



## 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 No. 20250571MN000000A4AA**

### PREAMBLE

A	फाइल संख्या/ File No.	:	VIII/10-280/SVPIA-A/O&A/HQ/2024-25
B	कारणबता ओनोटिस संख्या – तारीख / Show Cause Notice No. and Date	:	Waiver of SCN by Pax.
C	मूल आदेश संख्या/ Order-In-Original No.	:	<b>22/ADC/SRV/O&amp;A/2025-26</b>
D	आदेश तिथि/ Date of Order-In-Original	:	<b>07.05.2025</b>
E	जारी करने की तारीख/ Date of Issue	:	<b>07.05.2025</b>
F	द्वारा पारित/ Passed By	:	<b>Shree Ram Vishnoi,</b> Additional Commissioner, Customs, Ahmedabad.
G	आयात कक्षानाम और पता / Name and Address of Importer / Passenger	:	<p><b>1. Shri Kosar Kolapurwala</b>, residing at Nr. Bohra Jamat Khana, Nazar Bagh PO, Pratapgarh, Rajasthan-312605</p> <p><b>2. Smt. Rashida Kolapurwala</b>, residing at Nr. Bohra Jamat Khana, Nazar Bagh PO, Pratapgarh-312605, Rajasthan</p>
(1)	यह प्रति उन व्यक्तियों के उपयोग के लिए निःशुल्क प्रदान की जाती है जिन्हे यह जारी की गयी है।		
(2)	कोई भी व्यक्ति इस आदेश से स्वयं को असंतुष्ट पाता है तो वह इस आदेश के विरुद्ध अपील इस आदेश की प्राप्ति की तारीख के 60 दिनों के भीतर आयुक्त कार्यालय, सीमा शुल्क अपील (चौथी मंजिल, हुड़को भवन, ईश्वर भुवन मार्ग, नवरंगपुरा, अहमदाबाद में कर सकता है।		
(3)	अपील के साथ केवल पांच (5.00) रुपये का न्यायालय शुल्क टिकिट लगा होना चाहिए और इसके साथ होना चाहिए:		
(i)	अपील की एक प्रति और;		
(ii)	इस प्रति या इस आदेश की कोई प्रति के साथ केवल पांच (5.00) रुपये का न्यायालय शुल्क टिकिट लगा होना चाहिए।		
(4)	इस आदेश के विरुद्ध अपील करने इच्छुक व्यक्ति को 7.5% (अधिकतम 10 करोड़) शुल्क अदा करना होगा जहां शुल्क या ड्यूटी और जुर्माना विवाद में है या जुर्माना जहां इस तरह की दंड विवाद में है और अपील के साथ इस तरह के भुगतान का प्रमाण पेश करने में असफल रहने पर सीमा शुल्क अधिनियम, 1962 की धारा 129 के प्रावधानों का अनुपालन नहीं करने के लिए अपील को खारिज कर दिया जायेगा।		

**Brief Facts of the case:**

On the basis of passenger profiling and suspicious movements of passengers by the Air Intelligence Unit (AIU) officers, SVPIA, Customs, Ahmedabad, intercepted Shri Kosar Kolapurwala holding Indian Passport No. V5129484, DOB: 02.08.1986 residing at Nr. Bohra Jamat Khana, Nazar Bagh PO, Pratapgarh-312605, Rajasthan India and Smt. Rashida Kolapurwala, holding Indian Passport No. Y8802920, DOB: 08.08.1992 residing at Nr. Bohra Jamat Khana, Nazar Bagh PO, Pratapgarh-312605, Rajasthan both arriving from Air Arabia Flight No. 3L111 and Indigo Flight No. 6E 1432, respectively arriving from Abu Dhabi to Ahmedabad at Terminal – 2 of the SVP International Airport, Ahmedabad, while they were attempting to exit through green channel without making any declaration to the Customs. Both the passengers stated that they were husband and wife respectively. Both the passengers are asked by the AIU Officers whether they have made any declarations to customs authorities for dutiable goods/items or wanted to declare any dutiable goods/items before customs authorities to which both the passengers replied in negative and informed that they were not carrying any dutiable items with them. Passenger's personal search and examination of their baggage was conducted in presence of two independent witnesses and the proceedings were recorded under the said **Panchnama dated 20.12.2024**.

**2.** The officers asked /informed the passengers that a search of their baggage as well as their personal search was to be carried out and gave them an option to carry out the search in presence of a magistrate or a gazetted officer of Customs to which the passengers desired to be searched in presence of a gazetted customs officer. Before commencing the search, the officers offered themselves to the said passengers for conducting their personal search, which was declined by the said passengers imposing faith in the officers.

**2.1** A black colour carton box having markings of Richard Mille was recovered from a big red colour bag carried by Shri Kosar Kolapurwala. This box contained warranty certificate of watch model no. RM 51-01 Type: Tourbillon, Reference: RM51-01 RG TZP-Z TIGER & DRAGON ASIA having watch Sr. No. 05(05/05) dated 16.03.2017. The box also

contained warranty no. 3000-0000-0042-7846 in respect of Audemars Piguet Royal Oak watch having case no. FF8806N.

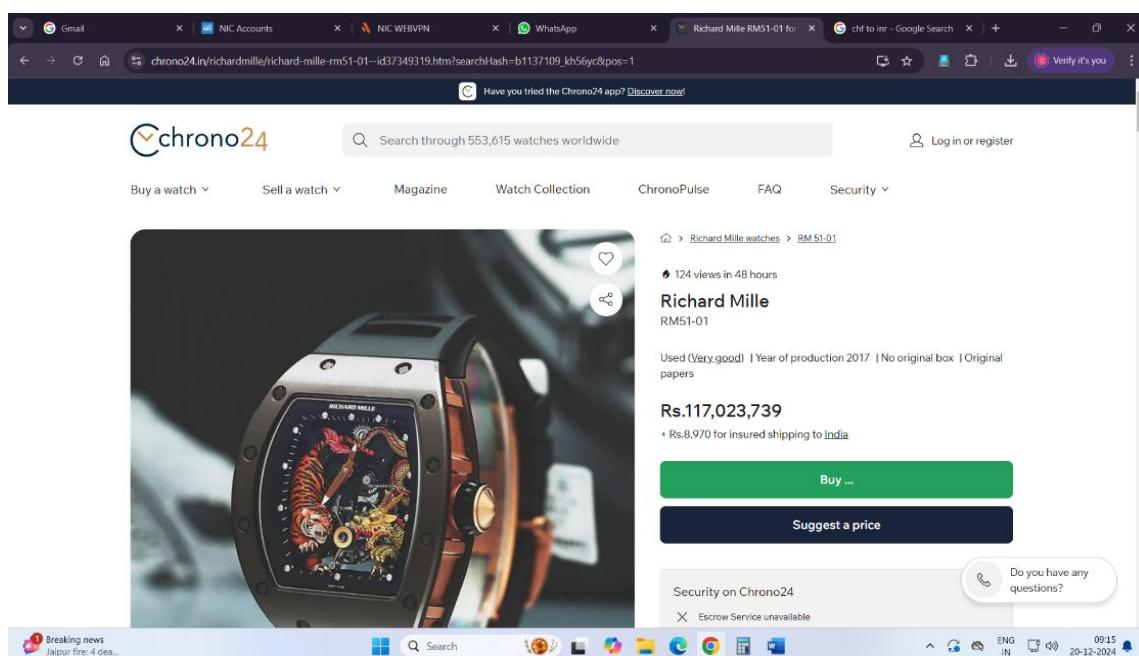
**2.2.** The officers asked the passengers to pass through the Door Frame Metal Detector (DFMD) installed at the arrival hall after removing all the metallic substances. Thereafter, the said passengers removed metallic objects from their body/ clothes such as mobile, purse etc. as well as Richard Mille watch (Model-RM 51-01) watch worn by Shri Kosar Kolapurwala and Audemars Piguet (Royal Oak) watch worn by Smt. Rashida Kolapurwala and kept them in a plastic tray placed on the table. When the passengers passed through the DFMD Machine, no beep sound was heard indicating that there was nothing objectionable/dutiable goods/items on their bodies/clothes.

**2.3** Thereafter, the Officers offered themselves to be searched by Shri Kosar Kolapurwala before conducting his search, which was politely declined by Shri Kosar Kolapurwala imposing full faith in the officers. Thorough personal search of Shri Kosar Kolapurwala was conducted but nothing objectionable/ dutiable is found from him. The officers found that the aforesaid watch worn by Shri Kosar Kolapurwala appeared to be distinct and heavy. On being closely examined, it is gathered that the watch worn by Shri Kosar Kolapurwala is of brand Richard Mille (Model-RM 51-01) which is a very reputed international brand. The online price of a similar but used Richard Mille watch is Rs.11,70,23,739/-. The photograph of the said watch is as under:



**2.4.** Thereafter, the AIU officers, asked Shri Kosar Kolapurwala regarding the ownership and value of the watch recovered from him, to which Shri Kosar informed that this watch was given to him by his uncle who lives in Dubai and he was supposed to hand over this watch here in Ahmedabad to somebody whose details are to be provided by his uncle after exiting from the airport. Shri Kosar Kolapurwala further informed that he was not aware about the actual value of the watch but he is aware that the watch is of a reputed international brand namely Richard Mille & as per best of his knowledge, value of the watch is in Crores of rupees. On being further asked regarding the name and address of his uncle who had given him the said watch, Shri Kosar informed that he could not tell the name of his uncle who had given him these watches. The officers ask Shri Kosar regarding invoice or other document indicating the value and ownership of the watch, to which Shri Kosar informed that the said watch was purchased by his uncle from Gold Souq in Dubai and therefore no invoice was available in respect of the watch and he informed that the outer packing box and warranty card of the watch is with him & the same is already recovered from his red bag.

**2.5** The officers enquired from the online resources and found that as per online market place resources, the aforesaid watch Richard Mille watch (Model-RM 51-01) watch is priced at Rs. 11,70,23,739/- in the international market. The screenshot of the said watch and its price is as under:



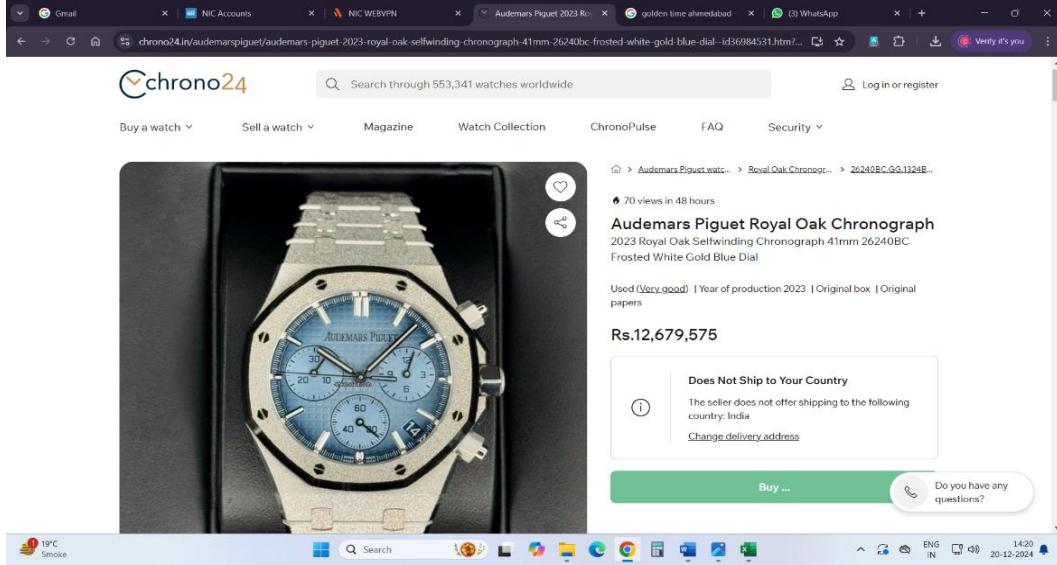
**3.** Similarly, the Officers offered themselves to be searched by Smt. Rashida Kolapurwala before conducting her search, which was politely declined by Smt. Rashida Kolapurwala imposing full faith in the officers. The officer Smt. Lalita Iyer, Superintendent, conducted thorough personal search of Smt. Rashida Kolapurwala. However, nothing objectionable/ dutiable was found from her.

**3.1** The officers found that the watch worn by Smt. Rashida Kolapurwala appeared very distinct and heavy. She was found to be wearing the watch of brand name- Audemars Piguet (Royal Oak). The officers searched regarding the said brand model online and found that online price of a similar but used Audemars Piguet (Royal Oak) watch is appx. Rs.1,29,64,872/- . The photograph of the said watch is as under:



**3.2** The value of a similar but used watch available online is Rs.1,26,79,575/- . The screenshot of the same is as under:

Product	Price	Shipping
Audemars Piguet Royal Oak Chronograph 2023 Royal Oak Selfwinding Chronograph...	Rs.12,679,575	+ Rs.34,899 for shipping
Audemars Piguet Royal Oak Chronograph Selfwinding Chronograph...	Rs.12,743,713	+ Rs.4,188 for shipping
Audemars Piguet Royal Oak Chronograph Selfwinding Chronograph...	Rs.12,798,175	+ Rs.5,584 for shipping
Audemars Piguet Royal Oak Chronograph 2023 Frosted Gold Blue Smoke Dial Royal...	Rs.12,825,190	+ Rs.43,536 for shipping



**3.3** Thereafter, the AIU officers, asked Smt. Rashida Kolapurwala regarding the ownership and value of the watch recovered from her, to which Smt. Rashida Kolapurwala informed that this watch was given to her by her uncle who lives in Dubai and she was supposed to hand over this watch here in Ahmedabad to somebody whose details are to be provided by his uncle after exiting from the airport. Smt. Rashida Kolapurwala further informed that she is not aware about the actual value of the watch but she is aware that the watch is of a reputed international brand namely Audemars Piguet & as per best of her knowledge, value of the watch may be as high as Crores of rupees. On being further asked regarding the name and address of her uncle who had given him the said watch, Smt. Rashida Kolapurwala informed that she could not tell the name of his uncle who had given her this watch. The officers asked Smt. Rashida Kolapurwala regarding invoice or other document indicating the value and ownership of the watch, to which Smt. Rashida Kolapurwala informed that the said watch is purchased by her uncle from Gold Souq in Dubai and there is no invoice in respect of the watch and she informed that the warranty card of the watch is in the red bag of her husband which has already been recovered from the said bag.

**3.4** The officers informed Shri Kosar Kolapurwala and Smt. Rashida Kolapurwala that the said 2 watches valued at Rs. 11,70,23,739/- and Rs.1,26,79,575/- respectively were attempted to be smuggled from the Customs Green channel without declaring the same and therefore the same amounts to smuggling of expensive watches and therefore, these are liable for confiscation under the provisions of the Customs Act, 1962. The officer informs Shri Kosar Kolapurwala and Smt. Rashida

Kolapurwala that the 2 watches are liable to be seized under the provisions of the Customs Act, 1962.

#### **4. Seizure of the aforesaid 2 watches**

**4.1** The officers placed the aforesaid 2 watches in 2 plastic containers and covered it with the packing lists marked as "C-1" and "C-2" which was duly signed by the Panchas, concerned passengers and officer Shri Mayur Joshi. The officers tied the plastic containers with thread and sealed the same with Customs lac seal. Thereafter, Shri Mayur Joshi prepared a seizure order U/s. 110 of Customs Act, 1962 dated 20.12.2024 under the reasonable belief that the same were liable for confiscation under Section 111 of the Customs Act, 1962. The said sealed transparent plastic boxes containing watches is handed over to the Ware House In-charge, Customs, SVPI Airport, Ahmedabad vide Ware House Entry No. 7129 and 7130 both dated 20.12.2024. The officers seized copies of travelling documents i.e. Boarding Passes and identity proof i.e. copy of Passports for further investigation.

#### **5. Statement of Shri Kosar Kolapurwala:**

**5.1** Statement of Shri Kosar Kolapurwala was recorded under Section 108 of the Customs Act, 1962 on 20.12.2024, wherein he inter alia stated as under:

**5.2** He gave his personal details like name, age, address, education, profession and family details and informed that he was educated upto B. Com. Preston University, Ajman, UAE and was a businessman engaged in perfume business. He was living in Dubai with his wife and children. In token of having seen and correctness of the facts mentioned in the Panchnama dated 20.12.2024, he put his dated signature on last page of the said Panchnama. He stated that he was present during the entire panchnama proceedings.

**5.3** On being asked he stated that he was travelling from Abu Dhabi Airport to Ahmedabad Airport by Indigo Flight No. 6E 1432 on 20.12.2024 which arrived at Ahmedabad Airport at 20.12.2024. He reached at Ahmedabad Airport At about 05:30 a.m. on 20.12.2024, he completed immigration procedure and collected his baggage. After Completion of immigration and receiving of Check-in luggage he passed through the Red channel and after that he passed through the Green Channel of Customs Notified Area. The Customs AIU Officer asked him

regarding anything to declare in Customs, to which he denied the same and after that they asked for permission for his personal check and detailed check of his baggage. He permitted the same. The officer asked him to pass through the Door Frame Metal Detector (DFMD) machine. Before passing through DFMD, he removed his purse, mobile and watch etc. When he passed through the DFMD Machine, no beep sound was heard. However, the expensive Richard Mille watch (Model-RM 51-01) was recovered from him and the same was seized by the Customs officer during Panchnama dated 20.12.2024.

**5.4** On being asked he stated that he and his wife were coming to India to attend a marriage.

**5.5** On being asked he stated that the aforesaid watch was given to him by Shri Murtaja Imdad who is his mama ji and lives in UAE at flat No- 212, Gold Souq, Dubai. He had given the aforesaid watch to him with directions to hand over the same to a person in India who will contact him once he reached India. He stated that he does not have the details of the person who was to contact him in India.

## **6. Statement of Smt. Rashida Kolapurwala:**

**6.1** Statement of Smt. Rashida Kolapurwala, was recorded under Section 108 of the Customs Act, 1962 on 20.12.2024 wherein she inter alia stated as under:

**6.2** She gave her name, age, address and other personal details including her education up to B. Com from Pratapgarh, Rajasthan. She stated that she knows English and Hindi Language and I can read, write and understand English and Hindi. In token of having seen and correctness of the facts mentioned in the said Panchnama, she put her dated signature on last page of the said Panchnama. She stated that she was present during the entire panchnama proceedings.

**6.3** She stated that her husband Shri Kosar Kolapurwala and 3 kids are living in Dubai. Her husband is a businessman of perfumes whereas her children are studying.

**6.4** On being asked she stated that she has studied up to B. Com and she was a house maker in Dubai.

**6.5** On being asked she stated that she was travelling from Abu Dhabi Airport to Ahmedabad Airport by Air Arabia Flight No. 3L-111 on

20.12.2024 which arrived at Ahmedabad Airport at 20.12.2024. She reached at Ahmedabad Airport At about 05:30 a.m. on 20.12.2024, She completed immigration procedure and collected her baggage. After Completion of her immigration and receiving of Check-in luggage she passed through the Red channel and after that she passed through the Green Channel of Customs Notified Area. The Customs AIU Officer asked her regarding anything to declare in Customs, to which she denied the same and after that they asked for permission for her personal check and detailed check of her baggage. She permitted the same. The officer asked her to pass through the Door Frame Metal Detector (DFMD) machine. Before passing through DFMD, she removed her purse, mobile and watch etc. When she passed through the DFMD Machine, no beep sound was heard. However, the expensive wrist watch of brand Audemars Piguet (Royal Oak) was recovered from her and the same was seized by the Customs officer during Panchnama dated 20.12.2024.

**6.6** On being asked she stated that she and her husband were coming to India to attend a marriage and the aforesaid watch was given to her by Shri Murtaja Imdad who is her husband's mama ji and lives in UAE at flat No- 212, Gold Souq, Dubai. He had given the aforesaid watch to her with directions to hand over the same to a person in India who will contact her once she reached India. She does not have the details of the person who was to contact her in India.

## **7. Summation:**

**7.1** From the investigation conducted in the case, it appears that the aforesaid 02 luxury watches namely (1) Richard Mille watch model no. RM 51-01, having watch Sr. No. 05(05/05) and (2) Audemars Piguet Royal Oak watch having case no. FF8806N, valued at Rs. 11,70,23,739/- and Rs.1,26,79,575/- respectively were attempted to be smuggled from the Customs Green channel by Shri Kosar Kolapurwala and Smt. Rashida Kolapurwala without declaring the same before Customs authorities with an intent of illicitly clearing the same and to evade customs duty. Therefore, the same amounts to smuggling of expensive watches and these watches were liable for confiscation under the provisions of Section 111 of the Customs Act, 1962. The same was clearly meant for commercial purpose and hence do not constitute Bonafide baggage within the meaning of Section 79 of the Customs Act,

1962. Accordingly, the aforesaid 02 luxury watches valued at Rs. 11,70,23,739/- and Rs.1,26,79,575/- respectively were seized under the provisions of Section 110 of the Customs Act, 1962 on the reasonable belief that the same were liable to be confiscated in terms the provisions of Section 111 of the Customs Act, 1962.

**7.2** The passengers, Shri Kosar Kolapurwala and Smt. Rashida Kolapurwala therefore, appear to have committed an offence punishable under Section 135 (1) (a) & (b) of the Customs Act, 1962 and therefore, they were arrested under Section 104 of the Customs Act, 1962. Thereafter, Shri Kosar Kolapurwala and Smt. Rashida Kolapurwala were produced before the Hon'ble court of ACJM, Ahmedabad City, Ahmedabad and the Hon'ble Court has taken them into judicial custody. The Honourable court of ACJM, Ahmedabad City, Ahmedabad has granted default bail to both the accused persons vide order dated 19.02.2025.

#### **8. Legal provisions relevant to the case:**

##### **Foreign Trade Policy 2015-20 and Foreign Trade (Development and Regulation) Act, 1992**

- 8.1 In terms of Para 2.26 (a) of the Foreign Trade Policy 2015-20, only bona fide household goods and personal effects are allowed to be imported as part of passenger baggage as per limits, terms and conditions thereof in Baggage Rules notified by the Ministry of Finance.
- 8.2 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.
- 8.3 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.
- 8.4 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.

**The Customs Act, 1962:**

- 8.5 As per Section 2(3) – “baggage includes unaccompanied baggage but does not include motor vehicles.
- 8.6 As per Section 2(22), of Customs Act, 1962 definition of 'goods' includes-
  - (a) vessels, aircrafts and vehicles;
  - (b) stores;
  - (c) baggage;
  - (d) currency and negotiable instruments; and
  - (e) any other kind of movable property;
- 8.7 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.
- 8.8 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 of the Customs Act 1962.
- 8.9 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.
- 8.10 As per Section 77 of the Customs Act 1962 the owner of baggage shall, for the purpose of clearing it, make a declaration of its contents to the proper officer.
- 8.11 As per Section 110 of Customs Act, 1962 if the proper officer has reason to believe that any goods are liable to confiscation under this Act, she may seize such goods.
- 8.12 Section 111. Confiscation of improperly imported goods, etc.:

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

- (a) any goods imported by sea or air which are unloaded or attempted to be unloaded at any place other than a customs port or customs airport appointed under clause (a) of section 7 for the unloading of such goods;*
- (b) any goods imported by land or inland water through any route other than a route specified in a notification issued under clause (c) of section 7 for the import of such goods;*
- (c) any dutiable or prohibited goods brought into any bay, gulf, creek or tidal river for the purpose of being landed at a place other than a customs port;*
- (d) any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;*
- (e) any dutiable or prohibited goods found concealed in any manner in any conveyance;*
- (f) any dutiable or prohibited goods required to be mentioned under the regulations in an import manifest or import report which are not so mentioned;*
- (g) any dutiable or prohibited goods which are unloaded from a conveyance in contravention of the provisions of section 32, other than goods inadvertently unloaded but included in the record kept under sub-section (2) of section 45;*
- (h) any dutiable or prohibited goods unloaded or attempted to be unloaded in contravention of the provisions of section 33 or section 34;*
- (i) any dutiable or prohibited goods found concealed in any manner in any package either before or after the unloading thereof;*
- (j) 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;

- (k) any dutiable or prohibited goods imported by land in respect of which the order permitting clearance of the goods required to be produced under section 109 is not produced or which do not correspond in any material particular with the specification contained therein;*
- (l) any dutiable or prohibited goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77;*
- (m) any goods which do not correspond in respect of value or in any other particular with the entry made under this Act or in the case of baggage with the declaration made under section 77 [in respect thereof, or in the case of goods under transhipment, with the declaration for transhipment referred to in the proviso to sub-section (1) of section 54];*
- (n) any dutiable or prohibited goods transited with or without transhipment or attempted to be so transited in contravention of the provisions of Chapter VIII;*
- (o) any goods exempted, subject to any condition, from duty or any prohibition in respect of the import thereof under this Act or any other law for the time being in force, in respect of which the condition is not observed unless the non-observance of the condition was sanctioned by the proper officer;*
- (p) any notified goods in relation to which any provisions of Chapter IV-A or of any rule made under this Act for carrying out the purposes of that Chapter have been contravened.*

#### 8.13 Section 112. Penalty for improper importation of goods etc.:

any person,

- (a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under Section 111, or abets the doing or omission of such an act, or*
- (b) who acquires possession of or is in any way concerned in*

*carrying, removing, depositing, harboring, keeping, concealing, selling or purchasing or in any manner dealing with any goods which she knows or has reason to believe are liable to confiscation under Section 111, shall be liable to penalty.*

8.14 As per Section 123 of Customs Act 1962,

(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.*

8.15 All dutiable goods imported into India by a passenger in baggage are classified under CTH 9803.

#### **Customs Baggage Rules and Regulations:**

8.16 As per Customs Baggage Declaration (Amendment) Regulations, 2016 issued vide Notification no. 31/2016 (NT) dated 01.03.2016, 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 under Section 77 of the Customs Act, 1962.

8.17 As per Rule 5 of the Baggage Rules, 2016, a passenger residing abroad for more than one year, on return to India, shall be allowed clearance free of duty in bona-fide baggage of jewellery up to weight, of twenty grams with a value cap of Rs. 50,000/- if brought by a gentlemen passenger and forty grams with a value

cap of one lakh rupees, if brought by a lady passenger.

8.18 From the above paras, it appears that during the period relevant to this case, import of watches was subject to the stringent provisions of Section 123 of the Customs Act, 1962. Further, the accused passengers failed to declare before the Customs authorities that they were bringing expensive watches with them and thereby rendered these watches liable for confiscation under the provisions of Section 111 of the Customs Act, 1962.

### **CONTRAVICTION AND VIOLATION OF LAWS**

**9.** It therefore appears that:

- (i) Shri Kosar Kolapurwala and Smt. Rashida Kolapurwala had attempted to smuggle/improperly import (1) Richard Mille watch (Model-RM 51-01) valued at Rs. 11,70,23,739/- and (2) Audemars Piguet (Royal Oak) watch valued at Rs.1,26,79,575/- respectively, with a deliberate intention to evade the payment of customs duty and fraudulently circumventing the restrictions and prohibitions imposed under the Customs Act 1962 and other allied Acts, Rules and Regulations. The said passengers Shri Kosar Kolapurwala and Smt. Rashida Kolapurwala had knowingly and intentionally smuggled the said watches on their arrival from Abu Dhabi to Ahmedabad on 20.12.2024 with an intent to clear these illicitly to evade payment of the Customs duty. Therefore, the aforesaid smuggled watches by Shri Kosar Kolapurwala and Smt. Rashida Kolapurwala, cannot be treated as bonafide household goods or personal effects. Shri Kosar Kolapurwala and Smt. Rashida Kolapurwala have, thus contravened the Foreign Trade Policy 2015-20 and Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992.
- (ii) Shri Kosar Kolapurwala and Smt. Rashida Kolapurwala, by not declaring the said watches before the proper officer of the Customs have contravened the provisions of Section 77 of the Customs Act, 1962 read with Regulation 3 of Customs Baggage Declaration Regulations, 2013.
- (iii) The said watches smuggled by Shri Kosar Kolapurwala and Smt. Rashida Kolapurwala, without declaring it to the Customs are liable for confiscation under Section 111(l) read with Section 2

(22), 2 (39) of the Customs Act, 1962.

- (iv) Shri Kosar Kolapurwala and Smt. Rashida Kolapurwala, by the above-described acts of omission/commission and/or abetment has/have rendered themselves liable to penalty under Section 112 of Customs Act, 1962.
- (v) As per Section 123 of Customs Act 1962, the burden of proving that the (1) Richard Mille watch (Model-RM 51-01) valued at Rs. 11,70,23,739/- and (2) Audemars Piguet (Royal Oak) watch valued at Rs.1,26,79,575/- respectively are not smuggled goods, is upon Shri Kosar Kolapurwala and Smt. Rashida Kolapurwala, who are the Noticee in this case.

#### **10. DEFENCE REPLY:**

Both Noticees that are Shri Kosar Kolapurwala and Smt. Rashida Kolapurwala through their advocate submitted their written waiver application vide letter dated 23.12.2024. He submitted that Shri Kosar Kolapurwala is NRI who residing at Dubai from last many years having ID card 784-1986-1358190-3, with his wife Smt. Rashida Kolapurwala (having ID card 784-1992-9137138-5) and he is doing business of perfumes in the name of company –“Bait Al Nafees Perfumes Trading L.L.C. He submitted that his clients have brought watches to wear in social function (marriage of his wife’s Maternal Uncle Son’s Hatim’s Wedding) at Pratapgarh, Rajasthan and would return on 30.12.2024. He submitted that his clients carrying watches which is restricted and not prohibited. The watches were brought to wear in wedding function. The watches are second hand purchase and bills for the same are enclosed. The Seized watches were purchased by their uncle from **AL Amal Oasis Jewellery LLC** on 14.12.2024 for an amount of Rs. 4,30,000/- AED and Rs. 5,50,000/- AED respectively. He submitted that their client has orally declared and referred the CBEC Circular No. 09/2001 and Notification No. 12/2012-Cus dated 17.03.2012. There is plethora of judgments wherein goods have been released on payment of redemption fine or the pax was allowed for re-export of goods in lieu of fine. He submitted that the relevant provisions and clauses of the Customs Act, 1962 which are to be included in Show Cause Notice had been explained in details to his clients and after understanding the

clauses and provisions, they have requested for waiver of SCN and they do not want any further investigation and request to decide the case on merits after granting the personal hearing. He submitted that they are ready to pay applicable fine and opts for waiver of SCN. He submitted that the seized watches are not prohibited and due to ignorance of law, they were unable to declare the same before the Authority. He requested to take a lenient view in the matter.

Further, vide letter dated 18.01.2025 through their advocate Shri Shabbir Merchant, Shri Kosar Akbarali Kolapurwala and Smt. Rashida Kosar Kolapurwala submitted the written request for waiver of Show Cause Notice. Vide letter dated 24.01.2025, through their advocate, they have submitted that they were arrested on 20.12.2024 and were in judicial custody at Sabarmati Jail, Ahmedabad and again requested for waiver of SCN and submitted that they do not want to contest the allegations and ready to pay the amount of Custom Duty, fine and penalty as determined. They have submitted that they have already paid the Custom Duty as communicated and they are ready to pay the remaining amount towards fine and penalty. They have submitted that they have admitted all the allegations regarding evasion of Customs Duty, Fine and Penalty and they are ready to pay applicable amount and requested to waive the SCN and adjudication process may be done at the earliest.

Further, at the time of personal hearing, they have submitted that they have carried two luxury watches named Richard Mille (model RM 51-01) of Rs. 11,70,23,739/- and Audemars Piguet Royal Oak watch of Rs. 1,26,79,575/- while arriving from Abu Dhabi to Ahmedabad on 20.12.2024. They have submitted that the said watches belong to their maternal uncle and was brought by them to attend a wedding function at Rajasthan. Their intention was not to smuggle the same. They were not aware of the Customs Rules and legalities and ready to pay the customs duty or fine. They have submitted that they have submitted purchase invoices and there is no deep-rooted conspiracy of any kind and ready to compensate the government for any loss incurred. They have submitted various case law in their defense where the goods were released on payment of fine, as under: -

- The precedence laid down in the matter of Hardik pandya may kindly be adhered to in this case also

- City Civil & Sessions Court, Ahmedabad, Cri. M.App.No 8246/2024, Jeevan Vikram Singh vs. The Investigation Officer, AIU Customs Ahmedabad
- OIO No. ADCP/TK/ADJN/02/2024-25/R&I dated 16.07.2024 shri Mohammed Fuzail Mohammed Kasim Merchant & Others Vs. Additional Commissioner of Customs (Preventive) (Luxury Watch release on RF, PP)
- OIO No. ADC/MKS/ADJN/464/2024-25 dated 25.11.2024, Mr. Zahir Khusroo Dhunjibhoy & Additional Commissioner of Customs.

## **11. PERSONAL HEARING:**

To follow the principle of natural justice, personal hearing in the matter was granted on 07.04.2025. Shri Nitin Soni, Advocate and Authorized representative appeared for personal hearing alongwith noticees Shri Kosar Kolapurwala and Smt. Rashida Kolapurwala. He requested to attend the PH in person instead of video conferencing and submitted vakalatnama to represent case. He re-iterated the letters both dated 20.01.2025 & 24.01.2025 for waiver of SCN/Oral SCN under the provisions of Section 124 of Customs Act, 1962. Also, they requested for waiver of SCN through their advocate vide letters dated 18.01.2025. Accordingly, the request for non-issuance of written Show Cause Notice is accepted in terms of the first proviso to Section 124 of the Customs Act, 1962 and accordingly, the representative and both noticees have been explained the provisions of Section 124 thoroughly and waiver of SCN has been granted and matter is taken up for decision on merits.

Shri Nitin Soni, submits written submissions dated 07.04.2025 and reiterated the same. He submits that the watches both making of Richard Mille (Model RM 51-01) and Audemars Piguet Royal Oak are belongs to his client's maternal uncle and his clients were going to pratapgarh to attend a wedding. He submitted that their intention was not to smuggle the watches and they have also not regular offenders. He submitted that due to ignorance of law and were not aware of customs rules and legalities, therefore, unable to declare the same before Customs Authority. He submitted that they have produced the purchase bills of the said watches.

**DISCUSSION & FINDINGS:**

**12.** I have carefully gone through the facts of this case and the submissions made by the Advocate of the noticee and submission made during the personal hearing and documents available on record. I find that the noticee had requested for waiver of Show Cause Notice in written as well as he re-iterated the same during PH. Before proceeding further, I would like to go through the provisions for waiver of SCN as envisaged in Section 124 of Customs Act, 1962 as under:-

**"124. Issue of show cause notice before confiscation of goods, etc.**—*No order confiscating any goods or imposing any penalty on any person shall be made under this Chapter unless the owner of the goods or such person—*

*(a) is given a notice in [writing with the prior approval of the officer of Customs not below the rank of [an Assistant Commissioner of Customs], informing] him of the grounds on which it is proposed to confiscate the goods or to impose a penalty;*

*(b) is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation or imposition of penalty mentioned therein; and*

*(c) is given a reasonable opportunity of being heard in the matter:*

*Provided that the notice referred to in clause (a) and the representation referred to in clause (b) may, at the request of the person concerned be oral.*

*[Provided further that notwithstanding issue of notice under this section, the proper officer may issue a supplementary notice under such circumstances and in such manner as may be prescribed.]*

Perusal of Section 124 of the Act states that a Show Cause Notice may be issued in Oral on the request of noticee. If an oral SCN/ waiver has to be agreed to by the person concerned, the same ought to be in the form of a proper declaration, consciously signed by the person concerned. I find that the noticee through his advocate/authorized representative requested for waiver of SCN/Oral SCN after previously go

through the provisions of Show Cause Notice under Section 124 of Customs Act, 1962 vide letter dated 20.01.2025 18.01.2025 & 24.01.2025. Therefore, the Oral SCN/Waiver of SCN can be granted under Section 124 of Customs Act, 1962 on his written request and after following the principle of natural justice. In the instant case, I find that the noticees through their representative have submitted their request letter for waiver of SCN which was consciously signed and Authorized representative alongwith both notices have attended the PH. Accordingly, the request for non-issuance of written Show Cause Notice is accepted in terms of the first proviso to Section 124 of the Customs Act, 1962 and accordingly, the matter is taken up for decision on merits.

**13.** In the instant case, I find that the main issue that is to be decided as:-

- 1) Whether the invoice value two watches i.e. Richard Mille watch (Model-RM 51-01) valued at AED 430000/- and Audemars Piguet (Royal Oak) watch valued at AED 550000/- carried by Shri Kosar Kolapurwala and Smt. Rashida Kolapurwala, which were seized vide Seizure Order dated 20.12.2024 under the Panchnama proceedings dated 20.12.2024 on the reasonable belief that the said goods were smuggled into India, is liable for rejection under Rule 12 of the Customs Valuation (Determination of value of Imported goods) Rules, 2007 and same can be determined at Rs. 11,70,23,739/- and Rs. 1,26,79,575/- under Rule 9 of the Customs Valuation (Determination of Value of Imported goods) Rules, 2007 or otherwise
- 2) Whether, the seized two watches i.e. Richard Mille watch (Model-RM 51-01) and Audemars Piguet (Royal Oak) watch carried by Shri Kosar Kolapurwala and Smt. Rashida Kolapurwala, is liable for confiscation under the provisions of Section 111 of Customs Act, 1962 or not;
- 3) Whether personal penalty can be imposed on Shri Kosar Kolapurwala and Smt. Rashida Kolapurwala under Section 112 of the Customs Act, 1962 & Section 117 of the Customs Act, 1962;

**14.** In this regard, I find that on the basis of passengers profiling and suspicious movement of passengers named Shri Kosar Kolapurwala and Smt. Rashida Kolapurwala, both were intercepted when they were

trying to exit through green channel. Both the passengers arriving from Air Arabia Flight No. 3L111 and Indigo Flight No. 6E 1432, respectively arrived from Abu Dhabi to Ahmedabad. Both the passengers stated that they were husband and wife respectively. Both the passengers are asked by the AIU Officers whether they have made any declarations to customs authorities for dutiable goods/items or wanted to declare any dutiable goods/items before customs authorities to which both the passengers replied in negative and informed that they were not carrying any dutiable items with them.

**14.1** During the checking of baggage, a black colour carton box having markings of Richard Mille was recovered from a big red colour bag carried by Shri Kosar Kolapurwala. This box contained warranty certificate of watch model no. RM 51-01 Type: Tourbillon, Reference: RM51-01 RG TZP-Z TIGER & DRAGON ASIA having watch Sr. No. 05(05/05) dated 16.03.2017. The box also contained warranty no. 3000-0000-0042-7846 in respect of Audemars Piguet Royal Oak watch having case no. FF8806N, the watch was worn by Smt. Rashida Kolapurwala. The officer Smt. Lalita Iyer, Superintendent, conducted thorough personal search of Smt. Rashida Kolapurwala. However, nothing objectionable/ dutiable was found from her. The officers asked the passengers to pass through the Door Frame Metal Detector (DFMD) installed at the arrival hall after removing all the metallic substances. Thereafter, the said passengers removed metallic objects from their body/ clothes such as mobile, purse etc. as well as Richard Mille watch (Model-RM 51-01) watch worn by Shri Kosar Kolapurwala and Audemars Piguet (Royal Oak) watch worn by Smt. Rashida Kolapurwala and kept them in a plastic tray placed on the table. While, the passengers passed through the DFMD Machine, no beep sound was heard indicating that there was nothing objectionable/dutiable goods/items on their bodies/clothes.

**14.2** It is on record that the aforesaid watches worn by Shri Kosar Kolapurwala and Smt. Rashida Kolapurwala respectively were found distinct and heavy. On being closely examined, it is gathered that the watch worn by Shri Kosar Kolapurwala is of brand Richard Mille (Model-RM 51-01) and watch worn by Smt. Rashida Kolapurwala is of brand name- Audemars Piguet (Royal Oak), both of them are a very reputed international brands in watches. The online price of a similar

but used Richard Mille watch is found to be Rs.11,70,23,739/- and online price of a similar but used Audemars Piguet (Royal Oak) watch is appx. Rs.1,26,79,575/-. However, I find from the submitted invoices, the value of watch brand Richard Mille (Model-RM 51-01) was mentioned as AED 4,30,000/-. Further, the invoice value of watch of brand Audemars Piguet (Royal Oak) worn by Smt. Rashida Kolapurwala was mentioned as AED 5,50,000/-. Further, in their respective statement, both have admitted that the watches were given to them by a person named Shri Murtaja Imdad who is maternal uncle of Shri Kosar Kolapurwala and directed them to handover the same to a person in India. However, on going through the invoices, I find that the invoices for watch of brand Richard Mille RM-51-01 was issued by M/s. AL Amal Oasis Jewellery LLC to Shri Hussain Bhawgarhwala and the invoice for watch of brand Audemars Piguet (Royal Oak) was issued by M/s. AL Amal Oasis Jewellery LLC to Shri Murtaza Bhawgarhwala, which is contrary to their statement that both watches were purchased by Shri Murtaza Bhawgarhwala. I find that at the time of interception, they have no purchase invoices alongwith them and the invoices submitted at the time of waiver request and the details printed in the invoices are contradictory to the facts narrated in their respective statements. Apart from that, I noticed that no specific details/description of the watches mentioned in the invoices which create doubts the genuineness of invoices and also the details mentioned in the certificates issued by the seller regarding second hand/pre owned are not completely matched with the description mentioned in the invoices, therefore, the value of invoices cannot be considered for assessable value. Further, in their written waiver application as well as during the personal hearing, both have admitted that the value of said both watches to the tune of Rs.11,70,23,739/- (Richard Mille watch) and Rs.1,26,79,575/-/- (Audemars Piguet (Royal Oak)) and ready to pay the applicable duty alongwith fine and penalty. In view of the above, I hold that the value of AED 4,30,000/- submitted for watch having brand Richard Mille (Model RM 51-01) and Value of AED 5,50,000/- submitted for watch Audemars Piguet (Royal Oak) submitted by Noticees under invoices 011 dated 14.12.2024 and 010 dated 14.12.2024 both were issued by M/s. AL Amal Oasis Jewellery LLC is liable to rejected under Rule 12 of the customs valuation (Determination of value of imported Goods) Rules 2007.

**15.** As the watches Richard Mille (Model-RM 51-01) & Audemars Piguet (Royal Oak) imported by Shri Kosar Kolapurwala & Smt. Rashida Kolapurwala respectively were a rare watch pieces, no import of identical goods has been noticed so as to value the aforesaid watch under the Rule 4 of the customs Valuation (Determination of value of imported Goods) Rules, 2007. Further no import of similar goods so as to value the aforesaid watch under rule 5 of the customs valuation (Determination of Value of Imported Goods) Rules, 2007 was noticed. Furthermore, as Richard Mille & Audemars Piguet did not have an authorized retailer/dealer in India and aforesaid watches being such a rare models. Market survey under rule 7 of the Customs Valuation (Determination of Value of imported goods) Rules, 2007 could not be carried out. For the aforesaid reasons valuation of the aforesaid watch could not be determined by resorting to rule 8 of the Customs Valuation (Determination of Value of imported goods) Rules. 2007. As the value of aforesaid watches could not be determined under the provisions of any of the preceding valuation rules. The value of the aforesaid watches was determined using reasonable means consistent with the principles and general provisions of these rules and on the basis of data available in India. Accordingly, the watches Richard Mille (Model-RM 51-01) & Audemars Piguet (Royal Oak) valued from the best available option through Internet which shows the value of used of Richard Mille (Model-RM 51-01) to the tune of Rs. 11,70,23,739/- and shows value of used Audemars Piguet (Royal Oak) to the tune of Rs. 1,26,79,575/- . In view of the above the value of the Watches Richard Mille (Model-RM 51-01) and Audemars Piguet (Royal Oak) as described in the submitted invoices are liable to be rejected under Rule 12 and same is redetermined as Rs. 11,70,23,739/- (Rupees Eleven Crore Seventy Lakh Twenty Three Thousand Seven Hundred Thirty Nine Only) for watch Richard Mille (Model-RM 51-01) and redetermined as Rs. 1,26,79,575/- (Rupees One Crore Twenty-Six Lakh Seventy-Nine Thousand Five Hundred Seventy-Five Only) under Rule 9 of the Customs Valuation (Determination of Value of imported Goods) Rules, 2007.

**16.** I also find that the both the noticees have neither questioned the manner of panchnama proceedings nor controverted the facts detailed in the Panchnama during recording their respective statement. Every procedure conducted during the panchnama proceedings by the Customs Officers is well documented and made in the presence of the

panchas as well as the noticees. In their statement recorded under Section 108 of Customs Act, 1962, both the noticees admitted that the said watches were given to them by a person named Shri Murtaja and directed to hand over the same in India. Both the Noticee has clearly admitted that they had intentionally not declared the watches recovered and seized from them, on their arrival before the Customs with an intent to clear it illicitly and evade payment of Customs duty, which is an offence under the Customs Act, 1962 and the Rules and Regulations made under it.

**17.** I thus find that the recovery of said rare pieces of watches from the possession of both noticees which were worn by them on their wrist and concealed under sleeves and not declared to the Customs with an intention to illicitly clear it from the Airport to evade the payment of Customs duty is an act of smuggling and the same is conclusively proved. By their above act of commission, it is proved beyond doubt that the noticees have violated Section 77 of the Customs Act, 1962 read with Regulation 3 of Customs Baggage Declaration Regulations, 2013. I also find that the watches found in possession of both noticees named Shri Kosar Kolapurwala & Smt. Rashida Kolapurwala were not purchased by them and same were handed over by Shri Murtaza to further handover the same to someone in India and also, the same has not been declared before the Customs to evade payment of tax. Therefore, the rare pieces of watches of brands Richard Mille watch (Model-RM 51-01) & Audemars Piguet (Royal Oak) imported by Shri Kosar Kolapurwala & Smt. Rashida Kolapurwala respectively and deliberately not declared before the Customs on their arrival in India cannot be treated as a bonafide household goods and thus the passenger has contravened the Para 2.26 of the Foreign Trade Policy 2015-20 and thereby 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 read in conjunction with Section 11(3) of the Customs Act, 1962 and the relevant provisions of Baggage Rules, 2016, Customs Baggage Declaration Regulations, 2013 and Notification No.50/2017-Customs dated 30.06.2017 as amended.

**18.** I note that as per Section 77 of Customs Act 1962, a passenger coming from abroad to India for the purpose of clearing his baggage, is required to make a declaration of its contents to the Customs Officer in

accordance with the Regulation 3 of Customs Baggage Declaration Regulation 2013 which says that: -

*[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 this regulation.*

I find that the provisions of Regulation 3 of Customs Baggage Declaration Regulation 2013 read with Section 77 of Customs Act 1962 were not complied with an intention to evade payment of Customs duty.

**19.** As per the provision of section 123 of the Customs Act, 1962, the burden of proving that they are not smuggled goods, in case of goods which have been seized under this Act under the reasonable belief that they are smuggled goods, lies on the person from whose possession such seizure has been made. This section applies to watches. I find that in the instant case, the seized goods which were brought into India without declaring the same to Customs authorities have lost its status as bonafide imported goods and have assumed the status of smuggled goods, thereby rendering 'the watch' liable for confiscation under Section 111 of the Customs Act, 1962 read with Section 3(3) of the Foreign Trade (Development & Regulation) Act, 1992. As per the section 2(39) of the Customs Act, 1962 non-declaration of goods is an act of smuggling. As per section 2(33) of Customs Act 1962 non fulfilment of any conditions would bring the goods under prohibition. I find that the act of both noticees, is in clear violation of the provisions of the Customs Act, 1962 as the goods have been imported in contravention of the conditions prescribed in the said Act and Notifications issued there under, and also in violation of the provisions of the Foreign Trade Policy 2023. Accordingly, the watch is liable for confiscation under Section 111(d) of the Customs Act, 1962 read with Section 3(3) of the Foreign Trade (Development & Regulation) Act, 1992.

I find that the noticees have attempted to smuggle 'the watches' without giving a declaration to Customs under Section 77 of the Customs Act, 1962 and without following the conditions prescribed in the said Act and in violation of the provisions of the Foreign Trade Policy 2023, with an intent to evade payment of customs duty, thus making it liable for confiscation under 111(l) and 111(m) of the Customs

Act, 1962 read with Section 3(3) of the Foreign Trade (Development & Regulation) Act, 1992.

**20.** In view of the above findings, I find that 'the watches' of brands brands Richard Mille watch (Model-RM 51-01) & Audemars Piguet (Royal Oak) valued at Rs. 11,70,23,739/- & Rs.1,26,79,575/- respectively is liable for confiscation under section 111 (d), 111 (l) & 111 (m) of the Customs Act, 1962 read with Para 2.27 of the Foreign Trade Policy, 2023 and section 3(2), 3(3) and 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 as the said seized good is not a bonafide personal baggage and was attempted to be brought into India without declaring to the Customs Authorities.

**21.** I find that the import policy of all dutiable articles, imported by a passenger or a member of a crew in his baggage under ITC (HS) 98030000 is "Restricted". Para 2.26 of Foreign Trade Policy 2015-20 prescribes the provisions related with Passenger Baggage. As per sub para (a) of the said para 2.26 of the FTP 2015-20 "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". This apparently mean import of the impugned seized goods through baggage is allowed but as per limits, terms and conditions prescribed in Baggage Rules, 2016. *In case of import of watch in passenger baggage, declaration of watch before Customs, constitute a condition for import as per Regulation 3 of Baggage Regulation 2013 and non-declaration of the same is construed as non-compliance of the condition for import in baggage.*

**22.** Further, I find that there is no such specific absolute prohibition on import of watch but it is regulated with various conditions and import of the same without complying with those conditions entails the imported watches fall under Prohibited category within the definition of "Prohibited Goods" given under Section 2(33) of Customs Act, 1962 which says that

*"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;*

**23.** In the instant case, I find that the impugned goods "watches" are brought by the noticees without complying with the laid down conditions for import as per the findings above. I further find that since declaration of the subject goods before Customs Red Channel as required under Section 77 of Customs Act 1962 was not made by the noticees, any possible argument that the seized goods do not fall within the ambit of section 111(l) & 111(m) of Customs Act, 1962, is nullified from the outset. I, therefore find that there is no need of extensive discussion and it is amply clear that the subject seized watches are offending goods as per the provisions of Section 111(l) & 111(m) warranting confiscation on such goods which are not included or are in excess or do not correspond in respect of any particulars with the declaration made under Section 77 of Customs Act 1962. Accordingly, I hold that the impugned goods are liable for confiscation under section 111(l) & 111(m) of Customs Act 1962.

**24.** Once the seized goods are held to be liable for confiscation, the next question before me to decide is whether to allow the release of the impugned goods on Redemption Fine or order for absolute confiscation of the same. The provisions related to redemption of confiscated goods are stipulated in Section 125 of the Customs Act, 1962; sub-section (1) of the said section 125 says that

*"Option to pay fine in lieu of confiscation. - (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. It is, amply clear from the said Section that, where the confiscated goods are not prohibited for import or export, the Adjudicating Authority is under obligation to release the same. However, in those cases where the confiscated goods are prohibited for import or export, discretion has been vested in the Adjudicating Authority to decide the issue on the basis of the facts and circumstances involved.*

**25.** A plain reading of the section 125 shows that the Adjudicating Authority is bound to give an option of redemption when goods are not subjected to any prohibition. There is no bar on the Adjudicating Authority allowing redemption of prohibited goods on merit. This exercise of discretion will depend on the nature of the goods and the nature of the prohibition. For instance, spurious drugs, arms, ammunition, hazardous goods, contaminated flora or fauna, food which does not meet the food safety standards, etc. are harmful to the society if allowed to find their way into the domestic market. On the other hand, release of certain goods on redemption fine, even though the same becomes prohibited as conditions of import have not been satisfied, may not be harmful to the society at large. 'Watches' are not prohibited items and there are no restrictions/conditions on the import of watches; from the above cited legal provisions, it is construed that section 125 of Customs Act, 1962 provides that in case of goods other than prohibited goods, the adjudicating authority has to give an option of redemption of the goods on fine in lieu of confiscation and in this way the adjudicating authority shall allow redemption of the confiscated goods. Accordingly, 'watches' may be considered for redemption.

**26.** I find that in the written waiver request submitted by the noticees as well as by their advocates wherein they have mentioned that they are ready to pay the applicable duty, fine and penalty in lieu of release of watches and submitted the case laws in their support wherein redemption fine is allowed in lieu of release of watch. I find that this issue of re-demption of gold has travelled through various appellate fora and there is a catena of judgements, over a period of time, of the Hon'ble Courts and other fora which have been categorical in the view that grant of the option of redemption under Section 125 of the Customs Act, 1962 can be exercised in the interest of justice. 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. Nagpir-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 (Rev.) 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.)*
- viii *The Hon'ble High Court of Judicature at Madras, in the judgment in the case of Shaik Mastani Bi vs. Principal Commissioner of Customs, Chennai- 1 [2017(345) E.L.T. 201 (Mad)] upheld the order of the Appellate Authority allowing re-export of gold on payment of redemption fine.*
- ix *The Hon'ble High Court of Kerala at Ernakulam in the case of R. Mohandas vs. Commissioner of Cochin [2016(336) E.L.T, 399 (Ker.)] has, observed at Para 8 that "The intention of Section 125 is that, after adjudication, the Customs Authority is bound to release the goods to any such person from whom such custody has been seized.."*
- x. *Also, in the case of Union of India vs Dhanak M Ramji [2010(252)E.L.T. A102(S.C)], the Hon'ble Apex Court vide its judgement dated 08.03.2010 upheld the decision of the Hon'ble High Court of Judicature at Bombay [2009(248) E.L.T. 127 (Bom)], and approved redemption of absolutely confiscated goods to the passenger.*
- xi. *The High Court of Delhi at New Delhi in a judgement passed in the matter of NIDHI KAPOOR v/s PRINCIPAL COMMISSIONER AND ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA & ORS, in W.P.(C) 8902/2021 dated 21.08.2023 where in it was observed that "The Court holds that an infraction of a condition for import of goods would also fall within the ambit of Section 2(33) of the Act and thus their redemption and release would become subject to the discretionary power of the Adjudging Officer. For reasons afore-noted, the Court finds no illegality in the individual orders passed by the Adjudging Officer and which were impugned in these writ petitions".*

**26.1** 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)*

**27.** 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. Further, the above mentioned 3 orders of RA has been accepted by the department.

**28.** Under their submission, they have asked for re-export of goods (watches Richard Mille and Audemars Piguet Royal Oak). Before discussion, I would like to reproduce the relevant provision of Section 80 of Customs Act, 1962 as:-

**Section 80. Temporary detention of baggage. -**

*Where the baggage of a passenger contains any article which is dutiable or the import of which is prohibited and **in respect of which a true declaration has been made under section 77**, the proper officer may, at the request of the passenger, detain such article for the purpose of being returned to him on his leaving India 1 [and if for any reason, the passenger is not able to collect the article at the time of his leaving India, the article may be returned to him through any other passenger authorised by him and leaving India or as cargo consigned in his name].*

On a plain reading, it appears that a declaration under Section 77 is pre-requisite condition for detention/re-export in terms of Section 80ibid. Hon'ble Allahabad High Court has, in case of Deepak Bajaj [2019 (365) ELT 695 (All.)] held that a declaration under Section 77 is a sine qua non for allowing re-export under Section 80. In this case, both noticees made no written declaration in respect of the subject watches. Further, Hon'ble Delhi High Court has, in case of Jasvir Kaur vs. UOI [2019(241)ELT 521 (Del.)] held that re-export “cannot be asked for as a right-----. The passenger cannot be given a chance to try his luck and smuggle gold into country and if caught he should be given permission to re-export.” I also find under their respective statements that both were admitted that they don't want to declare the same before customs as they want to clear them illicitly without payment of customs duty. Hence, I hold that the option under Section

80 of the Act would not be applicable to him. The request for re-export is therefore, rejected.

**29.** In the instant case, both noticees failed to declare the watches worn by them, as mandated under Section 77 of the Customs Act, 1962, hence, the goods are liable for confiscation. However, there was no ingenious concealment on the part of 'noticees' as they had worn the watch in their wrist, where it was spotted by the Customs Officer. Both noticees were carrying only one wristwatch individually and thus the quantity is not of commercial quantity. Further, I find that there are no allegations that both noticees are habitual offenders and were involved in similar offence earlier. Hence, in terms of section 125 of Customs Act, 1962, I hold that the option of paying fine in lieu of confiscation cannot be denied to 'the passenger'.

**30.** I also find that in Order No. 345/2022-CUS(WZ)/ASRA/ MUMBAI dated 25.11.2022, in the case of Mrs. Manju Tahelani Vs. Principal Commissioner of Customs, Ahmedabad, passed by the Revision Authority, Government of India, Mumbai in which it was held in para 13 that –

*"In the instant case, the quantum of gold under import is small and is not of commercial quantity. The impugned gold jewellery had been worn by the applicant on her person and Government observes that sometimes passengers resort to such methods to keep their valuables/ precious possessions safe. There are no allegations that the applicant is habitual offender and was involved in similar offence earlier. The fact of the case indicate that it is a case of non-declaration of gold, rather than a case of smuggling of commercial consideration."*

**31.** I also find that in Order No. 245/2021-CUS(WZ)/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 by 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.** I further find that the Hon'ble High Court of Delhi in a recent judgement dated 21.08.2023 in the case of Nidhi Kapoor and others, in para 156 of its order observed that –

*"The Court holds that an infraction of a condition for import of goods would also fall within the ambit of Section 2(33) of the Act and thus their redemption and release would become subject to the discretionary power of the Adjudicating Officer. For reasons aforesaid, the Court finds no illegality in the individual orders passed by the Adjudicating Officer and which were impugned in these writ petitions."*

**33.** Further, I find that both noticees in their request letter as well as through their advocate at the time of personal hearing stated that they have agreed with the valuation of watches done by the department and accordingly paid the voluntary duty amount of Rs. 4,50,54,140/- (BCD+ SWS) against the seizure memo dated 20.12.2024 for luxury wristwatch of brand Richard Mille (Model RM-51-01) against the assessable value of Rs. 11,70,23,739/- and paid voluntary duty of Rs.48,81,636/- (BCD + SWS) against seizure memo dated 20.12.2024 for luxury wristwatch of brand Audemars Piguet against assessable value of Rs. 1,26,79,575/-, which shows their financial capacity. In view of the above discussions and findings, I use my discretion to give an option to redeem the impugned seized watches on payment of a redemption fine, as provided under Section 125 of the Act. Absolute confiscation in this case, would be harsh and against the spirit of the extant provisions. In this regard, as per the recorded statements of 'both noticees,' that they were not aware of the price of 'the watches' because the same had been given to them by a person named Shri Murtaza who is maternal uncle of Shri Kosar Kolapurwala and willingly paid the customs duty as mentioned above. To sum up, 'the noticees' are the persons who have the financial capacity to purchase 'the watches' who have expressed their immediate willingness to pay up Customs dues. Further, Circular 69/2001-Cus dated 22-02-2001 states that redemption fines and personal penalties should be such that it not only wipes out profit margin but also act as a strong deterrent against repeat offences. The exact profit margin cannot be calculated in the instant case, however the price of luxury watches of brands Richard Mille watch (Model-RM 51-01) & Audemars Piguet (Royal Oak) are taken after considering the best possible options available at Online portal and market price of both

watches is considered as Rs. 11,70,23,739/- & Rs.1,26,79,575/- respectively which is also admitted by the noticees. Therefore, keeping the general trend of prices in the market as well as available online, the penalty along with redemption fine would be appropriate. Thereby, in the exercise of the powers conferred upon me as the Adjudicating Authority, I hereby allow redemption of the seized items to both noticees on payment of the applicable redemption fine, penalty and applicable duty and Interest.

**34.** I find that the noticees have walked through the Customs Green Channel without giving a proper declaration with regard to the quantity and value of watches possessed by them to Customs as mandated under Section 77 of Customs Act. 1962 and without following the conditions prescribed in the said Act and in violation of the provisions of the Foreign Trade Policy 2015-20, with an intent to escape detention by Customs authority and thereby evade Customs duty. Both the noticees in their respective statements dated 20.12.2024 stated 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 both noticees have actively involved themselves in carrying, removing, keeping and dealing with the restricted seized goods i.e watches of brands Richard Mille watch (Model-RM 51-01) and Audemars Piguet (Royal Oak) which they knows very well and has reason to believe that the same are liable for confiscation under Section 111 of the Customs Act, 1962. In view of their cited acts of commission and omission, the noticees have rendered themselves liable for penalty under section 112 (a) of the Customs Act, 1962. I hold it accordingly.

**34.1** Regarding imposition of penalty under Section 117 of Customs Act, 1962, I find that Section 117 of Customs Act, 1962 provide *for imposition of penalty on any person who contravenes any provision of the said Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, to be liable to a penalty not exceeding four lakhs rupees. The maximum amount of penalty prescribed under Section 117 initially at Rs. One lakh was revised upwards to Rs. Four lakhs, with effect from 01.08.2019.* The detailed discussions in the preceding paragraphs clearly prove that both noticees not only failed to fulfill the

conditions but also failed to abide by the responsibilities reposed on them as per the provision of Customs Act. Hence, there are clear violations of the Section 77 & Section 79 of the Customs Act, 1962. In the instant case, both noticees accepted to carry the high-end value luxury watches with an intention to clear them illicitly without declaring before customs authority to evade the payment of customs duty. Hence, it is, fit case for imposing penalty under Section 117 of Customs Act, 1962 on the noticees named Shri Kosar Kolapurwala and Smt. Rashida Kolapurwala.

**35.** In view of the above discussion & findings, I proceed to pass the following order: -

**O R D E R**

- i. I hereby reject the value of invoice mentioned as AED 4,30,000/- for Richard Mille Watch having Model RM 51-01 and invoice value mentioned as AED 5,50,000/- for watch Audemars Piguet Royal Oak, under Rule 12 of the Customs Valuation (Determination of Value of imported Goods) Rules, 2007 and order redetermination of watch Richard Mille (Model RM 51-01) at Rs. 11,70,23,739/- (Rupees Eleven Crore Seventy Lakh Twenty-Three Thousand Seven Hundred Thirty-Nine Only) and redetermination of watch Audemars Piguet Royal Oak at Rs. 1,26,79,575/- (Rupees One Crore Twenty-Six Lakh Seventy-Nine Thousand Five Hundred Seventy-Five Only) under Rule 9 of the Customs Valuation (Determination of Value of imported Goods) Rules, 2007;
- ii. I order confiscation of seized two luxury watches named Richard Mille (Model RM 51-01) and Audemars Piguet Royal Oak, revalued at Rs. 11,70,23,739/- (Rupees Eleven Crore Seventy Lakh Twenty-Three Thousand Seven Hundred Thirty-Nine Only) and Rs. 1,26,79,575/- (Rupees One Crore Twenty-Six Lakh Seventy-Nine Thousand Five Hundred Seventy-Five Only) respectively under Section 111(d), 111(l) and 111(m) of Customs Act, 1962. However, I give an option to redeem the same on payment of fine of Rs. 25,00,000/- (Rupees Twenty-Five Lakh Only) against the watch Richard Mille (Model RM 51-01) and Rs. 5,00,000/- (Rupees Five Lakh Only) against the watch Audemars Piguet Royal Oak under Section 125(1) of Customs Act, 1962.

iii. In addition to redemption fine, the noticees would be liable for payment of applicable duties and other levies/ charges in terms of Section 125(2) of the Customs Act, 1962. Accordingly, I hereby order to recover the applicable customs duty alongwith the applicable interest and penalty as per the provisions of Customs Act, 1962 on the revalued amount of the watches named Richard Mille (Model RM 51-01) and Audemars Piguet Royal Oak, revalued at Rs. 11,70,23,739/- (Rupees Eleven Crore Seventy Lakh Twenty-Three Thousand Seven Hundred Thirty-Nine Only) and Rs. 1,26,79,575/- (Rupees One Crore Twenty-Six Lakh Seventy-Nine Thousand Five Hundred Seventy-Five Only), Since the noticees have already paid the customs duty (BCD+ SWS) on revalued amount to the tune of Rs. 4,50,54,140/- (Rupees Four Crore Fifty Lakh Fifty-Four Thousand One Hundred Forty only) against the revalued of watch of brand Richard Mille (Model RM 51-01) and paid duty amount of Rs.48,81,636/- (Rupees Forty-Eight Lakh Eighty-One Thousand Six Hundred Thirty-Six Only) against revalued of Watch Audemars Piguet Royal Oak, I appropriate the same against their payable duty amount.

iv. I impose a penalty of Rs. 5,00,000/- (Rupees Five Lakh only) on Shri Kosar Kolapurwala under Section 112(b)(i) of customs Act, 1962;

v. I impose a penalty of Rs. 2,00,000/- (Rupees Two Lakh Only) On Smt. Rashida Kolapurwala under Section 112(b)(i) of Customs Act, 1962;

vi. I impose a penalty of Rs.75,000/- (Rupees Seventy-Five Thousand only) on Shri Kosar Kolapurwala under Section 117 of customs Act, 1962;

vii. I impose a penalty of Rs.25,000/- (Rupees Twenty-Five Thousand Only) On Smt. Rashida Kolapurwala under Section 117 of Customs Act, 1962;

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**36.** This order is issued without prejudice to any other action that may be taken against the passenger/ Noticee or any other person(s) concerned with said goods under the Customs Act, 1962, or any other law for the time being in force in India.

**(Shree Ram Vishnoi)**  
Additional Commissioner  
Customs, Ahmedabad

F. No. VIII/10-280/SVPIA-A/O&A/HQ/2024-25 Date:07.05.2025  
DIN: 20250571MN000000A4AA

**BY SPEED POST A.D.**

To,

- 1. Shri Kosar Kolapurwala,**  
Nr. Bohra Jamat Khana,  
Nazar Bagh PO, Pratapgarh-312605,  
Rajasthan.
- 2. Smt. Rashida Kolapurwala**  
Nr. Bohra Jamat Khana,  
Nazar Bagh PO, Pratapgarh-312605,  
Rajasthan

**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.