5 ornament sets of yellow metal (each having one neckpiece and two ear pieces) from polythene bags, concealed in her undergarments. The Government approved valuer certified on 11.2.2017 that 4 pieces of yellow metal weighing 448.260 grams recovered from Deepak were made of gold, having a tariff value of Rs 10,90,540/- and market value of Rs 12,12,095/. It was further certified by him that 20 pieces of yellow metal recovered from Hansa weighing 565.100 grams were made of gold, having a tariff value of Rs 13,74,792/- and market value of Rs 15,28,030/. He also certified that the 25 pieces of yellow metal recovered from Falguni weighing 741.050 grams were made of gold, having a tariff value of Rs 18,02,949/- and market value of Rs 20,03,799/. The valuer stated that all the gold items were having a purity of 22 Kt (916). All the gold items referred above totally weighing 1754.410 grams having a total tariff value of Rs 42,68,181/- and a total market value of Rs 47,43,924/- as well as the 2 iPhone 7 plus 256 GB valued at Rs 1,27,300/- were placed under seizure during the course of the panchnama drawn on 11.2.2017.

2 Mr Deepak Soni in his depositions recorded on 11.2.2017 admitted that he was carrying the gold chains & gold kada and the buckle of his belt was made of gold. He also accepted that the gold recovered from Hansa, his mother and Falguni, his wife were brought by them for making jewellery. Hansa and Falguni, in their depositions recorded on 11.2.2017 admitted that the gold items recovered from them were brought by them to help the business of Deepak.

3 It was alleged that the import of gold items was not permissible as per the Baggage Rules, 2016 (hereinafter referred to as the 'Baggage Rules'). It was further noted that the passengers had not declared the gold items in their Customs declaration form under Section 77 of the Act read with the Baggage Rules and Regulation 3 of the Customs Baggage Declaration Regulations, 2013 ('Baggage Regulations'), kept in their person. Accordingly, all the gold items recovered from the passengers totally weighing 1754.410 grams as well as the 2 iPhones valued at Rs 1,27,300/- were liable to confiscation. It was further stated in the SCN that the gold items were brought for commercial purpose & also undeclared and therefore, cannot be construed as bona fide baggage, as envisaged under Section 79 of the Act. It was attempted smuggling and there was a contravention of para 2.26 of the Foreign Trade Policy and Rule 11 of the Foreign Trade (Regulation) Rules, 1993. It has also been highlighted that Deepak was in the list of approved valuers registered under Section 34AB of the WT Act, 1957 read with Public Notice No 69/2003 dated 28.7.2003 issued by the Commissioner of Customs, Ahmedabad for valuing gold and therefore, had a pre-knowledge of the Customs Rules and Regulations.

4 A SCN was issued to the passengers on 9.8.2017 wherein the gold items totally weighing 1754.410 grams totally valued at Rs 42,68,181/- (tariff value) and Rs 47,43,924/- (market value) {2 gold chains one gold kada and gold buckle weighing 448.260 grams having tariff value of Rs 10,90,540/- and market value of Rs 12,12,095/- as well as 2 apple iPhones 7 plus 256 GB valued at Rs 1,27,300/- recovered from Deepak, 2 gold chains, 2 bangles, 4 pieces of raw bangles and 4 ornament sets(2 sets containing one neck piece + two ear piece and 2 sets containing one pendant + two ear piece each) totally weighing 565.100 grams having tariff value of Rs 13,74,792/- and

market value of Rs 15,28,030/- recovered from Hansa and 2 gold chains, 4 bangles, 4 pieces of crude gold bangles and five ornament sets (each one containing one neck piece + two ear pieces) totally weighing 741.050 grams having tariff value of Rs 18,02,849/- and market value of Rs 20,03,799/- recovered from Falguni), were proposed for confiscation, under the provisions of Sections 111(d), (i), (l) and (m) of the Act. The passengers were proposed separate penalties under the provisions of Sections 112(a) & (b) and 114AA of the Act

5 The passengers have not filed their reply till date. The passengers were offered a personal hearing on 5.10.2017 and further on 13.10.2017 and 27.10.2017. Nobody appeared for any of the personal hearing. Due to a change in the adjudicating authority, personal hearing was offered on 22.1.2018, 22.2.2018 and 14.3.2018. Nobody appeared for any of the personal hearing

### **Discussions and Findings**

6 I have carefully gone through the facts of the case. I find that the SCNs meant for all the three passengers were served through a panchnama drawn on 10.8.2017 at their residential address. Simultaneously, it was also affixed on the notice board in the Headquarters office from where the SCN was issued, under the provisions of Section 153(b) of the Act on 10.8.2017. All passengers under their letter dated 19.8.2017 requested for the release of the gold items/iphones stating that they had not received the show cause notice within 6 months of the date of seizure. Under a letter dated 12.9.2017, the Assistant Commissioner(O & A), Customs, Ahmedabad informed the passengers that the SCN had been served on 10.8.2017 through a proper panchnama drawn on 10.8.2017 at their residential addresses and had been served within the prescribed time frame. They were requested to join the adjudication proceedings. I find that despite sufficient time to file a reply, the passengers have not come up with any defence. A personal hearing was offered to the passengers on 5.10.2017. It was clearly mentioned that the passengers needs to appear for the hearing. As none appeared for the hearing, personal hearing was offered to the passengers on 13.10.2017, 27.10.2017, 22.1.2018, 22.2.2018 and finally on 14.3.2018. It was reiterated in letters of 3.10.2017, 16.10.2017, 3.1.2018, 7.2.2018 and 26.2.2018 that the passenger is required to appear for the hearing. Though sufficient opportunity for filing reply and personal hearing has been given, none of the passengers have come forward to file their submissions or to appear for any of the hearings offered to them. The adjudication proceedings cannot wait until the passengers make it convenient to file their submissions and appear for the personal hearing. I, therefore take up the case for adjudication ex-parte, on the basis of available evidences.

7 A case of not declaring gold items concealed in the person of Deepak, Hansa and Falguni and iphone concealed in the person of Deepak was booked on 11.2.2017. 2 gold chains, one gold kada and one gold buckle weighing 448.260 grams having tariff value of Rs 10,90,540/- and market value of Rs 12,12,095/- as well as 2 apple iphones 7 plus 256 GB valued at Rs 1,27,300/- were recovered from Deepak, 2 gold chains, 2 gold bangles, 4 pieces of raw gold bangles and 4 gold ornament sets(2 sets containing one neck piece + two ear piece and 2 sets containing one pendant + two ear piece each) totally weighing 565.100 grams, having a tariff value of Rs 13,74,792/- and market value of Rs 15,28,030/- were recovered from Hansa and 2 gold chains, 4 gold bangles, 4 pieces of crude gold bangles and five gold ornament sets (each one containing one neck piece + two ear pieces) weighing 741.050 grams having tariff value of Rs 18,02,849/- and market value of Rs 20,03,799/- were recovered from Falguni, on their arrival. The passengers have neither come up with any defence nor appeared for any of the personal hearing offered to them.

8 The panchnama clearly draws out the fact that on putting Deepak, Hansa and Falguni, the items of yellow metal as well as the iphones were recovered. The whole process of detection of the gold items concealed in the person of Deepak, Hansa and Falguni and iphones concealed in the person of Deepak were carried out in the presence of the passengers as well as the panchas. Based on these facts, the 2 gold chains, one gold kada and one gold buckle weighing 448.260 grams as well as 2 apple iphones valued at Rs 1,27,300/- were recovered from Deepak, 2 gold chains, 2

bangles, 4 pieces of raw bangles and 4 ornament sets (2 sets containing one neck piece + two ear piece and 2 sets containing one pendant + two ear piece each) weighing 565.100 grams were recovered from Hansa and 2 gold chains, 4 bangles, 4 pieces of crude gold bangles and five ornament sets (each one containing one neck piece + two ear pieces) weighing 741.050 grams were recovered from Falguni. It is quite clear that the passengers have not questioned the panchnama proceedings. The passengers have accepted its correctness at the material time. Every procedure conducted during the panchnama by the Officers is well documented and made in the presence of the panchas as well as the passengers. It is also to note that the Government appointed valuer has certified that all the items of yellow metal were made of gold. This too has not been controverted either by the panchas or the passengers. In his deposition dated 11.2.2017, Deepak has admitted carrying the gold chain and gold kada and also accepted that the buckle of the belt was made of gold with rhodium coating. In their depositions given by Hansa and Falguni, both dated 11.2.2017, they have accepted that all the gold items recovered from their person were brought by them to help the business of Deepak. Therefore, there is sufficient evidence to say that the passengers had a pre-knowledge that the gold items as well as the iphones were concealed in their person and all the passengers in turn, have failed to declare the same on their arrival. The case of concealing gold items and iphones in their person is conclusively proved.

9 As per Rule 3 of the Baggage Rules, they are allowed clearance free of duty articles in their bonafide baggage. The gold items brought by the 3 passengers as well as the 2 iphones brought by Deepak could not be considered to be brought in their bonafide baggage as they had kept the same concealed in their person and had failed to divulge the details of having dutiable goods with them. The gold items as well as the iphones have clearly been brought by them with an intention to evade the payment of customs duty leviable on them.

10 Section 77 of the Act says that the owner of any baggage shall, for the purpose of clearing it, make a declaration of its contents to the proper officer. Regulation 3 of the Baggage Regulations clearly says all passengers who come to India and having anything to declare or are carrying dutiable or prohibited goods shall declare their accompanied baggage in Form I appended to the regulation. It is seen that though the passengers were carrying gold items and iphones in their person, they had failed to declare the same as per the Baggage Regulations. The Section read with the Baggage Regulations envisages a mandatory and true declaration of the contents of a baggage if they are dutiable in nature and there is no dispute that they all were carrying dutiable gold items/iphones concealed in their person. In the present case, the passengers have not declared any dutiable goods despite the fact that they had kept the gold items/iphones concealed in their person. This clearly shows their intentions and motive to clear the gold items/iphones without payment of appropriate customs duty.

11 From the facts discussed above, it is evident that the passengers had imported the gold items and iphones for clearing them without payment of customs duty applicable on them. The contravention of para 2.26 of EXIM Policy 2015-2020 and Rule 11 of the Foreign Trade (Regulation) Rules, 1993 are also proved as the gold items and the iphones were not a part of their bonafide baggage.

12 By not declaring the gold items/iphones and concealing them in their person, it is established that the passengers had a clear intention to bring in the gold items/iphones undetected and clear the gold items/iphones without payment of customs duty. Deepak had also devised a clever modus of silver coating his belt buckle with rhodium and used it as a camouflage for clearing gold and also carrying it in their person. The act of omission in relation to the subject gold items/iphones falls within the ambit of 'smuggling', as defined under Section 2(39) of the Act and are prohibited by law as defined under Section 2(33) of the Act.

13 It is considerably clear that the passengers have smuggled in gold items/iphones by concealing them in their person with a motive to evade the duty of customs on the gold items/iphones. This is a clear case of concealment of the gold items/iphones. The passengers have acquired possession of and was concerned in carrying, depositing,

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keeping, concealing and have dealt with the goods which they knew and had reasons to believe were liable to confiscation. Accordingly, the gold items/iphones are rendered liable to confiscation under the provisions of Sections 111(d), (i), (l) and (m) of the Act.

14 It remains a fact that Deepak was in the list of Government approved valuers registered under Section 34AB of the WT Act, 1957 read with the Public Notice No 69/2003 dated 28.7.2003 issued by the Commissioner of Customs, Ahmedabad. As per the Public Notice, the service of the members of this expert trade panel was to be utilized for verification of the purity and weight of gold jewellery. It is obvious that Deepak knew beforehand as a valuer that gold items were dutiable and had to be declared on their arrival at the airport. Despite this knowledge, he has brought the gold items in his person and has not declared them on his arrival. He has further knowingly used Hansa and Falguni to bring in the gold items without declaring them on their arrival. Hansa and Falguni have also knowingly abetted in the carriage of the gold items. Therefore, the passengers cannot escape their liability for penal action under Sections 112(a) & (b) of the Act as they have clearly contravened the sub-clauses of Sections 112(i) of the Act. They are also liable for separate penal action under Section 114AA of the Act. Deepak would be liable for a greater quantum of penalty for his clear knowledge as discussed above.

15 Section 125 of the Act says whenever confiscation of any goods is authorized by this Act, the Officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods or, where such owner is not known, the person from whose possession or custody such goods have been seized, an option to pay in lieu of confiscation such fine as the said officer thinks fit.

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 gold items/iphones could not have been imported by the passengers without following the procedure mentioned in the Foreign Trade (Development and Regulation) Act, 1992 and the Rules framed there under as well as the Customs Act. Hence, these gold items should be held as 'prohibited goods' within the meaning of Section 2(33) of the Act. In the case of *Samynathan Murugesan* reported at 2009 (247) ELT 21 (Mad), the High Court of Madras has upheld the absolute confiscation ordered by the adjudicating authority, in a case having similar facts and circumstances. In a recent case decided by the High Court of Madras reported at 2016-TIOL-1664-HC-MAD-CUS in respect of Malabar Diamond Gallery Pvt Ltd, the Court held that smuggled gold jewellery were prohibited goods under Section 2(33) of the Act. Given the facts and the rulings cited above, the gold items/iphones were kept undeclared and concealed in the person of the passengers and therefore are prohibited in nature. Hence, I am the view that the gold items totally weighing 1754.410 grams recovered from Deepak (448.260 grams), Hansa (565.100 grams) and Falguni (741.050 grams) would be liable to absolute confiscation. The 2 iphones recovered from Deepak would also be liable for absolute confiscation. I am therefore, not inclined to use my discretion to give an option to redeem the gold items/iphones on payment of a redemption fine, as envisaged under Section 125 of the Act.

17 Given my above findings, I pass the following Order.

#### Order

- i. I order absolute confiscation of the two gold chains, one gold kada and one gold buckle totally weighing 448.260 grams recovered from Mr Deepak Soni, having tariff value of Rs 10,90,540/- (Rupees Ten lacs ninety thousand five hundred forty only) and market value of Rs 12,12,095/- (Rupees Twelve lacs twelve thousand ninety five only), seized vide panchnama drawn on 11.2.2017, under the provisions of Sections 111(d), (i), (l) & (m) of the Act.

ii. I order absolute confiscation of the two gold chains, two gold bangles, 4 pieces of raw gold bangles and 4 ornament sets made of gold (2 sets containing one neck piece + two ear piece + 2 sets containing one pendant + two ear piece each) totally weighing 565.100 grams recovered from Ms Hansaben Soni, having tariff value of Rs 13,74,792/- (Rupees Thirteen lacs seventy four thousand seven hundred ninety two only) and market value of Rs 15,28,030/- (Rupees Fifteen lacs twenty eight thousand thirty only), seized vide panchnama drawn on 11.2.2017, under the provisions of Sections 111(d), (i), (l) & (m) of the Act.

iii. I order absolute confiscation of the two gold chains, four gold bangles, 4 pieces of crude gold bangles and 5 ornament sets made of gold (each one containing one neck piece + two ear pieces) totally weighing 741.050 grams recovered from Ms Falguni Soni, having tariff value of Rs 18,02,849/- (Rupees Eighteen lacs two thousand eight hundred forty nine only) and market value of Rs 20,03,799/- (Rupees Twenty lacs three thousand seven hundred ninety nine only), seized vide panchnama drawn on 11.2.2017, under the provisions of Sections 111(d), (i), (l) & (m) of the Act.

iv. I order absolute confiscation of the 2 apple iphones 7 plus 256 GB valued at Rs 1,27,300/- (Rupees One lac twenty seven thousand three hundred only), seized under panchnama drawn on 11.2.2017, under the provisions of Section 111(d), (i), (l) & (m) of the Act.

v. I impose a penalty of Rs 5,00,000/- (Rupees Five lacs only) on Mr Deepak Soni, under the provisions of Sections 112(a) & (b) of the Act.

vi. I impose a penalty of Rs 10,00,000/- (Rupees Ten lacs only) on Mr Deepak Soni, under the provisions of Sections 114AA of the Act.

vii. I impose a penalty of Rs 5,50,000/- (Rupees Five lacs fifty thousand only) on Ms Hansaben Soni, under the provisions of Sections 112(a) & (b) of the Act.

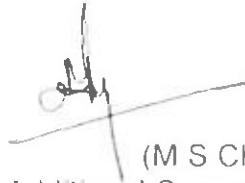
viii. I impose a penalty of Rs 7,00,000/- (Rupees Seven lacs only) on Ms Hansaben Soni, under the provisions of Sections 114AA of the Act.

ix. I impose a penalty of Rs 7,00,000/- (Rupees Seven lacs only) on Ms Falguni Soni, under the provisions of Sections 112(a) & (b) of the Act.

x. I impose a penalty of Rs 9,00,000/- (Rupees Nine lacs only) on Ms Falguni Soni, under the provisions of Sections 114AA of the Act.

(P/310718  
(Mr. Jadau)

O/C

  
(M S Chauhan)  
Additional Commissioner

TF No VIII/10-12/SVPIA/O & A/2017

Date: July 26, 2018

By Speed Post AD

Mr Deepak Soni  
12, Motikunj Society  
Opp Audit Bhavan, Ishwar Bhuvan Road  
Navrangpura, Ahmedabad 380 009

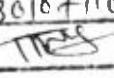
Ms Hansaben Soni  
12, Motikunj Society  
Opp Audit Bhavan, Ishwar Bhuvan Road  
Navrangpura, Ahmedabad 380 009

Ms Falguni Soni, 12, Motikunj Society  
Opp Audit Bhavan, Ishwar Bhuvan Road  
Navrangpura, Ahmedabad 380 009

Copy to

- The Principal Commissioner, Customs, Ahmedabad
- The Deputy Commissioner, SVPI Airport, Ahmedabad
- The Deputy Commissioner (Prosecution), Customs, Ahmedabad
- The Deputy Commissioner (Task Force), Customs, Ahmedabad
- The Deputy Commissioner (Valuation), Customs, Ahmedabad
- Guard File



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## प्रधान आयुक्त का कार्यालय, सीमा शुल्क, अहमदाबाद

### ::अपराध एवं न्याय निर्णयन अनुभाग::

“सीमा शुल्क भवन”, दूसरा तल, पुराने हाई कोर्ट के सामने, नवरंगपुरा, अहमदाबाद - 380 009.

दूरभाष: (079) 2754 0055 फैक्स: (079) 2754 1542

#### SHOW CAUSE NOTICE

1 Three international passengers namely Mr. Deepak Natvarlal Soni, Mrs. Hansaben Natvarlal Soni and Mrs. Falguni Deepak Soni (hereinafter also referred as the 'passengers' for sake of brevity) all holding Indian passports had arrived at Ahmedabad by Air Arabia Flight No G9 483 from Sharjah to Ahmedabad on 11.2.2017. On suspicion, the passengers were intercepted by the AIU officers of SVPI Airport, Ahmedabad and were subjected to detailed examination of their baggage and their persons. The passengers were carrying 4 check-in bags, 2 ladies purse, one back pack and 2 pouches. Upon inquiry, by the AIU officers, of all the passengers regarding whether they were possessing any dutiable/restricted item liable to be declared before the Customs within their baggage or in person, all the passengers replied in negative. Thereafter, upon checking their baggage, two Mobile Phones-Apple-iPhone-7 plus 256 GB totally valued at Rs 1,27,300/- was recovered. Mr. Deepak Natvarlal Soni was requested to pass through the Door Metal Frame Detector ('DFMD') and as he passed through the DFMD a beep sound was heard indicating the presence of metallic substances in his body. Upon further inquiry, Mr. Deepak Natvarlal Soni denied of having any dutiable goods in his person. However, upon repeated beep sounds by the DFMD machine, Mr. Deepak Natvarlal Soni removed his belt admitting that the buckle of the belt was made of gold and was also coated with white metallic coating of rhodium. He further removed two chains of yellow metal which was worn in his neck and one Kada of yellow metal from his pant pockets.

1.1. Similarly after denying possession of any dutiable item in her baggage or on her person, Mrs. Hansaben Natvarlal Soni (mother of Mr. Deepak Natvarlal Soni) was also requested to pass through the DFMD where again a beep sound was heard indicating presence of metallic substances on her body. Mrs. Hansaben Natvarlal Soni removed two chains and 2 bangles, worn by her. She also produced 04 pieces of raw bangles of yellow metal and 4 ornament sets of yellow metal contained in handkerchief/polyethene bags and concealed within her body inside the undergarments worn by her.

1.2. Mrs. Falguni Deepak Soni (wife of Mr. Deepak N Soni) was also inquired regarding presence of any dutiable/restricted item in her baggage or on her person was requested to pass through the DFMD where a beep sound was heard indicating the presence of metallic substances on her body. Mrs. Falguni Deepak Soni finally

produced before the AIU officers two chains and 4 bangles worn by her. She also produced before the AIU officers 04 pieces of raw gold bangles made of yellow metal and 5 ornament sets of yellow metal(each having one neck piece and two ear pieces) from polythene bags concealed in her undergarments.

2. Based on the primary inferences, the Government approved valuer, Mr. Kartikey Soni was called upon for testing of the items Mrs. The valuer gave his report on 11.2.2017 stating that all the items of yellow metal were made of pure gold having purity of 22 Kt (916).The report indicated that 4 pieces of gold items recovered from Mr. Deepak Natvarlal Soni weighed 448.260 gram with a market value of Rs. 12,12,095/- and a tariff value of Rs 10,90,540/- (Annexure A to the panchnama drawn on 11.2.2017 refers), 20 pieces of gold items recovered from Mrs. Hansaben Soni weighed 565.100 gram having a market value of Rs 15,28,030/- and a tariff valued of Rs 13,74,792/- (Annexure B to the panchnama drawn on 11.2.2017 refers) and 25 pieces of gold items. recovered from Mrs. Falguni Deepak Soni weighed 741.050 gram. having a market value of Rs 20,03,799/- and a tariff value of Rs 18,02,849/-. All the gold items were having a purity of 22 Kt(916). The valuation was done on the basis of the tariff value taken on the basis of Notification No.s 8/2017-Customs(NT) dated 31.1.2017 ( Tariff value notification in respect of Tariff Value of Gold) and 9/2017-Customs.(NT) dated 2.2.2017 (*Notification of rate of exchange of conversion of the foreign currency w.e.f 03.02.2017*).

3. Following items of Pure 22k Gold (916) were recovered from the three passengers as detailed below :

- (i) Two gold chains, one gold kada and gold buckle recovered from Mr Deepak Natvarlal Soni concealed in his person totally weighing 448.260 gram;
- (ii) Two gold chains, 2 bangles, 4 pieces of raw bangles and 4 ornament sets(2 sets containing one neck piece + two ear piece and 2 sets containing one pendent + two ear piece each) were recovered from Mrs. Hansaben Natvarlal Soni totally weighing 565.100 gram.;
- (iii) Two gold chains, 4 bangles, 4 pieces of Raw gold bangles and five ornament sets(each one containing one neck piece + two ear pieces) were recovered from the person of Mrs. Falguni Deepak Deepak Soni totally weighing 741.050 gram.;

3.1 Therefore, all Gold items recovered from all the three passengers totally weighing 1754.41 gram having a market value of Rs 47,43,924/- and a tariff value of Rs. 42,68,181/- were placed under seizure vide panchnama dtd. 11.2.2017. Similarly, 2 Apple make I-phone 7 plus 256 GB mobile phones brought by Mr. Deepak Natvarlal

Soni under Invoice No 33584 of 7.2.2017 were also placed under seizure. The seizure was made under the provisions of Customs Act, 1962 under the reasonable belief that the said goods were smuggled into India and were liable for confiscation.

4. Mr. Deepak Natvarlal Soni, Mrs. Hansaben Natvarlal Soni and Mrs. Falguni Deepak Soni produced the following documents:

- i. Boarding pass from Sharjah to Ahmedabad of Air Arabia Flight No G9 483 dated 11.2.2017 – Seat No 4A and Passport No Z3170035 in respect of Mr Deepak Natvarlal Soni
- ii. Boarding pass from Sharjah to Ahmedabad of Air Arabia Flight No G9 483 dated 11.2.2017 – Seat No 4C and Passport No Z3169969 in respect of Mrs. Hansaben Natvarlal Soni
- iii. Boarding pass from Sharjah to Ahmedabad of Air Arabia Flight No G9 483 dated 11.2.2017 – Seat No 4B and Passport No Z3170041 in respect of Mr Falguni Deepak Soni

5. Statement of Mr. Deepak Natvarlal Soni was recorded on 11.2.2017 under Section 108 of the Customs Act, 1962('hereinafter referred to as the 'Act'). He admitted that he was carrying the gold chains & gold kada and the buckle of the belt was also made of gold. He also accepted that the gold items recovered from Mrs. Hansaben Natvarlal Soni, his mother and Mrs. Falguni Deepak Soni, his wife were brought by them. He stated that he had paid for the purchase of the entire gold items from his account in Saad General Trading, Dubai and these gold items were brought by the three of them for making jewellery. He further accepted that he was well aware of the Customs Law and had brought the gold items by way of concealment in his body and further he has consciously not declared them before Customs in order to evade payment of Customs duty.

6. Statement of Mrs. Hansaben Natvarlal Soni was recorded on 11.2.2017 under Section 108 of the Act. She admitted that all the gold items recovered from her person were brought by her in order to help in his son's business.

7. Statement of Mrs. Falguni Deepak Soni was recorded on 11.2.2017 under Section 108 of the Act. She admitted that all the gold items recovered from her person were brought by her in order to help in her husband's business.

8. Following Summons were issued to Mr. Deepak Natvarlal Soni under Section 108 of Customs Act,1962 for recording his further statement but the outcome of the summons are detailed as under :

Sr. No	Date of Issue of Summons	Reply by the Recipient	Final Outcome
1	05.06.2017	Reply dated-13.06.2017, he was not fit to depose as he had cardiac issues.	No Statement recorded
2	21.06.2017	Reply dated 28.6.2017, he repeated the same reasons	No Statement recorded
3	22.06.2017	Mr Deepak Natvarlal Soni again stated his inability to depose before the Officers as he was suffering from cardiac probleMrs.	No Statement recorded
4	17.07.2017	Mr Deepak Natvarlal Soni replied under a letter dated 20.7.2017(received on 1.8.2017) that he had suffered a heart attack on 6.7.2017 and was admitted for cardiac surgery on 6.7.2017 at Apex Heart Institute, Ahmedabad	No Statement recorded

Subsequently, several telephonic calls made to Mr Deepak Natvarlal Soni went unanswered. On 5.8.2017, the Superintendent(AIU), Customs, Ahmedabad also visited the shop of Mr Deepak Natvarlal Soni at 'Suvernaratnam, Off CG Road, Ahmedabad but Mr Deepak Natvarlal Soni was not available. His son, Mr Jaydeep Soni stated that his father was admitted to the hospital for cardiac surgery and he had gone in depression after the surgery and was not in a position to depose or appear before the officers to record his statement. It appeared that despite several attempts, Mr. Deepak Natvarlal Soni did not co-operate with the investigation and did not come forward for recording his statement.

9. From the foregoing paras, it appeared that Mr. Deepak Natvarlal Soni had brought two gold chains, one gold kada and gold buckle by way of concealment in his person. Mrs. Hansaben Natvarlal Soni had brought two gold chains, 2 bangles 4 pieces of raw bangles and 4 ornament sets(2 sets containing one neck piece + two ear piece and 2 sets containing one pendent + two ear piece each) in her person. Mrs. Falguni Deepak Soni had brought two gold chains, 4 bangles , 4 pieces of crude gold bangles and five ornament sets(each one containing one neck piece + two ear pieces) in her person. It further appeared that Mr Deepak Natvarlal Soni had further brought two Apple make I-phone 7 plus 256 GB mobile phones in his baggage. It appeared that the three passenger by not declaring the gold chains, kadas, bangles, ornament sets as well as the mobile phones had an intention to evade payment of Customs duty and thereby violated the provisions contained in the Customs Act, 1962 read with Foreign Trade(Development & Regulations) Act, 1992 and Foreign Trade(Development & Regulations) Rules, 1993 and the Foreign Trade Policy 2015-2020.

10. From the facts and circumstances discussed above, it appeared that Mr. Deepak Natvarlal Soni had attempted to smuggle two gold chains, one gold kada and gold buckle in his person totally weighing 448.260 gram having a market value of Rs 12,12,095/- and tariff value of Rs 10,90,540/- in his person. Mrs. Hansaben Natvarlal

Soni had attempted to smuggle two gold chains, 2 bangles, 4 pieces of raw bangles and 4 ornament sets(2 sets containing one neck piece + two ear piece and 2 sets containing one pendent + two ear piece each) concealed in her person totally weighing 565.100 gram having a market value of Rs 15,28,030/- and a tariff value of Rs 13,74,792/-. Mrs. Falguni Deepak Soni had attempted to smuggle two gold chains, 4 bangles , 4 pieces of crude gold bangles and five ornament sets(each one containing one neck piece + two ear pieces) concealed in her person totally weighing 741.050 gram having a market value of Rs 20,03,799/- and tariff value of Rs 18,02,849/-. Further, it also appeared that Mr Deepak Natvarlal Soni had attempted to smuggle two Apple make I-phone 7 plus 256 GB in his baggage. All the three passengers attempted to smuggle the gold items/Iphones into India with an intention to evade payment of Customs duty. All the gold items totally weighing 1754.410 gram having a market value of Rs. 47,43,924/- and a tariff value of Rs 42,68,181/- as well as 2 Apple make I-phone 7 plus 256 GB mobile phones valued at Rs 1,27,300/- were brought into India by the passenger for commercial purpose and can not be construed as 'bonafide baggage' within the meaning of Section 79 of the Customs Act,1962 read with Para 2.26 of the Foreign Trade Policy, 2015-2020. As per Para 2.26 of the Foreign Trade Policy, a passenger is allowed to import bona-fide household and personal effect only, as his bonafide baggage. Gold/gold jewellery beyond a prescribed quantity can not be treated as bonafide baggage. Therefore, import of such goods are not permitted through the baggage mode. It also appeared that the passenger attempted to smuggle the goods without filing the Customs declaration form, which appeared to be in contravention of Section 77 of the Act read with the Baggage Rules, 2016 ('Baggage Rules') and Regulation 3 of the Customs Baggage Declaration Regulations, 2013 ('Baggage Regulations').The above acts on the part of all the three passengers appeared to be amounting to smuggling within the meaning of Section 2(39) of the Act.

11. Thus, the passengers appeared have contravened the following provisions :

- Section 77 of the Customs Act,1962 as (i) Mr Deepak Natvarlal Soni failed to make a declaration of the imported two gold chains, one gold kada and gold buckle as well as 2 apple Iphone 7 plus 256 GB mobile phones (ii) Mrs. Hansaben Natvarlal Soni has failed to make a declaration of the two gold chains, 2 bangles 4 pieces of raw bangles and 4 ornament sets(2 sets containing one neck piece + two ear piece and 2 sets containing one pendent + two ear piece each) and (iii) Mrs. Falguni Deepak Soni failed to make a declaration of the imported two gold chains, 4 bangles , 4 pieces of crude gold bangles and five ornament sets(each one containing one neck piece + two ear pieces), which were recovered from the possession of the three passenger;
- Section 79 of the Customs Act,1962 as (i) Mr Deepak Natvarlal Soni attempted to smuggle two gold chains, one gold kada and gold buckle as well as 2 apple Iphone 7 plus 256 GB mobile phones, (ii) Mrs. Hansaben Natvarlal Soni attempted to

smuggle two gold chains, 2 bangles 4 pieces of raw bangles and 4 ornament sets (2 sets containing one neck piece + two ear piece and 2 sets containing one pendant + two ear piece each) and (iii) Mrs. Falguni Deepak Soni attempted to smuggle two gold chains, 4 bangles , 4 pieces of crude gold bangles and five ornament sets(each one containing one neck piece + two ear pieces) for commercial purpose which were not for their bonafide baggage

- Rule 11 of the Foreign Trade(Regulation) Rules, 1993 as (i) Mr Deepak Natvarlal Soni failed to declare the value, quantity and description of the two gold chains, one gold kada and gold buckle as well as 2 apple Iphone 7 plus 256 GB mobile phones, (ii) Mrs. Hansaben Natvarlal Soni failed to declare the value, quantity and description of the two gold chains, 2 bangles 4 pieces of raw bangles and 4 ornament sets(2 sets containing one neck piece + two ear piece and 2 sets containing one pendant + two ear piece each) and (iii) Mrs. Falguni Deepak Soni has failed to declare the value, quantity and description of the two gold chains, 4 bangles , 4 pieces of crude gold bangles and five ornament sets(each one containing one neck piece + two ear pieces), imported by the three passengers
- Para 2.26 of the Foreign Trade Policy 2015-2020 as all the three passengers acted contrary to the restrictions imposed in respect of passenger baggage.

12. It appeared that the passengers had not filed the baggage declaration form as required to be filed under Customs Baggage Declaration Regulations,2013 read with Section 81 of the Customs ACt,1962 . Mr Deepak Natvarlal Soni had not declared the two gold chains, one gold kada and gold buckle as well as 2 Apple make I-phone 7 plus 256 GB mobile phones, Mrs. Hansaben Natvarlal Soni had not declared the two gold chains, 2 bangles, 4 pieces of raw bangles and 4 ornament sets (2 sets containing one neck piece + two ear piece and 2 sets containing one pendant + two ear piece each) and Mrs. Falguni Deepak Soni had not declared the two gold chains, 4 bangles , 4 pieces of crude gold bangles and five ornament sets(each one containing one neck piece + two ear pieces), which were in the possession of the three passengers, as envisaged under Section 77 of the Act read with the Baggage Rules and Baggage Regulations. It also appeared that the imports were for non bonafide purpose too. Moreover, gold or silver, in raw form is allowed to be imported as passenger baggage only by "eligible" passenger. Any "ineligible" passenger is not allowed to carry gold in baggage. Further, as envisaged under Notification No. 12/2012-Cus dated 17.3.2012 as amended (Sr No 321) one kg of gold can be imported by an eligible passenger if condition 35 of the said notification is complied with . As per this notification an "eligible passenger' means a passenger of Indian origin or a passenger holding a valid passport, issued under the Passports Act, 1967, who is coming to India after a period of not less than six months of stay abroad; and short visits, if any, made by the eligible passenger during the aforesaid period of six months shall be ignored if the total duration of stay on such visits does not exceed thirty days and such passenger has not availed of the

exemption under this notification or under the notification being superseded at any time of such short visits. In the present case, the passengers had gone to Dubai on 8.2.2017 by the Air Arabia flight and returned on 11.2.2017 by the Air Arabia flight. It, therefore, appeared that all the above acts of contravention on the part of the passengers have rendered the seized goods namely two gold chains, one gold kada and gold buckle as well as 2 Apple make I-phone 7 plus 256 GB mobile phones in respect of Mr Deepak Natvarlal Soni, two gold chains, 2 bangles, 4 pieces of raw bangles and 4 ornament sets(2 sets containing one neck piece + two ear piece and 2 sets containing one pendent + two ear piece each) in respect of Mrs. Hansaben Natvarlal Soni and two gold chains, 4 bangles , 4 pieces of crude gold bangles and five ornament sets(each one containing one neck piece + two ear pieces) in respect of Mrs. Falguni Deepak Soni, as liable to confiscation under the provisions of Sections 111(d), (i), 111(l) and 111(m) of the Act. It further appears that all the gold items referred above as well as the 2 Apple make i-phone 7 plus 256 GB mobile phones imported by the passenger is to be construed as 'smuggling' within the meaning of Section 2(39) of the Act.

**12.1** Further, it also appeared that as on 11.02.2017, Mr Deepak Natvarlal Soni was one of members of an Expert trade panel as Govt. Approved valuer (for Gold) registered under Section 34AB of the Wealth Tax Act,1957 and issued under Public Notice No 69/2003 dated 28.7.2003 issued by the Commissioner, Customs, Ahmedabad. As per the said Public Notice, the services of the members of this expert trade panel was to be utilized for verification of the purity and weight of gold jewellery by the Assistant/Deputy Commissioner of Customs, Air Cargo Complex, Ahmedabad. It, therefore, transpires that, as on 11.02.2017 Mr. Deepak Natvarlal Soni was well conversant of the Customs Rules and Regulations in respect of import of gold by various modes. Therefore, it also appeared that Mr. Deepak Natvarlal Soni had a prior knowledge that, Gold (in any format) when imported into India was required to be declared before the Customs authorities at the time of his/her arrival at the airport and were also required to be cleared on payment of appropriate duty leviable. Though he had a prior knowledge about this, it appears that he had consciously connived with his mother Mrs. Hansaben Natvarlal Soni and his wife Mrs. Falguniben Deepak Soni, in carrying the gold by way of concealment with an intent to evade payment of Customs duty. It, therefore, appeared that the three passengers were fully aware that the goods were offending in nature on its import and had carried the gold items as referred above in their person. Further Mr Deepak Natvarlal Soni had also carried 2 Apple make I-phone 7 plus 256 GB mobile phones.

**13.** All the three passengers thus with an intention to evade payment of Customs duty omitted to declare the gold items referred above and Mr. Deepak Soni also omitted with an intention to evade payment of Customs duty to declare the two apple make I-phones on their arrival at the airport. It appeared that all the three passengers

involved themselves in carrying, keeping, concealing and has dealt with the offending goods in a manner which they knew or had reasons to believe were liable to confiscation under the Act. It, therefore, appears that all the three passengers had rendered themselves liable for penal action, under the provisions of Section 112(a) and 112(b) of the Act. The three passengers also appeared to have rendered the Mrs. elves liable for a separate penal action, under the provisions of Section 114AA of the Act for their act of non-declaration/concealment.

**14.** On the basis of available evidences all the said passengers were issued Show Cause Notice bearing File No. VIII/10-12/SVPIA/O&A/2017 dated 09.08.2017 under Section 124 of the Customs Act, 1962 by the Additional Commissioner, Customs, Ahmedabad wherein proposal for confiscation of the seized Gold and imposition of penalty was made against all the three passengers.

**14.1.** The Show cause notice was served by dropping the same, in the presence of two independent Panchas, inside the residence of Mr. Deepak Soni on 10.08.2017 through grill, as it was not feasible to affix the show cause notice dated 09.08.2017 on the wall of residence due to heavy rains. The show cause notice was also affixed on the Notice Board of the Customs House on 10.08.2017 in terms of provisions of Section 153(b) of the Customs Act, 1964.

**15.** However, on 19.08.2017 the said passengers filed a representation before Commissioner of Customs and Assistant Commissioner of Customs (Airport) for returning seized gold ornaments and 'I Phones' as no show cause notice was served to them as envisaged under the Customs Act, 1962 and six months had already elapsed from seizure of the goods. Further, the said passengers also communicated a reminder on dated 01.09.2017 for the same.

**15.1.** Assistant Commissioner of Customs, Head Quarter, O&A Section, Customs House Ahmedabad in reply to above said letters informed that, Show cause notice dated 09.08.2017 was issued in the matter by the Additional Commissioner, Customs, Ahmedabad and the same was served/delivered at their residential address under proper Panchanama dated 10.08.2017. The SCN for the seizure made on 11.02.2017 thus stood served on 10.08.2017 i.e. well within time limit of six months provided under Section 110(2) of the Customs Act, 1962. Therefore, the seized articles could not be released and they were requested to join the adjudication procedure for any relief in the matter.

**16.** The said show cause notice was decided by the Additional Commissioner, Customs, Customs House, Navrangpura, Ahmadabad on 30.07.2018 vide OIO No. 19/ADC-Misc/SVPIA/O&A/2018-19. The Additional Commissioner, Customs, Ahmedabad as adjudicating authority, vide the said OIO, ordered absolute confiscation gold and I-phones attempted to be smuggled in by all three passengers and placed

under seizure vide panchnama drawn on 11.2.2017 under section 111(d),(i), (l) and (m) of the Act. . Penalty of varying amounts was imposed on each of the passengers under the provisions of Sections 112 (a) and (b) of the Act and under the provisions of Sections 114AA of the Act.

17. In the meantime i.e. after issue of show cause notice dated 09.08.2017 and adjudication order date 30.07.2018 , the said passengers filed Special Civil Application No. 17472 before the Hon'ble High Court of Gujarat on dated 22.09.2017 praying :

- (A) *Issue a Writ of Mandamus of any other appropriate Writ, Order or Direction thereby directing the Respondent Nos. 2 and 3 herein to return to the Petitioners all gold ornaments/gold items and two Apple I-Phones seized under panchanama dated 11.02.2017 unconditionally;*
- (B) *Pending hearing and final disposal of the present petition, Respondent Nos. 2 and 3 may be directed to forthwith return all gold ornaments/gold items and two Apple I-phones seized under panchanama dated 11.02.2017 on the conditions that may be deemed fit by the Hon'ble Court;*

18. Upon hearing the above Special Civil Application, the Hon'ble High Court of Gujarat passed the following order/judgment dated 10.09.2018:

*"15. As conjoint reading of the above, we are of the considered view that action of respondent authorities in not returning the goods seized upon failure to comply with Sections 110(2), 124 and 153 of Customs Act, is illegal and we allow this writ petition by directing the respondent Nos. 2 and 3 herein to return to the petitioners within 8 weeks from today all gold ornaments/gold items and two apple I-phones seized under panchanama dated 11.02.2017 unconditionally subject to adjudication process to be carried out afresh in accordance with law."*

19. In compliance of the order of the Hon'ble High Court of Gujarat , the gold items and two apple I-phones were released on 31.10.2018 by the Assistant Commissioner of Customs, SVPIA, Ahmedabad. The passengers did not to pay duty at the time of such release of the gold items and I-phones though they were imported in violation of the Customs Act,1962

20. Further, immediately after the offence case was booked on 11.02.2017 , all the three passengers vide separate letters dated 27.02.2018 addressed to the Joint Commissioner, Customs, SVP I Airport, Ahmedabad requested to release the goods and also forwarded photo-copy of demand draft along with TR-6 Challans with request to countersign the challans so as to enable them to deposit the same if the Bank . The details of challans so forwarded are as under ;

Sr. No.	Name of the passenger	Amount shown in Challan for deposit (Rs.)		Demand Draft No. & Date		Amount of Demand Draft (Rs.)
1	Mr. Deepak Natvarlal Soni	Duty	393139	282520 dated 21.02.2012		453724/-
		Interest	1615			
		Penalty	58970			
2	Mrs. Hansaben Natvarlal Soni	Duty	495612	215264 dated 21.02.2017		571989/-
		Interest	2036			
		Penalty	74341			
3	Mrs. Falguni Deepak Soni	Duty	649927	215265 dated 21.02.2017		750086/-
		Interest	2670			
		Penalty	97489			

**20.1** The challans so received were returned without countersign vide letters dated 03.04.2017 issued from F. No. VIII/10-12/SVPIA/O&A/2017 citing the reason that the matter was under investigation.

**20.2** There is nothing on record which suggest that the demand drafts so forwarded by the passengers were deposited in the government account and appropriate amount of duty was paid on the gold items and I-phones so attempted to smuggled in and later on released on being ordered by the Hon'le High Court of Gujarat.

**21.** Therefore, considering the above facts and circumstances, as on date the fact remains that :

- (i) Mr. Deepak Natvarlal Soni – Indian Passport No. Z3170035, imported and is in possession of two gold chains, one gold kada and gold buckle totally weighing 448.260 gram having tariff value of Rs 10,90,540/- (Rupees Ten lacs ninety thousand five hundred forty only) and a market value of Rs 12,12,095/- (Rupees Twelve lacs twelve thousand ninety five only) within his Passenger baggage on 11.02.2017 while coming from Sharjah to Ahmedabad by Air Arabia Flight No.G9-483 without payment of appropriate Customs duty
- (ii) Mr. Deepak Soni – Indian Passport No. Z3170035 has also Imported and is in possession of 2 apple Iphones 7 plus 256 GB mobile phones valued at Rs 1,27,300/- (Rupees One lac twenty seven thousand three hundred only) within his Passenger baggage on 11.02.2017 while coming from Sharjah to

a)

Ahmedabad by Air Arabia Flight No.G9-483 without payment of appropriate Customs duty

- (iii) Mrs. Hansaben Natvarlal Soni – Indian Passport No. Z3169969 has imported and in possession of two gold chains, 2 bangles, 4 pieces of raw bangles and 4 ornament sets(2 sets containing one neck piece + two ear piece and 2 sets containing one pendent + two ear piece each) totally weighing 565.100 gram having tariff value of Rs 13,74,792/- (Rupees Thirteen lacs seventy four thousand seven hundred ninety two only) and a market value of Rs 15,28,030/- (Rupees Fifteen lacs twenty eight thousand thirty only) within her Passenger baggage and in person on 11.02.2017 while coming from Sharjah to Ahmedabad by Air Arabia Flight No.G9-483 without payment of appropriate Customs duty
- (iv) Mrs. Falguni Deepak Soni –Indian Passport No. Z3170041 has imported and in possession of two gold chains, 4 bangles, 4 pieces of crude gold bangles and five ornament sets(each one containing one neck piece + two ear pieces) totally weighing 741.050 gram having tariff value of Rs 18,02,849/- (Rupees Eighteen lacs two thousand eight hundred forty nine only) and a market value of Rs 20,03,799/- (Rupees Twenty lacs three thousand seven hundred ninety nine only) within her Passenger baggage and in person on 11.02.2017 while coming from Sharjah to Ahmedabad by Air Arabia Flight No.G9-483 without payment of appropriate Customs duty

22. Rule – 5 of Customs Baggage Rules,2016 issued vide Notification No. 30/2016-Customs (N.T.) dated 1.3.2016 as amended by Notification No. 43/2016-Customs (N.T) dated 31.3.2016 read with corrigendum dated.1.4.2016 provides that :

*"A passenger residing abroad for more than one year, on return to India, shall be allowed clearance free of duty in his bona fide baggage of jewellery upto a weight, of twenty gram with a value cap of fifty thousand rupees if brought by a gentleman passenger, or forty gram with a value cap of one lakh rupees if brought by a lady passenger"*

Considering the facts of the case as detailed above, none of the three passengers fall under the ambit of such passenger residing abroad for more than a year and therefore do not qualify for duty free import of Gold Jewellery as per the provisions of the above Sub Rule 5 of Custom Baggage Rules,2016. It is noteworthy to mention that Gold in any other form is not permitted to be imported as Passenger Baggage.

22.1 Sub-Rule-1(vi) of Rule-2 of the Customs Baggage Rules,2016 issued vide Notification No. 30/2016-Customs (N.T.) dated 1.3.2016 as amended by Notification No. 43/2016-Customs (N.T) dated 31.3.2016 read with corrigendum dated.1.4.2016 envisages that :

*"personal effects" means things required for satisfying daily necessities but does not include jewellery";*

Therefore in such circumstances, any Jewellery included in a Passenger Baggage do not qualify as Personal Effects and are not considered within the Free Baggage Allowance. In the instant case the Gold/Gold Jewellery imported by the three passengers can not be construed under Free Allowance by any stretch. However, since the Gold imported by the three passengers and presently under possession of the passengers themselves by virtue of the Order of the Hon'ble Gujarat High Court dated 10.09.2018 in SCA No. 17472 of 2017, appropriate Customs duty is required to be demanded and recovered in respect of the offending goods seized under Panchnama dated 11.02.2017 and subsequently released to the passengers in compliance of the order of the Hon'ble High Court of Gujarat dated 10.09.2018 in SCA no.17472 of 2017.

**23.** Since, the goods in questions were brought inside India from a foreign destination by the way of smuggling , the same still is "import" as per definition of import given in Section 2 (23) of the Customs Act,1962. The gold items and I-phones were brought into India by the passengers travelling by Air Arabia Flight No. G9 -483 as passenger baggage and hence the same are classifiable under Customs Tariff Head No. 98030000 and subjected to the duty at the rate of 35% ad valorem under the first schedule to Customs Tariff Act,1975 as notified vide Notification No. 26/2016-Cus dated 31.03.2016.

**24.** Since there is nothing on record which suggest that the appropriate duty was paid by the passengers and the fact that the said passengers has not paid the duty at the time of taking possession of the gold items and I-phones subsequent to order of the Hon'ble High Court of Gujarat to release the goods. It appears that the duty on any goods brought into India from any foreign destination is statutory obligation and the same is required to be paid by the person importing such goods unless exemption from payment of duty is granted by the government. The Customs duty no paid by the passengers is required to be recovered by invoking the provision of Section 28 (1) of the Customs Act,1962.

**25.** Therefore, on the basis of the evidences gathered and discussions detailed in the foregoing paras :

**25.1** Mr. Deepak Natvarlal Soni is hereby called upon to show cause in writing to the Additional Commissioner of Customs, 1<sup>st</sup> Floor, Customs House, Near All India Radio, Navrangpura, Ahmedabad 380 009 as to why:

- i. Customs duty amounting to Rs.3,93,140/- (Rupees Three Lakhs Ninety Three Thousand One Hundred Forty) calculated @ 36.05 % ad-valorem (Custom duty @ 35% + Customs Cess @ 3%) should not be imposed on Seized Gold totally

weighing 448.260 gram having tariff value of Rs 10,90,540/- (Rupees Ten lacs ninety thousand five hundred forty only) and market value of Rs 12,12,095/- (Rupees Twelve lacs twelve thousand ninety five only) placed under Seizure vide Panchnama dtd.11.02.2017 and released subsequent to order dated 10.09.2018 pronounced by the Hon'ble high Court of Gujarat in SCA No. 17472 of 2017

- ii. Customs duty amounting to Rs.45892.00 (Rupees Forty Five Thousand Eight Hundred and Ninety Two) calculated @ 36.05 % ad-valorem (Custom duty @ 35% + Customs Cess @ 3%) should not be imposed on the 2 apple Iphones 7 plus 256 GB mobile phones valued at Rs 1,27,300/- (Rupees One lac twenty seven thousand three hundred only) placed under seizure vide panchnama dtd. 11.02.2017 and released subsequent to order dated 10.09.2018 pronounced by the Hon'ble high Court of Gujarat in SCA No. 17472 of 2017
- iii. interest at the rate applicable should not be recovered under Section 28AA of the Customs Act,1962.

**25.2** Mrs. Hansaben Natvarlal Soni is called upon to show cause in writing to the Additional Commissioner of Customs, 1<sup>st</sup> Floor, Customs House, Near All India Radio, Navrangpura, Ahmedabad 380 009 as to why:

- i. Customs duty amounting to Rs.495613.00 (Rupees Four Lakhs Ninety Five Thousand Six Hundred and Thirteen) calculated @ 36.05 % ad-valorem (Custom duty @ 35% + Customs Cess @ 3%) should not be imposed and recovered on the Seized Gold totally weighing 565.100 gram having tariff value of Rs 13,74,792/- (Rupees Thirteen lacs seventy four thousand seven hundred ninety two only) and a market value of Rs 15,28,030/- (Rupees Fifteen lacs twenty eight thousand thirty only), placed under Seizure vide Panchnama dtd.11.02.2017 and released subsequent to order dated 10.09.2018 pronounced by the Hon'ble high Court of Gujarat in SCA No. 17472 of 2017
- ii. interest at the rate applicable should not be recovered under Section 28AA of the Customs Act,1962.

**25.3** Mrs. Falguni Deepak Soni is called upon to show cause in writing to the Additional Commissioner of Customs, 1<sup>st</sup> Floor, Customs House, Near All India Radio, Navrangpura, Ahmedabad 380 009 as to why:

- i. Customs duty amounting to Rs.649927.00 (Rupees Six Lakhs Forty Nine Thousand Nine Hundred and Twenty Seven) calculated @ 36.05 % ad-

valorem (Custom duty @ 35% + Customs Cess @ 3%) should not be imposed and recovered on the Seized Gold totally weighing 565.100 gram having tariff value of Rs 13,74,792/- (Rupees Thirteen lacs seventy four thousand seven hundred ninety two only) and a market value of Rs 15,28,030/- (Rupees Fifteen lacs twenty eight thousand thirty only), placed under Seizure vide Panchnama dtd.11.02.2017 and released subsequent to order dated 10.09.2018 pronounced by the Hon'ble High Court of Gujarat in SCA No. 17472 of 2017

- ii. interest at the rate applicable should not be recovered under Section 28AA of the Customs Act,1962.

26. Mr Deepak Natvarlal Soni, Mrs. Hansaben Natvarlal Soni and Mrs. Falguni Deepak Soni, all residents of 12, Motikunj Society, Opp Audit Bhavan, Ishwar Bhuvan Road, Navrangpura, Ahmedabad 380 009 and also having another communication address at Suvarn Ratnam, 5-6, Dwarkesh Complex, Off. C G Road, Ahmedabad are requested to file their written submission within 30 days of receipt of this show cause notice and produce evidences which they intend to rely at the time of showing cause.

27. The three passengers are requested to inform if they desire to be heard in person before the case is adjudicated. If no mention is made in their submissions, it would be presumed that they do not desire a personal hearing. If no cause is shown by the three passengers against the action proposed against them within 30 days of the receipt of this notice or if they do not appear before the adjudicating authority, when the case is posted for hearing, the case would be decided ex-parte on merits.

28. This notice is issued to the noticees and without prejudice to any other action that may be taken against the three passengers under this Act or any other law for the time being in force in India.

29. The documents relied on in the notice are listed as Annexure 'A' and are enclosed with this notice.

O/C

  
(M.L. Meenat)  
Additional Commissioner

F. No. VIII/10-137/SVPIA/O&A/HQ/2018

Date: 04.02.2019

By Speed Post AD/Hand Delivery

Mr. Deepak Natvarlal Soni  
12, Motikunj Society  
Opp Audit Bhavan  
Ishwar Bhuvan Road  
Navrangpura  
Ahmedabad 380 009

Mr. Deepak Natvarlal Soni  
Suvarn Ratnam  
5-6, Dwarkesh Complex  
Off. C G Road  
Ahmedabad

Mrs. Hansaben Natvarlal Soni  
 12, Motikunj Society  
 Opp Audit Bhavan  
 Ishwar Bhuvan Road  
 Navrangpura  
 Ahmedabad 380 009

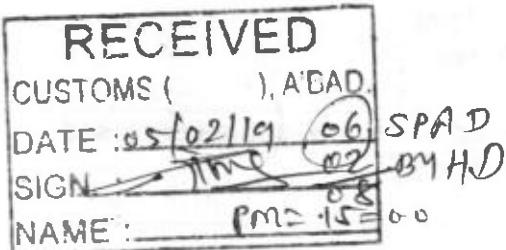
Mrs. Hansaben Natvarlal Soni  
 Suvarn Ratnam  
 5-6, Dwarkesh Complex  
 Off. C G Road  
 Ahmedabad

Mrs. Falguni Deepak Deepak Soni  
 12, Motikunj Society  
 Opp Audit Bhavan  
 Ishwar Bhuvan Road  
 Navrangpura  
 Ahmedabad 380 009

Mrs. Falguni Deepak Deepak Soni  
 Suvarn Ratnam  
 5-6, Dwarkesh Complex  
 Off. C G Road  
 Ahmedabad

**Copy to:**

1. The Deputy Commissioner of Customs, AIU, SVPI Airport, Ahmedabad.
2. The Deputy/Assistant Commissioner of Customs, SVPIA, Ahmedabad
3. The System In-charge, Customs, Ahmedabad for upload on the official website i.e. <http://www.ahmedabadcustoms.gov.in>
4. Guard File



**ANNEXURE-A**

Relied Upon Documents to Show Cause Notice No. VIII/10-137/SVPIA/O&A/HQ/2018 dated 04.02.2019 issued to Mr Deepak Natvarlal Soni, Mrs. Hansaben Natvarlal Soni and Mrs. Falguni Deepak Soni.

No	Document	Remarks
1	Panchnama drawn on 11.2.2017 at SVPIA, Ahmedabad	Copy available with the noticees
2	Statement recorded on 11.2.2017 of Mr. Deepak Natvarlal Soni	Copy enclosed
3	Statement recorded on 11.2.2017 of Mrs. Hansaben Natvarlal Soni	Copy enclosed
4	Statement recorded on 11.2.2017 of Mrs. Falguni Deepak Soni	Copy enclosed
5	Valuation certificate dated 11.2.2017 issued by Mr Kartikey Soni, Government Valuer	Copy enclosed
6	Letter dated 27.02.2017 alongwith enclosures of Mr. Deepak Natvarlal Soni addressed to the Joint Commissioner, Customs, SVPI Airport, Ahmedabad	Copy available with the noticee
7	Letter dated 27.02.2017 alongwith enclosures of Mrs. Hansaben Natvarlal Soni addressed to the Joint Commissioner, Customs, SVPI Airport, Ahmedabad	Copy available with the noticee
8	Letter dated 27.02.2017 alongwith enclosures of Mrs. Falguni Deepak Soni addressed to the Joint Commissioner, Customs, SVPI Airport, Ahmedabad	Copy available with the noticee
9	Letters dated 03.04.2017 addressed to all three passengers returning back TR-6 Challans	Photo-copies enclosed