

	<p style="text-align: center;"><b>अपर आयुक्त, सीमा शुल्क कार्यालय</b>  <b>OFFICE OF THE ADDITIONAL COMMISSIONER OF CUSTOMS</b>  <b>सीमा शुल्क सदन, सूरत/CUSTOMS HOUSE, SURAT</b>          4<sup>th</sup> Floor, CUSTOMS HOUSE, Beside SMC Ward          Office, Althan-Bhimrad Road, Althan, Surat –          395007 ; Tel. No.- 0261-2990051          Email: <a href="mailto:customs-suratairport@gov.in">customs-suratairport@gov.in</a></p>	
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### PREAMBLE

A	डी आई एन/DIN	20250271MN000051515D
B	फ़ाइल संख्या / File No.	F. No. VIII/26-47/AIU/CUS/2023-24
C	कारण बताओ नोटिस संख्या और तारीख Show Cause Notice No. and date	F. No. VIII/26-47/AIU/CUS/2023-24 Dated 16.07.2024
D	ऑर्डर-इन-ओरिजिनल नंबर / Order-In-Original No.	20/AB/ADC/SRT-AIRPT/2024-25
E	आदेश तारीख/ Date of Order-In-Original	28.02.2025
F	जारी करने की तिथि/ Date of Issuance	28.02.2025
G	द्वारा पारित / Passed by	Shri Anunay Bhati, Additional Commissioner, Customs Surat International Airport, Surat
H	आयातक/यात्री का नाम और पता Name and address of Importer (s)/ Passenger(s)	Ms. Sneha Devraj Chennuri D/o Shri Devraj Narayan Chennuri, 45, Kamlaba Garden, Shriji Nagar-2, SMC School-328, Godadara, Surat City, PIN-395010, Gujarat

1. जिस व्यक्ति के लिए आदेश जारी किया गया है, उसके व्यक्तिगत उपयोग के लिए यह प्रति निशुल्क प्रदान की है ।

1. This copy is granted free of charge for the private use of the person to whom it is issued.

2. इस आदेश से अपने को व्यक्ति अपील करने वाला कोई भी व्यक्ति आयुक्त (अपील), सीमा शुल्क, 4<sup>th</sup> मंजिल, हुडको बिल्डिंग, ईश्वर भवन रोड, नवरंगपुरा, अहमदाबाद- 380009 के यहाँ अपील कर सकता है । इस तरह की अपील, पार्टी को इस आदेश के सौपे जाने अथवा डाक के प्राप्त होने के साठ दिन के अन्दर सीमा शुल्क (अपील) नियम, १९८२ के अंतर्गत फार्म स सी. ए. १ और २ दी जानी चाहिए । इस अपील पर नियमानुसार कोर्ट का स्टाम्प लगा होना चाहिए ।

2. Any person deeming himself aggrieved by this order, may prefer an appeal against this order to the Commissioner of Customs (Appeals), 4<sup>th</sup> Floor, HUDCO Building, Ishwar Bhavan Road, Navrangpura, Ahmedabad-380009, in Form C. A. 1 & 2 as prescribed under Customs (Appeals), Rules, 1982. The appeal must be filed within sixty days of receipt of this order by the post or person. It should bear a court fee stamp of appropriate value.

3. अपील के साथ निम्नलिखित चीजे संलग्न की जाए ।

3. The following documents must be enclosed alongwith the appeal.

(क) अपील की प्रति, तथा (a) A copy of the appeal and

(ख) आदेश की प्रति या अन्य आदेश की प्रति, जिस नियमानुसार कोर्ट फी स्टाम्प लगा हो ।

(b) Copy of this order or another copy of the order, which must bear court fee stamp of appropriate value.

**BRIEF FACTS OF THE CASE:**

Based on suspicion, an international passenger suspected to be carrying high-value dutiable/prohibited goods, namely Ms Sneha Devraj Chennuri (hereinafter referred to as Passenger/Noticee), Age: 28 years, D/o Shri Devraj Narayan Chennuri, residing at 45, Kamlaba Garden, Shriji Nagar-2, SMC School-328, Godadara, Surat City, PIN-395010, Gujarat, India, having passport No. V4530222 who had arrived at Surat International Airport on 23.02.2024 from Sharjah on Air India Express Flight No. IX-172 was intercepted by the officers of the Air Intelligence Unit (AIU) and Customs officers of Surat International Airport (hereinafter referred to as the "officers") in the presence of panchas under Panchnama proceedings dated 23/24.02.2024 near the green channel of the arrival hall of Surat International Airport. The passenger was found to be carrying four pieces of baggage viz, two cartons and two handbags. On being inquired if she had anything to declare to Customs in reply, the passenger denied it. Thereafter, the officers asked the passenger whether she wanted to be searched in the presence of the Magistrate or the Superintendent (Gazetted Officer) of Customs, in reply to which the passenger consented to be searched before the Superintendent of Customs. Thereafter, the lady Customs officer and the passenger entered the Baby Care room located in the international flight Arrival hall of the Surat International Airport, where the passenger was requested to remove all the metallic objects from her body, and the officer scanned her body with the hand-held metal detector. During the scanning, a beep sound was heard when the hand-held metal detector was passed over the arms area of the passenger. Upon frisking and physical search, the passenger was found to be wearing two unstudded gold bangles, one on each arm. Thereafter, the Customs officers passed the luggage, carried by her, through the XBIS Scanner machine and also thoroughly checked the luggage after withdrawing their contents. However, on scanning and thoroughly checking the luggage, no objectionable/prohibited goods were found.

**2.** Thereafter, the services of Shri Vikasraj Juneja, the Government Approved Valuer, were requested for the testing and valuation of the gold bangles that had been recovered. Shri Vikasraj Juneja arrived at the Surat International Airport on 23.02.2024. The Customs officers introduced the panchas as well as the passenger to Shri Vikasraj Juneja. Thereafter, Shri Vikasraj Juneja, after performing an examination and weighing the said bangles on his weighing scale, informed that these two pieces of gold bangles totally weighed 233.280 gms. were of 24 carats and had a purity of 99.9%. The market value gold weighing 233.280 grams was Rs. 15,01,157/- (Rupees Fifteen Lakh One Thousand One Hundred Fifty-Seven only) and its tariff value was Rs. 12,50,663/- (Rupees Twelve Lakh Fifty Thousand Six Hundred Sixty-Three only) as per Notification No. 12/2024-Cus(NT) dated 15.02.2024 and 13/2024 – Cus(NT) dated 15.02.2024. Thereafter, the valuer issued a valuation certificate dated 24.02.2024. The Customs officers took custody of the said gold bangles totally, weighing 233.280 grams.

**3.** The above-mentioned two gold bangles, recovered from the passenger, of 24 carats, total weighing 233.280 grams having a market value of Rs. 15,01,157/- and tariff value of Rs. 12,50,663/- and the said gold bangles were placed under seizure under the provisions of Section 110 of the Customs Act 1962 vide Seizure order dated 24.02.2024 under Panchnama proceedings dated 23/24.02.2024, on a reasonable belief that the said gold was smuggled into India and was liable for confiscation under provisions of the Customs Act, 1962.

**4.** The following documents were withdrawn from the passenger for further investigation:-

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- (i) Copy of Boarding Pass from Sharjah to Surat of Air India Express Flight No. IX-172 dated 23.02.2024, Seat No. 7A, PNR No. L1QUPS.
- (ii) Copy of Passport No. V4530222 issued at Surat on 24.12.2021 and valid up to 23.12.2031. Her address, as per her passport, was 45 Kamlaba Garden, Shriji Nagar-2, SMC School-328, Godadara, Surat City, Pin-395010.

**5.** A statement of the passenger, namely Ms Sneha Devraj Chennuri, was recorded on 24.02.2024 under the provision of Section 108 of the Customs Act, 1962, wherein she inter-alia stated:

- that she was residing at 45 Kamlaba Garden, Shriji Nagar- 2, SMC School- 328, Godadara, Surat City, Gujarat- 395010 with her parents; that her husband Shri Laxman Nakka worked in Dubai in Amina Hospital; that she had studied upto B. Pharma; that she could read, write and understand English and Hindi Languages;
- that she was shown and explained the panchnama dated 23/24.02.2024 drawn at International Airport, Surat, by the officers of Customs AIU, International Airport, Surat, which was in English, and after understanding the same, she put her dated signature on the panchnama in token of acceptance of the facts stated therein;
- that this was her fifth visit to Dubai, and she went there as her husband worked there; that the gold bangles recovered from her possession belonged to her and she was the owner of the said gold; that her husband had purchased the same from Dubai in the month of September- 2023; that her husband paid for the same through cash which he had withdrawn from his salary account in Dubai; that her husband had purchased the said gold bangles for gifting purpose.
- that she was not aware that import of Gold without payment of Customs duty was an offence; that as she was not aware, hence she did not declare the goods brought by her before Customs; that after clearing the immigration procedures, she collected her check-in baggage and during check-out, she was intercepted by the Customs officials, and further procedures as stated in Panchnama dated 23/24.02.2024 was carried out.

## **6. LEGAL PROVISIONS RELEVANT TO THE CASE**

- a)** As per para 2.26 of Foreign Trade Policy 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.”
- 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 Customs Act, 1962 definition of 'goods' includes-
  - a. vessels, aircrafts and vehicles;
  - b. stores;
  - c. baggage;
  - d. currency and negotiable instruments; and
  - e. any other kind of movable property;
- h)** As per Section 2(33) of Customs Act 1962-“prohibited goods means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force, but does not include such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with.”
- i)** As per Section 2(39) of the Customs Act 1962 –“smuggling' in relation to any goods, means any act or omission, which will render such goods liable to confiscation under Section 111 or Section 113.”
- j)** As per Section 77 of the Customs Act 1962-“the owner of any baggage shall, for the purpose of clearing it, make a declaration of its contents to the proper officer.”
- k)** As per Section 110 of 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.

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- 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 Customs Act 1962 any goods used for concealing smuggled goods shall also be liable for confiscation.
- q)** As per Section 123 of Customs Act 1962 (Burden of proof in certain cases)
  - (1) where any goods to which this section applies are seized under this Act in the reasonable belief that they are smuggled goods, the burden of proving that they are not smuggled goods shall be-
    - (a) in a case where such seizure is made from the possession of any person
      - 
      - (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, the 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).

## **7. CONTRAVICTION AND VIOLATION OF LAWS**

It therefore appeared that:

- (a)** Ms. Sneha Devraj Chennuri had actively involved herself in the instant case of smuggling of gold into India. The said passenger had improperly imported two gold bangles of 24 carats total weighing 233.280 gms, having a market value of Rs. 15,01,157/- and tariff value of Rs. 12,50,663/- as per Notification No. 12/2024-Cus(NT) dated 15.02.2024 and Notification No. 13/2024 – Cus(NT) dated 15.02.2024, without declaring it to the Customs, by way of concealment in-person. She concealed the said gold with a deliberate and mala fide intention to smuggle the same into India and fraudulently circumvented the restrictions

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and prohibitions imposed under the Customs Act, 1962 and other allied Acts, Rules and Regulations. Ms. Sneha Devraj Chennuri had thus contravened the Foreign Trade Policy 2015-20, Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 read with Section 3(2) and 3(3) of the Foreign Trade (Development and Regulation) Act, 1992 and DGFT Notification No. 36/2015-2020 dated 18.12.2019.

- (b)** By not declaring the value, quantity and description of the goods imported by her, the said passenger violated the provision of Baggage Rules, 2016, read with section 77 of the Customs Act, 1962, read with Regulation 3 of Customs Baggage Declaration Regulations, 2013.
- (c)** The gold improperly imported by the passenger, Ms Sneha Devraj Chennuri 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)** Ms Sneha Devraj Chennuri, by her above-described acts of omission and commission on her part, had rendered herself liable to penalty under Section 112 of the Customs Act, 1962.
- (e)** As per Section 123 of the Customs Act 1962, the burden of proving that the said improperly imported gold, weighing 233.280 grams, having a market value of Rs. 15,01,157/- and tariff value of Rs. 12,50,663/- without declaring it to the Customs, were not smuggled goods, was upon the passenger/Noticee i.e. Ms. Sneha Devraj Chennuri.

**8.** Accordingly, a Show Cause Notice F. No. VIII/26-47/AIU/CUS/2023-24 dated 16.07.2024 was issued to Ms Sneha Devraj Chennuri calling upon her to show cause in writing to the Additional Commissioner of Customs, Surat International Airport, Surat, having his office situated on 4<sup>th</sup> Floor, Customs House, Beside SMC Ward Office, Althan-Bhimrad Road, Althan, Surat – 395007 within 30 days from the receipt of notice as to why:-

- (i) The recovered two gold bangles of 24 carats (purity 99.9%), totally weighing 233.280 grams having a market value of Rs. 15,01,157/- (Rupees Fifteen Lakh One Thousand One Hundred Fifty-Seven only) and tariff value of Rs. 12,50,663/- (Rupees Twelve Lakh Fifty Thousand Six Hundred Sixty-Three only), seized vide Seizure Order dated 24.02.2024 under panchnama proceeding dated 23/24.02.2024 should not be confiscated under Section 111(d), 111(i) and 111(j) of the Customs Act, 1962;
- (ii) A penalty should not be imposed upon her under Section 112 of the Customs Act, 1962.

## **9. DEFENCE REPLY**

In the Show Cause Notice, the noticee was asked to submit her written reply/defence submission to the Show Cause Notice within the stipulated time. The Noticee submitted her defence reply to the SCN (in Gujarati language) in this office on 02.09.2024.

In her defence submission, the noticee has submitted that she was married in Dubai and had been living there. She has further submitted that she was pregnant and had come to India for her delivery after a long time. Furthermore, she

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has submitted that she did not have proper knowledge about the prevailing laws of India, and therefore, due to a lack of knowledge of the law, she brought the gold bangles with her and did not declare the same. Further, she has also referred to the definition of goods under Section 2(22) of the Customs Act 1962. In addition, she has submitted that the bangles seized by the Customs department were not concealed by her; rather, she was wearing the same. She has further stated that her husband gave her the bangles as a gift, which were purchased on loan. She has also submitted copies of the purchasing bill for the same. She has further submitted that the noticee had not concealed the bangles or smuggled them but had bought them to wear. Further, she has confessed to making improper importation of the gold due to ignorance of the law and is ready to pay the penalty/fine as applicable. Further, vide email dated 07.01.2025, the noticee has submitted a copy of a Travel Fitness Certificate showing fitness for travelling in a state of pregnancy, a copy of the delivery papers in support of her pregnancy, two bills showing the purchase of 2 gold Bangles, a Passport copy of noticee, a loan account statement and Vakalatnama.

## **10. RECORD OF PERSONAL HEARING**

***“Audi alteram partem”*** is an important principle of natural justice which dictates to hear the other side before passing any order. Therefore, vide letter dated 26.12.2024, the Adjudicating Authority granted an opportunity to be heard in virtual mode for a hearing on 07.01.2025. Shri Guruprasad Tiwari, Advocate, Authorized representative of the notice, attended the personal hearing in virtual mode on 07.01.2025 and reiterated the written submission submitted to this office on 02.09.2024.

## **11. DISCUSSION AND FINDINGS**

I have carefully gone through the facts of this case, the relied-upon documents, the defence submission of the noticee, relevant legal provisions and other material available on record. Therefore, now, I will proceed to adjudicate the instant case based on the evidence and documents available on record.

**12.** In the instant case, I find that main points for adjudication in this matter are -

- (i) Whether the recovered two gold bangles of 24 carats (purity 99.9%), totally weighing 233.280 gms having a market value of Rs. 15,01,157/- (Rupees Fifteen Lakh One Thousand One Hundred Fifty-Seven only) and tariff value of Rs. 12,50,663/- (Rupees Twelve Lakh Fifty Thousand Six Hundred Sixty-Three only), seized vide Seizure Order dated 24.02.2024 under panchnama proceeding dated 23/24.02.2024 should be confiscated under Section 111(d), 111(i) and 111(j) of the Customs Act,1962 or otherwise;
- (ii) Whether a penalty should be imposed upon her under Section 112 of the Customs Act, 1962 or otherwise.

**13.** After going through the SCN, I have found that Panchnama has recorded the facts that, based on suspicion, an international passenger suspected of carrying high-value dutiable or prohibited goods, namely Ms Sneha Devraj Chennuri who had arrived at Surat International Airport on 23.02.2024 from Sharjah on Air India Express Flight No. IX-172. She was intercepted by Customs in the presence of panchas near the green channel of the arrival hall at Surat International Airport. When asked if she had anything to declare, the passenger replied in negative. Upon

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frisking and a physical search of the passenger, it was discovered that she was wearing two unstudded gold bangles, one on each arm. Following this, the Govt. approved valuer, Shri Vikasraj Juneja, conducted an examination and weighment of the said bangles and issued a valuation certificate dated 24.02.2024 and certified that these two pieces of gold bangles, which weighed a total of 233.280 grams, were of 24 carats, and had a purity of 99.9%. The market value of 233.280 grams of gold was valued at Rs. 15,01,157/- (Rupees Fifteen Lakh One Thousand One Hundred Fifty-Seven only), and its tariff value was determined as Rs. 12,50,663/- (Rupees Twelve Lakh Fifty Thousand Six Hundred Sixty-Three only). Subsequently, the Customs officers took custody of the mentioned gold bangles, weighing a total of 233.280 grams, and placed them under seizure in accordance with the provisions of Section 110 of the Customs Act 1962, as per the seizure order dated 24.02.2024, under Panchnama dated 23/24.02.2024, on the reasonable belief that the gold had been smuggled into India and was liable for confiscation under the Customs Act, 1962.

**14.** A statement of the passenger, namely Ms Sneha Devraj Chennuri was recorded on 24.02.2024 under the provisions of Section 108 of the Customs Act, 1962, wherein she inter-alia stated:

- that this was her fifth visit to Dubai, and she went there as her husband worked there; that the two gold bangles recovered from her possession belonged to her and she was the owner of the said gold; that her husband had purchased the same from Dubai in the month of September- 2023; that her husband paid for the same through cash which he had withdrawn from his salary account in Dubai; that her husband had purchased the said gold bangles for gifting purpose.
- that she was not aware that import of Gold without payment of Customs duty was an offence; that as she was not aware, hence she did not declare the goods brought by her before Customs; that after clearing the immigration procedures, she collected her check-in baggage and during check-out, she was intercepted by the Customs officials, and further procedures as stated in Panchnama dated 23/24.02.2024 was carried out.

**15.** Further, I find that the noticee has filed a defence submission in this office on 02.09.2024, wherein she has stated that, being pregnant, she came to India for delivery as she did not possess adequate knowledge of the prevailing laws of India, and therefore, due to this lack of legal awareness, she brought the gold bangles with her. She has further asserted that the noticee had not concealed or smuggled the bangles but had purchased them to wear. Moreover, she has admitted to making an improper importation of the gold due to ignorance of the law and is willing to pay the applicable penalty/fine. The noticee has also submitted copies of a Travel Fitness Certificate, her delivery papers in support of her pregnancy, two bills evidencing the purchase of two gold bangles, a copy of her passport, and a loan account statement. I find that the noticee's argument—that she did not have proper knowledge of the prevailing laws of India, and therefore brought the gold bangles with her—lacks legal backing. I observe that the doctrine of "***ignorantia juris non excusat***" has strong roots in Indian jurisprudence, meaning that ignorance of the law is no excuse. This general principle applies to all types of laws, not merely those based on common sense. It places the responsibility on individuals to be aware of and comply with the laws of the land, regardless of their actual knowledge of it. In the legal context, it is a well-established principle that all citizens are presumed to have knowledge of the laws governing their country. This doctrine, often expressed as "***ignorantia juris non excusat***"

*excusat*" (ignorance of the law is no excuse), holds that a lack of awareness or understanding of legal provisions does not exempt an individual from liability for violations. This presumption ensures the effective enforcement of laws and upholds the principle of legal certainty within a jurisdiction. Indian courts and tribunals have consistently upheld the principle that ignorance of the law is not a valid defence for the accused. Additionally, I find that the noticee's submission of documents—including the Travel Fitness Certificate, her delivery papers in support of her pregnancy, the two bills evidencing the purchase of two gold bangles, her passport, and a loan account statement—are irrelevant to this matter, as these documents do not establish any material defence against the allegation of attempted smuggling and fail to refute the charges levelled against the noticee. Furthermore, I find that the passenger had failed to declare the two gold bangles to Customs authorities upon her arrival at International Airport Surat which reveals her deliberate intent to evade the applicable Customs Duty on those items. I also note that the gold in question has a purity of 99.9% and weighs 233.280 grams. Such high-purity gold is typically characterised as investment-grade rather than suitable for jewellery making. It is common knowledge that standard gold jewellery usually requires alloying with other metals to enhance durability and strength, and the high purity of the impugned gold renders it too soft for practical use in ornaments. Consequently, I am satisfied to affirm that the nature and form of the impugned gold suggest it was meant for primary use as bullion rather than for jewellery manufacturing. After a thorough assessment of the foregoing, I am unequivocally led to the conclusion that the two gold bangles, with 99.9% purity weighing 233.280 grams, recovered from the passenger were intended for smuggling rather than personal use.

**16.** Further, I find that the noticee has never retracted her aforesaid statement dated 24.02.2024, and the offence committed by the passenger is clearly confessed by him in her statement. Therefore, I consider her statement to be material evidence in this case, and for that, I place my reliance on the following judgements/case laws;

- The Hon'ble Apex Court has held in the case of ***Surjeet Singh Chhabra vs UOI***, reported as 1997 (84) ELT 646 (SC), that the statement made before the Customs Officers though retracted within 6 days is an admission and binding, since Customs Officers are not Police Officers under Section 108 of the Customs Act, 1962;
- The confessional statement given before the Customs officers is admissible evidence as they are not the police officers. This view has been upheld by the Hon'ble Supreme Court in the case of ***Badaku Joti Savant vs. State of Mysore*** [1978 (2) ELT J 323 (SC)];
- The decision of the Hon'ble Madras High Court in the case of ***Assistant Collector of Customs Madras-I vs. Govindasamy Raghupathy*** 1998 (98) ELT 50 (Mad), in which the court held that the confessional statement under Section 108, even though later retracted is a voluntary statement and was not influenced by duress and is a true one.
- The Hon'ble Apex Court in ***Naresh J Sukhawani vs UOI*** held that the Statement before the Customs Officer is a material piece of evidence.

**17.** Further, I have also observed that the noticee has neither questioned the manner of the Panchnama proceedings at the relevant time nor contested the facts detailed in the Panchnama during the recording of her statement. Every procedure undertaken by the Officers during the Panchnama was well documented and conducted in the presence of both the panchas and the passengers. In her

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statement dated 24.02.2024, the noticee claimed that she was not aware that importing gold without payment of Customs duty constituted an offence, and thus, she did not declare the two gold bangles she brought before Customs authorities. Furthermore, she stated that after completing the immigration procedures, she collected her check-in baggage and was intercepted by the Customs officials during check-out. I find that the noticee's assertion of ignorance regarding the offence of importing gold without payment of Customs duty cannot be taken at face value. In the context of Customs law, passengers are presumed to be aware of the Baggage Rules, 2016, which set forth the regulatory framework governing the importation of baggage. These rules outline the permissible limits, conditions, and procedures for carrying dutiable and non-dutiable goods, and compliance with them is a legal obligation for all travellers. Further, I find it significant to highlight that in the cases of gold importation, particularly of high purity such as 24-carat, the regulations are stringent due to economic and trade implications and therefore the defence of unawareness is not tenable, as such imports require due diligence and compliance with statutory provisions. Further, the courts in India have consistently upheld that ignorance does not exempt one from the legal consequences for their unlawful actions. Any failure to adhere to Customs regulations, whether intentional or due to lack of knowledge, constitutes an offense under the Customs law. Following a meticulous review of the aforementioned, I am decisively led to the conclusion that in the present case, the noticee's claim of ignorance regarding the duty-free import of gold cannot absolve her from liability. Additionally, I find that the passenger has contravened the provisions of the Customs Act, 1962; the Baggage Rules 2016; the Foreign Trade (Development & Regulations) Act, 1992; the Foreign Trade (Development & Regulations) Rules, 1993; and the Foreign Trade Policy 2015-2020/2023.

**18.** Further, I find that the passenger had failed to declare the gold worn on her arms upon her arrival to the Customs authorities. Moreover, since the seized gold is of 99.9% purity (24 carats), it is evident that it was not intended for bona fide use by the noticee as an ornament; rather, it was meant for commercial purposes. It is common knowledge that a 24-carat gold item is soft and easily breakable, making it unsuitable for use as jewellery. In this case, the noticee cleverly disguised the 24-carat gold items in the form of jewellery (two bangles) to deceive Customs with an intent to smuggle them. I find it irrefutably established that it is a clear instance of non-declaration with an intent to smuggle the gold into Indian territory. It is apposite to state that there is sufficient evidence to confirm that the passenger had retained the gold in her possession and failed to declare it before the Customs authorities upon her arrival at Surat International Airport, Surat. The charge of attempted gold smuggling against the noticee stands conclusively established based on the evidence on record, leaving no room for doubt regarding their involvement in the alleged act. Upon a careful examination of the foregoing, I am satisfied to affirm that the passenger has violated Section 77, Section 79 of the Customs Act for the import of gold which was not for bona fide use and thereby has violated Rule 11 of the Foreign Trade Regulation Rules 1993 and para 2.26 of the Foreign Trade Policy 2015-20/Para 2.27 of Foreign Trade Policy 2023. Since, 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, then as per Section 123 of the Customs Act, 1962, the burden to prove that they are not smuggled, shall be on the person from whose possession the goods have been seized. In the instant case, the passenger has confessed in her statement that she was the owner of the impugned gold and brought the gold improperly into India along with her.

**19.** Further, from the facts discussed above, it is evident that Ms Sneha Devraj Chennuri has carried two golden bangles on her person while arriving from Sharjah to Surat, with the sole intention of smuggling and removing them without payment of customs duty. The offence committed by her has rendered the two gold bangles, having a purity of 99% and weighing 233.280 grams, liable for confiscation under Sections 111(d), 111(i), and 111(j) of the Customs Act, 1962. By concealing the said gold and failing to declare it before Customs authorities, it is established beyond doubt that the passenger had a clear intention to smuggle the gold clandestinely with the deliberate intention of evasion of customs duty. The commission of the above acts by the noticee has caused the impugned goods to fall within the definition of 'smuggling' as outlined in Section 2(39) of the Act.

**20.** Further, I observe that the noticee did not fill up the baggage declaration form and failed to declare the gold items in her possession, as required under Section 77 of the Act in conjunction with the Baggage Rules, 2016, and Regulation 3 of the Customs Baggage Declaration Regulations, 2013. I also note that the import was for non-bona fide purposes, given the purity, that is, 99.9%, of the gold items she carried. As previously discussed, gold items with a purity of 99.9% are not suitable for jewellery making, as they are easily breakable. Consequently, the improperly imported gold items by the passenger, Shri Sneha Devraj Chennuri, which were not declared to the Customs upon her arrival in India, cannot be regarded as bona fide household goods or personal effects. Therefore, I have found that the passenger has contravened the Para 2.26 of the Foreign Trade Policy 2015-20/Para 2.27 of 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. It is therefore unequivocally proved that by the above acts of contravention, the noticee has rendered the gold item weighing 233.280 grams (99.9% purity), having a market value Rs. 15,01,157/- and Tariff value of Rs. 12,50,663/- liable for confiscation under Section 111(d), 111(i), and 111(j) of the Customs Act, 1962.

**21.** Further, I find that the noticee in her statement has confessed to carrying gold bangles on her person and attempted to remove the said gold from the Surat Airport without declaring it to the Customs Authorities and thereby has violated the provisions of para 2.26 of the Foreign Trade Policy 2015-20 and Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992. As per Section 2(33), "prohibited goods" means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with. The improperly imported gold by the passenger without following the due process of law and without adhering to the conditions and procedures of import has thus acquired the nature of being prohibited goods in view of Section 2(33) of the Act.

**22.** 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**, in very clear terms, lays 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-fulfilment of such conditions would make the goods fall within the ambit of 'prohibited goods'. Non-fulfilment of the conditions has made the gold seized in the present case "prohibited goods" as the passenger trying to smuggle it was not an eligible passenger to bring it into India or import gold into India in baggage. Further, Ms Sneha Devraj Chennuri has confessed to carrying the said gold bangles, which were kept undeclared, with the intention to smuggle the same and hence evade payment of

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customs duty. Further, the method of concealment employed by the noticee to hide the gold bangles clearly establishes that the goods in question are of an offending nature and were intended to be smuggled. Consequently, their importation is prohibited under the applicable provisions of law and therefore, I find that the prescribed conditions for lawful importation have not been fulfilled by the passenger.

**23.** In view of the above discussions, I hold that the gold bangles carried on-person and kept undeclared by the passenger, Ms Sneha Devraj Chennuri, with an intention to clear the same illicitly from Customs Airport and evade payment of Customs duty, are liable for absolute confiscation under Section 111 of the Customs Act, 1962. In the instant case, I am, therefore, not inclined to use my discretion to give the option to redeem the 02 gold Bangles on payment of the redemption fine, as envisaged under Section 125 of the Act.

**24.** Further, before the ***Kerala High Court in the case of Abdul Razak [2012(275) ELT 300 (Ker)]***, the petitioner had contended that under the Foreign Trade (Exemption from application of rules in certain cases) Order, 1993, gold was not a prohibited item and can be released on payment of redemption fine. The Hon'ble High Court held as under:

*“Further, as per the statement given by the appellant under Section 108 of the Act, he is only a carrier i.e. professional smuggler smuggling goods on behalf of others for consideration. We, therefore, do not find any merit in the appellant’s case that he has the right to get the confiscated gold released on payment of redemption fine and duty under Section 125 of the Act.”*

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

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

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

**27. 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-

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*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 gram 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.*

**28.** In 2019 (370) E.L.T. 1743 (G.O.I.), before the Government of India, Ministry of Finance, [Department of Revenue - Revisionary Authority]; Ms. Mallika Arya, Additional Secretary in Abdul Kalam Ammangod Kunhamu vide Order No. 17/2019-Cus., dated 7-10-2019 in F. No. 375/06/B/2017-RA stated that it is observed that C.B.I. & C. had issued instruction vide Letter F. No. 495/5/92-Cus. VI, dated 10-5-1993 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".

**29.** Given the facts of the present case and the judgements and rulings cited above, I am of the considered view that two pieces of 24-carat gold bangles totally weighing 233.280 gms. having a purity of 99.9% carried by the noticee is liable to be confiscated absolutely as the passenger had concealed the said gold item on-person with the intention to smuggle the same into the country. Further, the gold items are of 24 Carats and have 99.9% purity and the jewellery of that purity is used for investment and commercial purposes, not for personal use. I, therefore, hold in unequivocal terms that the two pieces of gold Bangles weighing 233.280 grams carried by the noticee and placed under seizure vide Seizure Order/Memo under Panchnama dated 23/24.02.2024, are liable for absolute confiscation under Section 111(d), 111(i) and 111(j) of the Customs Act, 1962.

**30.** After careful evaluation, I find that in the present case, the noticee was found concealing gold bangles weighing 233.280 grams of 99.9% purity on her person and failed to declare them to Customs authorities, thereby violating statutory requirements. Such an act renders the goods liable for confiscation under Section 111 of the Act. It would be relevant to refer to Section 112(b)(i) of the Customs Act, 1962, which imposes penalties on any person who acquires, possesses, stores, sells, or transports goods that they know or have reason to believe are liable for confiscation under Section 111 of the Customs Act. In the instant case, I find that the deliberate act of concealing the gold bangles by the noticee unequivocally establishes her '**mens rea**' and demonstrates a wilful intent to evade Customs regulations, leaving no room for doubt regarding her knowledge and involvement in the attempted act of smuggling. I find it undeniably established that her actions fall squarely within the ambit of Section 112(b)(i), attracting penal liability, in addition to the confiscation of the smuggled goods. Accordingly, I hold the noticee liable for a penalty under the said provision.

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**31.** 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 **two gold bangles** of 24 carats (purity 99.9%), total weighing 233.280 grams having a market value of **Rs. 15,01,157/-** (Rupees Fifteen Lakh One Thousand One Hundred Fifty-Seven only), seized vide Seizure Order dated 24.02.2024 under Panchnama proceedings dated 23/24.02.2024, under Section 111(d), 111(i) and 111(j) of the Customs Act,1962;
- (ii)** I impose a penalty of **Rs. 15,01,157/-** (Rupees Fifteen Lakh One Thousand One Hundred Fifty-Seven only) on Ms Sneha Devraj Chennuri under Section 112 (b)(i) of the Customs Act, 1962.

**32.** This order is issued without prejudice to any other action that may be taken against the noticee under the provisions of the Customs Act, 1962 as amended or rules made thereunder or under any law for the time being in force.

**(Anunay Bhati)**

Additional Commissioner,  
Surat International Airport,  
Customs, Surat

**BY SPEED POST AD/E.MAIL/WEBSITE**

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Date: 28.02.2025

**DIN: 20250271MN000051515D**

To

Ms Sneha Devraj Chennuri,  
D/o Shri Devraj Narayan Chennuri,  
45, Kamlaba Garden, Shriji Nagar-2,  
SMC School-328, Godadara, Surat City,  
PIN-395010, Gujarat

**Copy to:**

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