

OIO No: 16/ADC/SRV/SRT-AIRPT/2025-26
F. No. VIII/26-19/AIU/CUS/2024-25



प्रधान आयुक्त का कार्यालय, सीमा शुल्क ,अहमदाबाद

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

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DIN: 20250771MN000000F715

PREAMBLE

A	फ़ाइल संख्या/ File No.	:	VIII/26-19/AIU/CUS/2024-25
B	कारण बताओ नोटिस संख्या-तारीख / Show Cause Notice No. and Date	:	VIII/26-19/AIU/CUS/2024-25 dated 15.11.2024
C	मूल आदेश संख्या/ Order-In-Original No.	:	16/ADC/SRV/SRT-AIRPT/2025-26
D	आदेश तिथि/ Date of Order-In-Original	:	25.07.2025
E	जारी करने की तारीख/ Date of Issue	:	25.07.2025
F	द्वारा पारित/ Passed By	:	Shree Ram Vishnoi, Additional Commissioner,
G	आयातक/यात्री का नाम और पता / Name and Address of Importer / Passenger	:	Shri Vrujlal Trikambhai Gabani Flat No. 1302, 26 Gold coin, Abrama Rod, Mota Varachha, Surat City - 394101, Gujarat
(1)	यह प्रति उन व्यक्तियों के उपयोग के लिए निःशुल्क प्रदान की जाती है जिन्हें यह जारी की गयी है।		
(2)	कोई भी व्यक्ति इस आदेश से स्वयं को असंतुष्ट पाता है तो वह इस आदेश के विरुद्ध अपील इस आदेश की प्राप्ति की तारीख के 60 दिनों के भीतर आयुक्त कार्यालय, सीमा शुल्क अपील)चौथी मंज़िल, हुडको भवन, ईश्वर भुवन मार्ग, नवरंगपुरा, अहमदाबाद में कर सकता है।		
(3)	अपील के साथ केवल पांच (5.00) रुपये का न्यायालय शुल्क टिकिट लगा होना चाहिए और इसके साथ होना चाहिए:		
(i)	अपील की एक प्रति और;		
(ii)	इस प्रति या इस आदेश की कोई प्रति के साथ केवल पांच (5.00) रुपये का न्यायालय शुल्क टिकिट लगा होना चाहिए।		
(4)	इस आदेश के विरुद्ध अपील करने इच्छुक व्यक्ति को 7.5 % (अधिकतम 10 करोड़) शुल्क अदा करना होगा जहां शुल्क या ड्यूटी और जुर्माना विवाद में है या जुर्माना जहां इस तरह की दंड विवाद में है और अपील के साथ इस तरह के भुगतान का प्रमाण पेश करने में असफल रहने पर सीमा शुल्क अधिनियम, 1962 की धारा 129 के प्रावधानों का अनुपालन नहीं करने के लिए अपील को खारिज कर दिया जायेगा।		

BRIEF FACTS OF THE CASE:

1. Acting based on information gathered on passenger profiling, Shri Vrujlal Trikambhai Gabani (hereinafter referred to as the "Passenger/Noticee"), aged 49 years, S/o Shri Trikambhai Talshibhai Gabani, resident of Flat No. 1302, 26 Gold coin, Abrama Road, Mota Varachha, Surat City, Gujarat-394101, having passport No. U9463702 who had arrived at Surat International Airport on 08.06.2024 from Dubai in Indigo Flight No. 6E1508 on 08.06.2024 and was suspected to be carrying high value dutiable/prohibited goods in-person or in the baggage was intercepted by the officers of the Air Intelligence Unit (AIU) (hereinafter referred to as the "officers"), near the green channel of the Arrival Hall of International Terminal of International Airport, Surat

2. The passenger was found to be carrying three pieces of baggage, viz., two trolley bags and one handbag. The officers asked the passenger whether he had anything to declare, to which the passenger denied. The officers informed the passenger that they would conduct a personal search and a detailed examination of his baggage. The officers offered their search to the passenger, but the passenger politely denied it. Thereafter, the officers asked the passenger whether he wanted to be searched in the presence of the Executive Magistrate or the Superintendent (Gazetted Officer) of Customs. In reply, the passenger consented to be searched before the Superintendent of Customs. Upon physical search by the Customs officers, the passenger was found to be wearing a '*rudraksh mala*' (garland), with each *rudraksh* being covered in metal caps. As per the request of the Customs Officers, the string holding the *rudraksh* and metal caps (appearing to be gold) was broken, and the rudraksh beads and the metal caps (appearing to be gold) were separated by the passenger.

3. The officers passed the luggage he carried through the XBIS scanner machine and thoroughly checked it after withdrawing its contents. However, nothing objectionable or prohibited goods were found.

4. Thereafter, the Customs officer called Shri Vikasraj Juneja, Government Approved Valuer, in the Customs office at Surat International Airport to test the purity, weighment and valuation of recovered metal caps, appearing to be gold, from the passenger. Shri Vikasraj Juneja, after examination and weighment of the said metal caps (moulded in round shape as in to fit in *rudraksh* beads), certified the same to be of gold of 24 carat weighing 234.270 grams, having Market value of Rs. 17,20,713/- and Tariff Value of Rs. 14,93,021/- as per Notification No. 38/2024-Customs (NT) dated 31.05.2024 and Notification No. 40/2024- Customs (NT) dated 06.06.2024. Thereafter, Shri Vikasraj Juneja issued a valuation certificate dated 09.06.2024/01. The Customs officers took custody of the gold caps, weighing 234.270 grams.

5. Thereafter, the above mentioned 24 kt gold caps totally weighing 234.270 grams and the *Rudraksh* Beads which were used for concealment of the gold caps both recovered from the passenger, Shri Vrujlal Trikambhai Gabani was placed under seizure under the provisions of Section 110 of the Customs Act 1962 vide Seizure order dated 09.06.2024 under *Panchnama* proceedings dated 08/09.06.2024, on a reasonable belief that the said gold was smuggled into India and was liable for confiscation under provisions of the Customs Act, 1962.

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

- (i) Copy of Boarding Pass, from Dubai to Surat, of Indigo Flight No. 6E1508 dated 08.06.2024, Seat No. 12D, PNR No. BV81VJ.
- (ii) Copy of Passport No. U9463702 issued at Surat on 09.06.2021 and valid until 08.06.2031. His address as per the passport was Flat No. 1302, 26 Gold Coin, Abrama Road, Mota Varachha, Surat City, Gujarat-394101, India.
- (iii) Copy of Aadhar card bearing No. 6915 1476 3131.

7. Further, a statement of Shri Vrujlal Trikambhai Gabani was recorded on 09.06.2024 under the provision of Section 108 of the Customs Act, 1962, wherein he inter alia stated:

- that he was residing at Flat No. 1302, 26 Gold coin, Abrama Road, Mota Varachha, Surat City, Gujarat-395004 with his wife, one son and one daughter; he lived in Surat as well as in Sharjah and his Sharjah address was 2510, All Taawun Tower, Opposite Nestow Hypermarket, Al Nahda, Sharjah; he was partner in a software company namely Amarson Information Technology situated in Dubai; that he was also a partner in Construction Company namely Sweet Home Developers, Textile Company viz. P19 Versatile Fab situated in Surat; he had studied upto 4th standard; that he could read, write and understand English, Gujarati and Hindi Languages.
- that he was shown and explained the panchnama dated 08/09.06.2024 drawn at International Airport, Surat by the officers of Customs AIU, International Airport, Surat, which was in English, and after understanding the same, he put his dated signature on the panchnama in token of acceptance of the facts stated therein.
- that he went to Dubai on 01.06.2024 from Surat for business purposes; that the gold caps (moulded in round shape as in to fit rudraksh beads) of 24 kt recovered from his possession belonged to him and he did not purchase the same and the said gold caps belonged to him as they were very old around 70-80 years old; that the principal owner of the said gold caps (moulded in round shape as in to fit rudraksh beads) was his grandmother; that his grandmother gave the said gold caps to his father Late Shri Trikambhai Talshibhai Gabani, who made a Gold chain with rudraksh beads; that his father gave that gold chain with rudraksh beads to him in 2018 during a religious function; that he did not know about the making of the said gold chain as well as transactions of the said gold chain as it was purchased long ago by his forefathers; that he had not declared the goods brought by him before any Customs officers and he was aware that import of Gold without declaration to the Customs was an offence and he was not aware of Customs law;
- that after clearing the immigration procedures, he collected his baggage and during checkout, the Customs officials intercepted him and further procedures as stated in Panchnama dated 08/09.06.2024 were carried out.

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

- a) As per para 2.27 of Foreign Trade Policy 2023, "Bona-fide household goods and personal effects may be imported as part of passenger baggage

as per limits, terms and conditions thereof in Baggage Rules notified by Ministry of Finance.”

- b)** As per Section 3(2) of the Foreign Trade (Development and Regulation) Act, 1992 – “the Central Government may by Order make provision for prohibiting, restricting or otherwise regulating, in all cases or in specified classes of cases and subject to such exceptions, if any, as may be made by or under the Order, the import or export of goods or services or technology.”
- c)** As per Section 3(3) of the Foreign Trade (Development and Regulation) Act, 1992-“All goods to which any Order under sub-section (2) applies shall be deemed to be goods the import or export of which has been prohibited under section 11 of the Customs Act, 1962 (52 of 1962) and all the provisions of that Act shall have effect accordingly.”
- d)** As per Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 – “no export or import shall be made by any person except in accordance with the provisions of this Act, the rules and orders made thereunder and the foreign trade policy for the time being in force.”
- e)** As per Section 11(3) of the Customs Act, 1962- “Any prohibition or restriction or obligation relating to import or export of any goods or class of goods or clearance thereof provided in any other law for the time being in force, or any rule or regulation made or any order or notification issued thereunder, shall be executed under the provisions of that Act only if such prohibition or restriction or obligation is notified under the provisions of this Act, subject to such exceptions, modifications or adaptations as the Central Government deems fit.”
- f)** As per Section 2(3) of the Customs Act, 1962 – “baggage” includes unaccompanied baggage but does not include motor vehicles.
- g)** As per Section 2(22), of the Customs Act, 1962, the definition of 'goods' includes-
 - a. vessels, aircrafts and vehicles;
 - b. stores;
 - c. baggage;
 - d. currency and negotiable instruments; and
 - e. any other kind of movable property;
- h)** As per Section 2(33) of Customs Act 1962-“prohibited goods means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force, but does not include such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with.”
- i)** As per Section 2(39) of the Customs Act 1962 –“‘smuggling’ in relation to any goods, means any act or omission, which will render such goods liable to confiscation under Section 111 or Section 113.”
- j)** As per Section 77 of the Customs Act 1962-“the owner of any baggage shall, for the purpose of clearing it, make a declaration of its contents to the proper officer.”

- k)** As per Section 110 of the Customs Act, 1962-“if the proper officer has reason to believe that any goods are liable to confiscation under this Act, he may seize such goods.”
- l)** Any goods which are imported or attempted to be imported or brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force, shall be liable to confiscation under section 111 (d) of the Customs Act 1962.
- m)** Any dutiable or prohibited goods found concealed in any manner in any package either before or after the unloading thereof are liable to confiscation under Section 111 (i) of the Customs Act 1962.
- n)** Any dutiable or prohibited goods removed or attempted to be removed from a customs area or a warehouse without the permission of the proper officer or contrary to the terms of such permission are liable to confiscation under Section 111 (j) of the Customs Act 1962.
- o)** As per Section 112 of the Customs Act 1962-“any person, (a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under Section 111, or abets the doing or omission of such an act, or (b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing or in any manner dealing with any goods which he know or has reason to believe are liable to confiscation under Section 111, shall be liable to penalty.”
- p)** As per Section 119 of the Customs Act 1962, any goods used for concealing smuggled goods shall also be liable for confiscation.
- q)** As per Section 123 of the Customs Act 1962 (Burden of proof in certain cases)
(1) where any goods to which this section applies are seized under this Act in the reasonable belief that they are smuggled goods, the burden of proving that they are not smuggled goods shall be-
(a) in a case where such seizure is made from the possession of any person -
(i) on the person from whose possession the goods were seized; and
(ii) if any person, other than the person from whose possession the goods were seized, claims to be the owner thereof, also on such other person;
(b) in any other case, on the person, if any, who claims to be the owner of the goods so seized.
(2) This section shall apply to gold, [and manufactures thereof,] watches, and any other class of goods which the Central Government may by notification in the Official Gazette specify.
- r)** As per Customs Baggage Declaration Regulations, 2013- “all passengers who come to India and having anything to declare or are carrying dutiable or prohibited goods shall declare their accompanied baggage in the prescribed form.”

- s)** As per DGFT Notification No. 36/2015-2020 dated 18.12.2019, Import policy of gold in any form, other than monetary gold and silver in any form, is amended from 'Free' to 'Restricted'; import is allowed only through nominated agencies as notified by RBI (in case of banks) and DGFT (for other agencies).

9. CONTRAVENTION AND VIOLATION OF LAWS

Whereas, from the above, it appeared that:

- (a)** Shri Vrujlal Trikammbhai Gabani had actively involved himself in the instant case of smuggling of gold into India. The said passenger had improperly imported gold of 24 kt in the form of caps (moulded in round shape as to fit *rudraksh* beads), totally weighing 234.270 grams, having a market value of Rs. 17,20,713/- and Tariff Value of Rs. 14,93,021/-, without declaring it to the Customs, by way of concealment in person. He concealed the gold in a *rudraksh* chain with links made of gold worn by him with a deliberate and mala fide intention to smuggle the said gold into India and fraudulently circumvent the restrictions and prohibitions imposed under the Customs Act, 1962 and other allied Acts, Rules and Regulations. The gold improperly imported by him with commercial considerations without declaration before the proper officer of Customs could not be treated as bona fide household goods or personal effects. Shri Vrujlal Trikammbhai Gabani had thus contravened the Foreign Trade Policy 2023, Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 read with Section 3(2) and 3(3) of the Foreign Trade (Development and Regulation) Act, 1992 and DGFT Notification No. 36/2015-2020 dated 18.12.2019.
- (b)** By not declaring the value, quantity and description of the goods imported by him, the said passenger had violated the provision of Baggage Rules, 2016, read with section 77 of the Customs Act, 1962, read with Regulation 3 of Customs Baggage Declaration Regulations, 2013.
- (c)** The gold improperly imported by the passenger, Shri Vrujlal Trikammbhai Gabani by concealing the same in-person without declaring it to the Customs was thus liable for confiscation under Section 111(d), (i) and (j) read with Section 2 (22), (33), (39) of the Customs Act, 1962 and further read in conjunction with Section 11(3) of the Customs Act, 1962.
- (d)** Shri Vrujlal Trikammbhai Gabani, by his above-described acts of omission and commission, rendered himself liable to penalty under Section 112 of the Customs Act, 1962.
- (e)** As per Section 123 of the Customs Act, 1962, the burden of proving that the said improperly imported gold, weighing 234.270 grams., having Market value of Rs. 17,20,713/- and Tariff Value of Rs. 14,93,021/-, without declaring it to the Customs, were not smuggled goods, was upon the passenger, namely Shri Vrujlal Trikammbhai Gabani.

10. Therefore, a Show Cause Notice F. No. VIII/26-19/AIU/CUS/2024-25 dated 15.11.2024 was issued to Shri Vrujlal Trikammbhai Gabani calling upon him to show cause in writing to the Additional Commissioner of Customs, Surat International Airport, Surat, having his office situated on 4th Floor, Customs

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House, Beside SMC Ward Office, Althan-Bhimrad Road, Althan, Surat – 395017,
within thirty days from the receipt of this notice as to why:

- (i) The recovered 24 carat gold caps weighing 234.270 grams, having Market value of Rs. 17,20,713/- (Rupees Seventeen Lakh Twenty Thousand Seven Hundred and Thirteen only) and Tariff Value of Rs. 14,93,021/- (Rupees Fourteen Lakh Ninety-Three Thousand Twenty-One only), seized vide Seizure Order dated 09.06.2024 under *panchnama* proceeding dated 08/09.06.2024 should not be confiscated under Section 111(d), 111(i) and 111(j) of the Customs Act, 1962;
- (ii) The *Rudraksh* beads worn by him, which were used for concealment of 24 carat gold in the cap form, should not be confiscated under Section 119 of the Customs Act, 1962;
- (iii) A penalty should not be imposed upon him under Section 112 of the Customs Act, 1962.

11. **DEFENCE REPLY**

In the Show Cause Notice, the noticee was asked to submit their written reply/defence submission to the notice within the stipulated time. This office has received a defence reply dated 15.12.2024 to the Show cause notice from the noticee wherein he has stated as under:

- Shri Vrujlal has admitted to being in possession of the impugned goods at the time of his arrival in India and has claimed that he had not concealed the same in baggage, as the gold belonged to him personally. He has asserted that it was not intended for sale or trade.
- He has further stated that the *Rudraksha* mala he wore was a religious and cultural artefact and was not used with criminal intent or smuggling. He has further stated that the mala was not a container designed to evade detection but was worn openly around the neck, signifying the absence of mala fide intent.
- Further, he has quoted Section 111 (d) and 111 (l). He has claimed that the gold caps were part of the Rudraksha mala, an item of religious significance and were part of his religious attire. Thus, there was no attempt to smuggle goods for commercial purposes.
- He has further stated that he did not intend to breach any legal requirement, and the open wearing of the item around the neck suggested no attempt to avoid customs detection.
- He has further acknowledged that he did not declare the gold caps, but this was due to a misunderstanding that the item, being part of a religious artefact, was not subject to declaration.
- He has further stated that the *Rudraksha* mala and its gold adornments were part of his religious and spiritual practices. The mala was not intended for sale or as a commercial good. Therefore, it falls under the definition of personal effects under Section 79, and he requests it to be treated accordingly.

- He has further reproduced the relevant parts of the Baggage Rules, 2016 and has argued that the gold caps were affixed to the *Rudraksh* mala and worn around his neck in plain sight, and there was no attempt to hide or obscure the gold caps. He has further highlighted that Section 111(l) of the Customs Act relates to the smuggling of goods that are concealed to avoid detection, and, in this case, the gold was not concealed and the mala was worn in a transparent and open manner.
- He has further stated that the gold caps he brought were not meant to be brought into India for resale or commercial use but were purely part of a religious ornament. To further augment his argument, he has cited relevant judicial precedents pertaining to this issue and requested that, similar to these judicial precedents, as in his case, there is no commercial intent, and the item should not be considered as being imported for commercial purposes.
- The noticee in support of his above arguments has placed reliance upon the following case laws:
 - Commissioner of Customs vs. Parasram (1998)
 - K.T.M.S. Mohd v. Union of India (1992)
 - Vinod Solani vs. Union of India (2008)
 - Harpal Singh vs. Union of India (1991)
 - Mohd. Zamir v. Commissioner of Customs (2005)

12. RECORD OF PERSONAL HEARING

“Audi alteram partem” is an essential principle of natural justice that dictates to hear the other side before passing any order. Accordingly, a personal hearing was granted to the noticee on 11.03.2025. Shri Vrujlal appeared for personal hearing on the scheduled date and reiterated his statement dated 09.06.2024 during the hearing. Further, owing to a change in the Adjudicating Authority during the intervening period, a fresh opportunity of personal hearing was granted to the noticee on 13.06.2025 by the incumbent Adjudicating Authority. Shri Vrujlal appeared for personal hearing in virtual mode on the scheduled date, and during the hearing, he submitted that the goods in question belonged to him. He stated that his father had gifted him a gold chain weighing approximately 234 grams while he was in India. He further submitted that he had travelled to Dubai on 01.06.2025 for business purposes and carried the said gold chain. He informed that during his stay in Dubai, he received the news of his grandmother's demise in India, which prompted him to divide the gold into three equal parts for easy distribution among his three paternal aunts. Accordingly, he got the gold transformed into a round shape to facilitate its integration into *rudraksh* beads, which could be used for religious/spiritual purposes by his three aunts. Further, he has also expressed his willingness to pay the applicable duty on the impugned goods and has requested their release.

13. DISCUSSION AND FINDINGS

I have carefully reviewed the facts of the case, the relied-upon documents, the defence submission of the noticee, and the relevant legal provisions. Therefore, I proceed to decide the instant case based on the evidence and documents available on record.

14. In the instant case, I find the main issues to be decided in the case are:

- (i) The recovered 24 carat gold caps weighing 234.270 grams, having Market value of Rs. 17,20,713/- (Rupees Seventeen Lakh Twenty Thousand Seven Hundred and Thirteen only) and Tariff Value of Rs. 14,93,021/- (Rupees Fourteen Lakh Ninety-Three Thousand Twenty-One only), seized vide Seizure Order dated 09.06.2024 under *panchnama* dated 08/09.06.2024 should be confiscated under Section 111(d), 111(i) and 111(j) of the Customs Act, 1962, or otherwise;
- (ii) The *Rudraksh* beads worn by him, which were used for concealment of 24 carat gold in cap form, should be confiscated under Section 119 of the Customs Act, 1962, or otherwise.
- (iii) A penalty should be imposed upon Shri Vrujlal Trikambhai Gabani under Section 112 of the Customs Act, 1962, or otherwise.

15. I find that the *panchnama* has revealed that the passenger, i.e. Shri Vrujlal Trikambhai Gabani, had arrived at Surat International Airport on 08.06.2024 from Dubai by Indigo Flight No. 6E1508 on 08.06.2024. Based on passenger profiling, he was intercepted near the green channel by AIU officers under *Panchnama* proceedings dated 08/09.06.2024, on suspicion of carrying dutiable or prohibited goods. He was found to be carrying three pieces of baggage, viz. two trolley bags and one handbag. Further, he denied having any goods to declare. Thereafter, upon physical search by the Customs officers, the passenger was found to be wearing a *rudraksh* mala (garland), with each *rudraksh* being covered in metal caps. As per the request of the Customs Officers, the string holding the *rudraksh* and metal caps (appearing to be gold) was broken, and the *rudraksh* beads and the metal caps (appearing to be gold) were separated by the passenger. The impugned goods were examined and certified to be 24 carat gold, totally weighing 234.270 grams, having a Market value of Rs. 17,20,713/- and a Tariff Value of Rs. 14,93,021/-, by the Government Approved Valuer Shri Vikasraj Juneja. The said gold caps were subsequently seized under Section 110 of the Customs Act, 1962, on the reasonable belief of smuggling.

16. Further, I find that a statement by Shri Vrujlal Trikambhai Gabani was recorded on 09.06.2024 under Section 108 of the Customs Act, 1962, in which he stated he resided at Flat No. 1302, 26 Gold coin, Abrama Road, Mota Varachha, Surat City, Gujarat-395004. He also stated that he is a partner in a software company, namely Amaron Information Technology, situated in Dubai; and he was also a partner in a Construction Company, namely Sweet Home Developers, and a Textile Company, viz.. P19 Versatile Fab, situated in Surat. He further informed that he could read, write and understand English, Gujarati and Hindi Languages. He also confirmed that the *Panchnama* dated 08/09.06.2024, drawn by Customs officers at Surat International Airport, was read and explained to him in English. He signed it after understanding its contents. He also stated that he travelled from Surat to Dubai on 01.06.2024 for business purposes. He claimed ownership of the 24 kt gold caps (moulded in a round shape to fit Rudraksh beads) recovered from his possession, asserting that he did not purchase them, as they were approximately 70–80 years old. He further submitted that the gold caps originally belonged to his grandmother, who passed them on to his father, Late Shri Trikambhai Talshibhai Gabani. His father subsequently used them to craft a gold chain with Rudraksh beads, which was gifted to him in 2018 during a religious function. He expressed his ignorance

regarding the chain's making and past transactions, stating that it was acquired by his forefathers long ago. He admitted to not declaring the said goods before any Customs officer. He acknowledged his awareness that importing gold without declaration was an offence. Furthermore, he said that after clearing immigration, he was intercepted by Customs officers during checkout, and that the subsequent proceedings were as recorded in the said *Panchnama*. he has categorically admitted to the offence and acknowledged his liability under the Customs Act, 1962.

17. Further, I find that the noticee has never retracted his aforesaid statement dated 09.06.2024, and the offence committed by the passenger is admitted by him in his statement. Therefore, I consider his statement material evidence in this case, and for that, I rely on the following rulings from various courts, which have underscored the evidentiary value of statements recorded under Section 108 of the Customs Act, 1962:

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

In light of the judgments cited above, I regard the noticee's statement as material evidence. The statement has sufficient evidentiary value to demonstrate that the passenger, intercepted by the Customs officers on 09.06.2024, had attempted to smuggle the gold weighing 234.270 grams, in the form of gold caps affixed to the '*rudraksh mala*' worn by the noticee, into India.

18. Further, I find that the noticee has submitted a defence submission dated 15.12.2024 in response to the Show Cause Notice currently under adjudication. Further, the noticee appeared for the personal hearing on 11.03.2025 and 13.06.2025, wherein he reiterated the points made in his statement and his defence submission, respectively, and emphasised the case laws cited therein. In the following paragraphs, I shall proceed to undertake a critical analysis of the arguments advanced by the noticee in his defence submission wherein the noticee has submitted/contended as under:

18.1 I find the admission by Shri Vrujlal that he was in possession of the impugned gold at the time of arrival in India establishes the act of unauthorized importation. His assertion that the gold was personally owned and not intended for sale or trade is not a legally sustainable defence. It is a settled legal principle that any import of gold, irrespective of its intended use, without declaration and payment of applicable duties, amounts to a violation of the provisions of the Customs Act, 1962 and the Baggage Rules, 2016. Personal ownership does not exempt an individual from the obligation of declaration, and such possession of dutiable goods attracts the provisions of Section 111 of the Act.

18.2 Further, I find that the argument that the *Rudraksha mala* was worn for religious or cultural reasons and not with any criminal intent does not dilute the statutory liability arising from non-declaration. The *mala*, by virtue of its gold caps, is not merely a spiritual artefact but becomes a composite article containing gold, which is a regulated commodity. It is relevant to observe that whether the item was worn openly or concealed is irrelevant once its gold contents have not been declared. The *mala* thus becomes the instrument of smuggling, used to bring gold into the country in violation of the legal framework. Accordingly, I am of the view that his claim of innocence cannot be accepted on the grounds cited by the noticee, as his act attracts the provisions of Sections 77 and 111 of the Customs Act, 1962.

18.3 Further, I find that the claim of the noticee that sections 111(d) and 111(l) are inapplicable due to a lack of commercial intent is misplaced. Section 111(d) penalizes import in contravention of law regardless of the importer's subjective intent, and Section 111(l) is attracted where goods are not declared as required. The fact that the *mala* was worn openly does not absolve the importer of his obligation to declare the item. It is well established that concealment can be both physical hiding and deliberate non-disclosure; failure to declare regulated items constitutes constructive concealment. Therefore, in view of the foregoing, I firmly conclude that the seized gold merits confiscation under Section 111 of the Customs Act, 1962.

18.4 Further, I find Shri Vrujlal's contention that the absence of mala fide intent is evident from the open wearing of the mala does not hold merit. **It is significant to highlight that smuggling under the Customs Act encompasses all acts of illegal importation, including omission and non-declaration. The mala's visibility does not override the statutory requirement of declaration, and non-compliance with this requirement renders the importation unlawful. (emphasis supplied).** In view of the foregoing, I firmly conclude that the confiscation of the gold under Section 111 of the Customs Act, 1962, is warranted in the instant case.

18.5 Further, I find that his acknowledgement that the gold caps were not declared, based on a misunderstanding, is equally untenable. Ignorance of the law is no excuse, particularly when passengers are required to declare gold and valuables in the customs declaration form. I firmly believe that a misunderstanding cannot be accepted as a legal justification for non-declaration of dutiable goods, especially when the item is not covered under general exemptions. The *mala* containing gold caps weighing 234.270 grams of 24 kt without a declaration to the Customs authorities, cannot be categorised as "personal effects" under Section 79 of the Customs Act, 1962. Therefore, in view of the foregoing analysis, it stands conclusively established that the noticee has contravened the provisions of Section 79 of the Customs Act, 1962, and is

consequently liable for the penal and confiscatory consequences as prescribed under the said Act.

18.6 Further, I find that the noticee's invocation of Section 79 of the Customs Act is not applicable. The Baggage Rules, 2016, clearly exclude gold, silver, and platinum from the scope of personal effects, unless specifically exempted. The *mala*, affixed with gold caps, is not exempt and hence does not qualify for duty-free clearance. The non-production of supporting documents or proof of valuation further weakens the claim of bona fide import for personal use. Therefore, I believe the passenger cannot claim the benefit of duty-free clearance for the impugned goods.

18.7 Further, I find the argument that there was no concealment because the *mala* was worn openly and that Section 111(l) applies only in cases of physical concealment is not legally tenable. It merits attention that judicial interpretation has made it clear that concealment includes both physical hiding and failure to disclose. The *mala*, although worn in plain sight, was not declared, and this omission constitutes an act of concealment as contemplated under the Act. The *mala* has served as a medium to carry gold into India while evading detection and assessment, thereby attracting the provisions of Sections 111(l) and 112(b) of the Customs Act. Accordingly, I am of the view that the evidence on record strongly supports the charge. Therefore, I find the proposal to impose a penalty under Section 112(b) of the Customs Act, 1962, is justified and well-founded.

18.8 Further, I find the noticee's contention that the gold caps were not meant for commercial use but were part of religious attire does not absolve the importer from compliance with Customs regulations. The legal provisions do not mandate commercial intent as a prerequisite for establishing smuggling. The act of importing restricted goods without declaration or lawful authorization is sufficient to constitute the offence. The judicial precedents cited are distinguishable on the facts and do not support the claim made by the noticee. In the present case, the *mala* was not declared, the gold content was not subjected to assessment, and there was an evident violation of customs law. Further, I find that the noticee has quoted and relied on various case laws/judgments as mentioned above regarding categorization of smuggled goods, along with his defence submission. I believe that conclusions in those cases may be correct, but they cannot be applied universally without considering each case's complex realities and specific facts. Those decisions were made in different contexts, with other facts and circumstances, and the ratio cannot apply here directly. Therefore, I find that while applying the ratio of one case to that of the other, the decisions of the Hon'ble Supreme Court must always be considered. The Hon'ble Supreme Court in the case of **CCE, Calcutta Vs Alnoori Tobacco Products [2004 (170) ELT 135(SC)]** has stressed the need to discuss, how the facts of decision relied upon fit factual situation of a given case and to exercise caution while applying the ratio of one case to another. This has been reiterated by the Hon'ble Supreme Court in its judgement in the case of **Escorts Ltd. Vs CCE, Delhi [2004(173) ELT 113(SC)]** wherein it has been observed that one additional or different fact may make huge difference between conclusion in two cases, and so, disposal of cases by blindly placing reliance on a decision is not proper. Again in the case of **CC(Port), Chennai Vs Toyota Kirloskar [2007(2013) ELT4(SC)]**, it has been observed by the Hon'ble Supreme Court that, the ratio of a decision has to be understood in factual matrix involved therein and that the ratio of a decision has to be culled from facts of given case, further, the decision is an authority for what it decides and not what can be logically deduced there from. In the present case,

the manner of concealment is clever, conscious and premeditated. The quantity and type of gold used for commercial purposes is an ingenious attempt to smuggle the impugned gold brazenly. Accordingly, I unequivocally hold that the seized gold caps are liable for absolute confiscation, and the penalty proposed is justified in law and fact.

In view of the foregoing discussions, the defence raised by Shri Vrujlal is found to be devoid of legal merit and factually unsubstantiated. His admitted possession of a gold-capped *Rudraksha mala*, brought into India without declaration and payment of duty, constitutes an act of smuggling under the Customs Act, 1962. The *mala*, being a composite article containing gold, is dutiable and subject to mandatory declaration. The absence of a declaration and the attempt to justify the same under religious pretexts do not mitigate the offence. **Accordingly, I unequivocally hold that the impugned gold is liable for absolute confiscation under Sections 111(d), 111(i), and 111(j) of the Customs Act, and Shri Vrujlal Trikambhai Gabani is liable for penal action under Section 112(b) of the said Act for his active involvement in the smuggling offence.**

19. Further, I find that the noticee had neither questioned the manner of the *panchnama* proceedings at the material time nor controverted the facts detailed in the *panchnama* while recording his statement. Every procedure conducted during the *panchnama* by the officers was well-documented and made in the presence of the *panchas* and the noticee. Upon reviewing his statement dated 09.06.2024, I find that the facts and evidence on record establish that Shri Vrujlal Trikambhai Gabani willfully attempted to smuggle gold into India without declaring it before the Customs authorities. In his voluntary statement under Section 108 of the Customs Act, 1962, I notice that he admitted awareness that non-declaration and import of gold without duty payment constitutes an offence. His deliberate concealment and admission of intent confirm his culpability under the Customs Act. I find it pertinent to mention here that the noticee, in his voluntary statement, has categorically admitted that he had intentionally refrained from declaring the said gold before the Customs authorities with the deliberate intention of clearing the same illicitly and evading payment of applicable Customs duty. He has further acknowledged his awareness that smuggling gold without payment of Customs duty constitutes an offence under the Customs law. I find that such willful non-declaration and conscious attempt to evade duty on the part of the noticee amounts to a clear contravention of the Baggage Rules, 2016 and provisions of the Customs Act, 1962, and thereby conclusively establishes his culpability in the commission of an act of smuggling.

20. Further, I find that the noticee has confessed in his voluntary statement dated 09.06.2024 that he had not declared the said gold caps weighing 234.270 grams of 24 kt to the Customs authorities. Based on the foregoing discussion, I am satisfied to affirm that it is a clear case of non-declaration with an intent to smuggle the gold into India. Accordingly, there is sufficient evidence to conclude that the passenger failed to declare the said gold before the Customs Authorities on his arrival at Surat International Airport, Surat. I find that in his statement, he has admitted to having explicitly admitted to bringing gold caps (moulded in round shape as in to fit rudraksh beads) of 24 kt recovered from his possession which were worn by the noticee and did not declare it upon arrival, despite knowing that importing undeclared gold without paying customs duty was an offence. Therefore, in view of the foregoing, it is sufficiently proven that this is a case of smuggling of gold along with non-declaration of the carried goods before

Customs authorities with an intent to evade payment of Customs duty. Additionally, it is proved beyond doubt that the passenger has violated Section 77 by failing to make a declaration to customs and Section 79 by improperly importing or smuggling 234.270 grams of 24 kt gold, which were worn around in the form of *rudraksh* mala around the neck by the passenger. Furthermore, the said import was not for bona fide use, and therefore, the passenger has violated Rule 11 of the Foreign Trade Regulation Rules 1993 and Paragraph 2.27 of the Foreign Trade Policy 2023. I find it pertinent to highlight that as per Section 123 of the Customs Act, 1962, gold is a notified item and when goods notified thereunder are seized under the Customs Act, 1962, on the reasonable belief that they are smuggled goods, the burden to prove that they are not smuggled, lies on the person from whose possession the goods have been seized which the noticee has failed to establish.

21. Further, I find it pertinent to note that, for the purpose of Customs clearance of arriving international passengers, a two-channel system is in place, namely, the Green Channel for passengers not carrying dutiable or prohibited goods, and the Red Channel for those carrying such goods. All arriving passengers are mandatorily required to make a truthful and accurate declaration of the contents of their baggage in accordance with the applicable Customs regulations. **I find that the Noticee had not filed the baggage declaration form and had not declared the said gold which was in possession, as envisaged under Section 77 of the Act read with the Baggage Rules and Regulation 3 of Customs Baggage Declaration Regulations, 2013 as amended** and he attempted to exit through the Green Channel which shows that the noticee was trying to evade the payment of applicable customs duty. Further, I would also like to draw attention to the definition of **“eligible passenger”** provided under Notification No. 50/2017- Customs New Delhi, the 30th June, 2017 wherein it is mentioned that - **“eligible passenger” means a passenger of Indian origin or a passenger holding a valid passport, issued under the Passports Act, 1967 (15 of 1967), who is coming to India after a period of not less than six months of stay abroad; and short visits, if any, made by the eligible passenger during the aforesaid period of six months shall be ignored if the total duration of stay on such visits does not exceed thirty days.** It is appropriate to point out that in the instant case, the noticee did not declare the gold before customs authorities, and the said import of gold was also for non-bona fide purposes. Therefore, the improperly imported 24 karat gold caps weighing 234.270 grams, without declaring them to the Customs authorities on arrival in India, cannot be treated as bona fide household goods or personal effects. I unequivocally conclude that the noticee has thus contravened the provisions governing the lawful import of gold, as stipulated under the Foreign Trade Policy, 2023, and has thereby violated the provisions of Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992, read with Sections 3(2) and 3(3) of the said Act.”.

22. After reviewing the foregoing, I find it conclusively proved that by the above acts of contravention, the passenger/noticee has rendered gold caps of 24 kt weighing 234.270 grams, worn by the noticee around his neck in a *rudraksh* mala, having total tariff value of Rs. 14,93,021/- and market value of Rs. 17,20,713/-, seized vide Seizure order dated 09.06.2024 under *Panchnama* proceedings dated 08/09.06.2024 liable to confiscation under the provisions of Sections 111(d), 111(i) and 111(j) of the Customs Act, 1962. By adopting the modus of concealing the gold weighing 234.270 grams, and without declaring to the Customs on arrival in India, it is evident that the noticee was fully aware that

the import of said goods was offending in nature. It is therefore very clear that he has knowingly carried the gold and failed to declare it to the Customs upon arriving at the airport to clear it illicitly without payment of Customs duty. It also stands established that he has involved himself in carrying, keeping, concealing, and dealing with the impugned goods in a manner in which he knew or had reasons to believe that they were liable to confiscation under the Customs Act. The commission of the above act has thus made the impugned goods fall within the ambit of '**smuggling**' as defined under Section 2(39) of the Act. It is therefore proved beyond doubt that the noticee has committed an offence of the nature described in Section 112 of the Customs Act, 1962, making him liable for a penalty under Section 112 of the Customs Act, 1962.

23. Further, I find that the noticee has confessed to carrying gold which he had attempted to clear illicitly from Surat International Airport by concealing it around his neck in the form of *rudraksh* mala worn by the noticee and without declaring it to the Customs Authorities and thereby violating the Para 2.27 of the Foreign Trade Policy 2023 and Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 read with Section 3(2) and 3(3) of the Foreign Trade (Development and Regulation) Act, 1992 further read in conjunction with Section 11(3) of Customs Act, 1962 and the relevant provisions of Baggage Rules, 2016 and Customs Baggage Declaration Regulations, 2013. As per Section 2(33) "**prohibited goods**" means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with. The improperly imported gold by the passenger without following the due process of law and without adhering to the conditions and procedures of import has thus acquired the nature of being prohibited goods, given Section 2(33) of the Act.

24. Further, I find that gold is not on the list of prohibited items, but the import of the same is controlled. The view taken by the **Hon'ble Supreme Court in the case of Om Prakash Bhatia** however in unambiguous terms lay down the principle that if importation and exportation of goods are subject to certain prescribed conditions, which are to be fulfilled before or after clearance of goods, non-fulfillment of such conditions would make the goods fall within the ambit of 'prohibited goods'. This makes the gold seized in the present case "prohibited goods" as the passenger, who was trying to smuggle the same, was not eligible to bring or import gold into India in his baggage. The gold recovered was found in the form of metal caps affixed to a *rudraksh mala* and was kept undeclared with the intention of smuggling the same and evading payment of customs duty. By adopting this modus, it is proved beyond doubt that the goods are offensive and therefore prohibited from their importation. Here, the passenger has not fulfilled the conditions for legally importing gold.

25. Given the foregoing discussions and evidentiary material on record, I hold that the manner of concealment and the circumstances surrounding its importation unequivocally establish that the said gold was brought into India by the noticee in a clandestine manner. The gold weighing 234.270 grams worn in the form of *rudraksh mala*, around the neck of 24 kt worn by the noticee and deliberately not declared before the Customs authorities with the intent to illicitly clear the same and evade payment of the lawful Customs duty, is liable for **absolute confiscation** under the provisions of the Customs Act, 1962. Therefore, in the instant case, **I am not inclined to use my discretion to give**

an option to redeem the gold on payment of the redemption fine, as envisaged under Section 125 of the Act. In this context, I would like to reinforce my standing by placing my reliance on the cases as follows:

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

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

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

25.3 In this case, the **Hon'ble High Court of Madras in the matter of COMMISSIONER OF CUSTOMS (AIR), CHENNAI-I Versus P. SINNASAMY 2016 (344) E.L.T. 1154 (Mad.)** held that -

"Tribunal had arrogated powers of adjudicating authority by directing authority to release gold by exercising option in favour of respondent- Tribunal had overlooked categorical finding of adjudicating authority that respondent had deliberately attempted to smuggle 2548.3 grams of gold, by concealing and without declaration of Customs for monetary consideration- Adjudicating authority had given reasons for confiscation of gold while allowing redemption of other goods on payment of fine - Discretion exercised by authority to deny release, is in accordance with law- Interference by Tribunal is against law and unjustified-

Redemption fine- Option- Confiscation of smuggled gold - Redemption cannot be allowed, as a matter of right- Discretion conferred on adjudicating authority to decide- Not open to Tribunal to issue any positive directions to adjudicating authority to exercise option in favour of redemption."

25.4 In the case of **Abdul Kalam Ammangod Kunhamu [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 vide Order No. 17/2019-Cus., dated 7-10-2019 in F. No.375/06/B/2017-RA observed that C.B.I. & C. had issued instruction vide

Letter F. No. 495/5/92-Cus. VI, dated 10-5-1993 wherein it has been instructed that “in respect of gold seized for non-declaration, no option to redeem the same on redemption fine under Section 125 of the Customs Act, 1962 should be given except in very trivial cases where the adjudicating authority is satisfied that there was no concealment of the gold in question”.

25.5 The *Hon’ble High Court of Delhi in the matter of Rameshwar Tiwari Vs. Union of India (2024) 17 Centax 261 (Del.)* wherein it has held that-

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

24.....

25.....

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

26. Given the facts of the present case before me and the judgments and rulings cited above, I find that the manner of concealment, in this case, clearly shows that the noticee had attempted to smuggle the seized gold to avoid detection by the Customs Authorities. Further, no evidence has been produced to prove the licit import of the gold weighing 234.270 grams, of 24 kt. I find that the noticee has failed to produce proof of the legitimate acquisition of gold. He has concealed the gold weighing 234.270 grams and did not declare it upon arrival, despite knowing that importing undeclared gold without paying customs duty was an offence. Thus, the noticee failed to discharge the burden placed on him in Section 123. Further, upon a careful examination of the SCN, the *Panchnama* and the statement of the noticee, I am satisfied to affirm that the manner adopted for concealment of gold is ‘ingenious’ in nature, as the noticee concealed the gold caps affixed to the *rudraksh* mala worn by the noticee with an intention to smuggle the same into India and evade payment of customs duty. Therefore, the gold caps weighing 234.270 grams of 24 kt, recovered from the noticee, are liable to be **confiscated absolutely. I hold in unequivocal terms that the gold caps weighing 234.270 grams, placed under seizure vide Panchnama proceedings dated 08/09.06.2024, would be liable to absolute confiscation under Section 111(d), 111(i) and 111(j) of the Act.** I also find the *Rudraksh* beads worn by the noticee, which were used for concealment of 24 carat gold in cap form, seized vide Seizure Order dated 09.06.2024 under *panchnama* dated 08/09.06.2024, liable for confiscation under Section 119 of the Customs Act, 1962.

27. Further, I find that the passenger had involved himself in the act of smuggling of gold caps weighing 234.270 grams. Further, it is a fact that the noticee has travelled from Dubai to Surat with the impugned gold concealed in

the form of paste despite knowing that the gold carried by him is an offence under the provisions of the Customs Act, 1962 and the Regulations made thereunder. In regard to imposition of penalty under Section 112 of the Customs Act, 1962, I find that in the instant case, the principle of '***mens rea***' on behalf of the noticee is established as the noticee ingeniously concealed the gold caps on the rudraksh beads which were worn around the neck by the noticee, which shows his mala fide intention to evade detection from the Authority and remove it illicitly from Surat Airport without payment of duty. Accordingly, while determining the quantum of penalty in the present case, I deem it appropriate to consider the *ratio decidendi* laid down by the **Hon'ble Supreme Court in the judgment of M/s. Hindustan Steel Ltd Vs. State of Orissa**, wherein the Hon'ble Apex Court observed, "The discretion to impose a penalty must be exercised judicially. A penalty will ordinarily be imposed in case where the party acts deliberately in defiance of law, or is guilty of contumacious or dishonest conduct or act in conscious disregard of its obligation; but not in cases where there is technical or venial breach of the provisions of Act or where the breach flows from a bona fide belief that the offender is not liable to act in the manner prescribed by the Statute." In the instant case, I find it irrefutably established that the gold was concealed and not declared to the Customs authorities with the sole intention of evading payment of Customs duty. The records available on file indicate that the noticee, upon arrival from a foreign destination, willfully opted for clearance through the Green Channel without declaring the prohibited/dutiable goods in his possession and thereby deliberately circumvented the mandatory disclosure requirements with the wilful intent to smuggle the impugned goods. The noticee carried gold through ingenious concealment and attempted to evade the customs duty by not declaring the 24kt gold weighing 234.270 grams to earn profit thereon. I find that non-declaration at the time of import is considered an act of omission on his part. Thus, it is clear that the noticee has concerned himself with carrying, removing, keeping, concealing and dealing with the smuggled gold which he knew or had reason to believe was liable for confiscation under Section 111 of the Customs Act, 1962. Therefore, I find that the noticee is liable for penal action under Section 112(b) of the Customs Act, 1962, and I hold accordingly.

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

ORDER

- (i) I order **absolute confiscation** of the recovered **24 carat gold caps** weighing 234.270 grams, having **Market value of Rs. 17,20,713/-** (Rupees Seventeen Lakh Twenty Thousand Seven Hundred and Thirteen Only) and Tariff Value of Rs. 14,93,021/- (Rupees Fourteen Lakh Ninety-Three Thousand Twenty-One Only), seized vide Seizure Order dated 09.06.2024, under Section 111(d), 111(i) and 111(j) of the Customs Act, 1962
- (ii) I order **absolute confiscation** of the **Rudraksh beads** worn by the noticee which were used for concealment of 24 carat gold caps under Section 119 of the Customs Act, 1962.
- (iii) I impose a penalty of **Rs.4,00,000/- (Rupees Four Lakhs only)** on Shri Vrujlal Trikamabhai Gabani under Section 112(b)(i) of the Customs Act, 1962.

OIO No: 16/ADC/SRV/SRT-AIRPT/2025-26
F. No. VIII/26-19/AIU/CUS/2024-25

29. Accordingly, the Show Cause Notice No. VIII/26-19/AIU/CUS/2024-25 dated 15.11.2024 stands disposed of.

(Shree Ram Vishnoi)
Additional Commissioner,
Customs, Ahmedabad

BY SPEED POST AD/E.MAIL/WEBSITE

F.No.VIII/26-19/AIU/CUS/2024-25

Date:25.07.2025

DIN: 20250771MN000000F715

To,
Shri Vrujlal Trikambhai Gabani
Flat No. 1302, 26 Gold Coin,
Abrama Road, Mota Varachha,
Surat City - 394101, Gujarat

Copy to:

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