



**प्रधान आयुक्त का कार्यालय, सीमा शुल्क, अहमदाबाद**

"सीमाशुल्कभवन, "पहलीमंजिल, पुरानेहाईकोर्टकेसामने, नवरंगपुरा, अहमदाबाद - 380009.

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**DIN:20260271MN000000DD89**

**PREAMBLE**

A	फ़ाइलसंख्या/ File No.	:	VIII/10-42/DRI/SVPIA/O&A/HQ/2025-26
B	कारण बताओ नोटिस संख्या-तारीख Show Cause Notice No. and Date	:	DRI/AZU/GI-02/ENQ-23/2025 Dt. 01.09.2025
C	मूल-आदेश संख्या / Order-In-Original No.	:	<b>205/ADC/SRV/O&amp;A/HQ/2025-26</b>
D	आदेश तिथि / Date of Order-In-Original	:	<b>03.02.2026</b>
I	जारी करने की तारीख / Date of Issue	:	<b>03.02.2026</b>
F	द्वारा पारित / Passed By	:	<b>Shree Ram Vishnoi,</b> Additional Commissioner, Customs, Ahmedabad
G	आयातक का नाम और पता / Name and Address of Importer / Noticee	:	1. Mr. Jay Hiteshkumar Bambharoliya, S/o Hiteshkumar Kantibhai Bambharoliya, Plot Vistar, Rafala, Amreli-365440, Gujarat  2. Mr. Piyush Parsotambhai Barvaliya, Shobhavadla lashkar, Taluka-Visavadar, Dist.-Junagadh-362020, Gujarat.  3. Mr. Bipinbhai Mansukhbhai Baravaliya, 48, Ashirvad Park Society, Behind Swastik Tower, Sarthana Jakatnaka, Surat City- 395006, Gujarat.
(1)	यह प्रति व्यक्ति के उपयोग के लिए निःशुल्क प्रदान किया जाता है जिन्हें यह जारी किया जाता है।		
(2)	कोई भी व्यक्ति इस आदेश से स्वयं को असंतुष्ट पाता है तो वह इस आदेश के विरुद्ध अपील इस आदेश की प्राप्ति की तारीख के 60 दिनों के भीतर आयुक्त का कार्यालय, सीमा शुल्क) अपील, 4वीं मंजिल, हुडको भवन, ईश्वर भुवन मार्ग, नवरंगपुरा, अहमदाबाद- 380014 में कर सकता है।		
(3)	अपील के साथ केवल पाँच रुपये) 5.00 रुपये (के न्यायालय शुल्क टिकट लगा होना चाहिए, और इसके साथ होना चाहिए:		
(i)	अपील की एक प्रति और		
(ii)	इस प्रति या इस आदेशकी कोई प्रति के साथ केवल पाँच रुपये) 5.00 रुपये (के न्यायालय शुल्क टिकट लगाहोना चाहिए।		
(4)	इस आदेश के विरुद्ध अपील करने के इच्छुक व्यक्तिको 7.5% (अधिकतम 10 करोड़ रुपये) (शुल्क जमा करना होगा, जहां शुल्क या ड्यूटी और जुर्माना विवाद में हैं, याजुर्माना, जहां इस तरहकी दंड विवाद में है और अपील के साथ इस तरह के भुगतान का प्रमाण पेशकरने में असफल रहने पर, सीमाशुल्क अधिनियम, 1962 के धारा 129 के प्रावधानों का अनुपालन न करने के लिए अपीलको खारिज कर दिया जाएगा।		

**BRIEF FACTS OF THE CASE:**

An intelligence developed by Directorate of Revenue Intelligence, Ahmedabad indicated that passengers namely Mr. Jay Hiteshkumar Bambharoliya, arriving from Don Mueang, Bangkok on flight FD144 at 22:10 hours on dated.6.3.2025, was suspected of carrying commercial quantities of diamonds in their baggage or person.

2. Acting on the said intelligence, on 06.03.2025, at 21:00 hours, independent panchas were called up near Terminal 2, SVPI Airport, Ahmedabad and were informed by officers of the Directorate of Revenue Intelligence (DRI) about intelligence inputs suggesting that passenger Mr. Jay Hiteshkumar Bambharoliya, arriving from Don Mueang, Bangkok on flight FD144 at 22:10 hours, was suspected of carrying commercial quantities of diamonds. The proceedings were recorded under panchnama dated. 06-07.03.2025 At around 22:30 hours, Mr. Jay Hiteshkumar Bambharoliya was intercepted while he attempted to exit through the Green Channel and, upon inquiry, denied carrying any declarable items, including gold and precious stones. During the interception, he was informed that his personal search and baggage examination would be conducted. He was given the option to be searched in the presence of an Executive Magistrate or a Gazetted Officer, and he consented to being searched in front of the Superintendent, AIU, and Customs Ahmedabad.

3. Further, Mr. Jay Hiteshkumar Bambharoliya was screened through the Door Frame Metal Detector (DFMD) after removing all metallic objects from his person. However, no audible alarm was triggered, indicating the presence of any metal on his body or clothing. However, when his belt and purse were screened, officers observed unusual metallic images in the belt buckle. Upon closer inspection, the belt buckle was found to have an abnormal weight. When questioned, Mr. Jay Hiteshkumar Bambharoliya admitted that the buckle was made of gold and stated that it had been provided to him by Mr. Piyush Parsotambhai Barvaliya residing at Bangkok.

4. Further, a personal search conducted in the presence of panchas and a Gazetted Officer of Customs led to the discovery of a transparent polythene packet concealed in his underwear, containing eight small transparent pouches with shining material resembling diamonds, bearing markings and writings. Upon being questioned by the officer, Mr. Jay Hiteshkumar Bambharoliya stated that the material in question was diamond. He further explained that he was unaware of its exact quantity, quality, or value. He also informed the officer that he did not possess any bill or certificate for the diamonds, and that he had neither filed any declaration nor made any disclosure to the Customs or Directorate of Revenue Intelligence (DRI) authorities regarding the same. Mr. Bambharoliya admitted that the diamonds were intended for smuggling and were therefore concealed.



5. No incriminating or prohibited items were detected in his baggage upon inspection.

6. Thereafter, the officers requested Government Approved Valuer Mr. Kartikey Vasantrai Soni to examine a belt buckle coated with white material recovered from Mr. Jay Hiteshkumar Bambharoliya. Upon receiving the belt buckle, Mr. Kartikey Vasantrai Soni weighed it and confirmed a gross weight of 150.540 grams. The DRI officers documented the weight with photographs as part of the investigation.



7. After testing and purity analysis, Mr. Kartikey Vasantrai Soni submitted Valuation Report (Annexure-A), Certificate No. 1740/2024-25 dated 07.03.2025, confirming that the gold recovered weighed 150.540 grams, had a purity of 999.9/24Kt, was coated with white rhodium, with a Market Value of ₹13,41,311/- and a Tariff Value of ₹12,25,254/-

8. Further, the weighment of eight small transparent pouches recovered from Mr. Jay Hiteshkumar Bambharoliya's undergarments, which were purported to contain diamonds, was conducted in the presence of independent panchas. The detailed pouch-wise weighment records are as follows.

Sr. No.	Marks/Number on the pouch	Gross Weight with Polythene Bag in Grams
1	1/5, 860/163.06	33.42
2	1/4, 340/81.59	17.11
3	1/3, 215/70.81	15.07
4	1/6, 462/70.59	15.00
5	1/2, 64/33.65	7.62
6	1/3, 215/70.97	15.06
7	1/5, 155/29.67	7.00
8	1/4, 134/31.91	7.33

9. As the Government Approved Valuer was unavailable later, officers detained the following items under reasonable belief of attempted smuggling for further investigation under the Customs Act, 1962.

- (i) Eight small transparent plastic pouches containing diamonds and the gold belt buckle weighing 150.540 grams (999.9/24Kt);
- (ii) Packing material used for concealment;
- (iii) Original boarding pass for seat No. 15E on AirAsia flight FD144 from Don Mueang (DMK) to Ahmedabad dated 06.03.2025; and
- (iv) A copy of Passport No. C4176377 of Mr. Jay Hiteshkumar Bambharoliya.

**TESTING AND VALUATION OF THE DIAMONDS:**

**10.** Testing and valuation of the diamonds were conducted under the panchnama proceedings dated 07.03.2025. During the proceedings, the Government Approved Valuer systematically opened each small transparent pouch containing the suspected diamonds and examined the contents using a Synthetic Diamond Scanner and magnifying eye glass. After testing, the contents were securely placed in zip-locked polythene pouches. Any lab-grown diamonds or other substances detected were segregated into separate marked zip-locked pouches. Each tested and segregated sample, along with its original pouch, was labeled from A-1 to A-8. Upon completion of weighment and quality identification, Mr. Kartikey Vasantrai Soni, Government Approved Valuer, submitted his detailed report vide Certificate No.1745/2024-25 dated 07.03.2025 (Annexure-B), specifying the valuation and findings of the diamonds. As per the said Certificate No.1745/2024-25 dated 07.03.2025, the said 8 pouches contained cut and polished natural diamonds, totaling 552.55 carats, with a total market value of ₹3,39,08,200/-. The details are reproduced as follows:

Sr No	Marks/ Number on Pouch	Description	Diamond Shape	Diamond Size	Diamond Weight (Carat)	Diamond Weight in Carat		Natural Diamond Rate (Rs/Ct)	Total Value Rs.
						Natural	CVD		
A 1	1/5, 860/163.06	Loose Diamond Cut & Polished	RD	1/5	163.25	163.05	0.2	55000	8967750
A 2	1/4, 340/81.59	Loose Diamond Cut & Polished	RD	1/4	81.7	81.7		65000	5310500
A 3	1/3, 215/70.81	Loose Diamond Cut & Polished	RD	1/3	70.81	70.81		50000	3540500
A 4	1/6, 462 pcs/70.59	Loose Diamond Cut & Polished	RD	1/6	70.59	70.44	0.15	55000	3874200
A 5	1/2, 64/33.65	Loose Diamond Cut & Polished	RD	1/2	33.65	33.65		75000	2523750
A 6	1/3, 215/70.97	Loose Diamond Cut & Polished	RD	1/3	70.97	70.97		80000	5677600
A 7	1/5, 155/29.67	Loose Diamond Cut & Polished	RD	1/5	29.67	29.67		60000	1780200
A 8	1/4, 134/31.91	Loose Diamond Cut & Polished	RD	1/4	31.91	31.91		70000	2233700
<b>Total</b>					552.55	552.2	0.35		33908200

**11. SEIZURE OF THE SMUGGLED DIAMOND:**

**11.1** Further, as the above said 552.55 Carats of smuggled diamond having total value of Rs.3,39,08,200/- (Rupees Three Crore Thirty Nine Lakhs Eight Thousand Two Hundred only) and Gold having weight of 150.540 having purity 999.9/24kt having market value of Rs.13,41,311/-(Rupees Thirteen Lakhs Forty One Thousand Three Hundred and Eleven only) were attempted to be smuggled in India

in contravention of the provisions of Customs Act, 1962, Foreign Trade Policy, Baggage Rules, 2016, the same were seized under the provisions of Section 110 of the Customs Act, Seizure Memo issued vide F. No. DRI/AZU/GI-02/ENQ-24/2025 dated 07.03.2025, on reasonable belief that the said goods along with packing material are liable for confiscation under the provision of Section 111 of the Customs Act, 1962, on account of being attempted to smuggle in India in contravention of the provisions of the Customs Act, 1962, Foreign Trade Policy, Baggage Rules, 2016 etc. The seized diamond, Gold and remnants of packing material were deposited at SVPI Airport vide letter F. No. DRI/AZU/GI-02/ENQ-24/2025 dated 16.4.2025 under warehouse entry No.7333/17.4.2025.

## **12. STATEMENT OF MR. JAY HITESHKUMAR BAMBHAROLIYA:**

12.1 Statement of Mr. Jay Hiteshkumar Bambharoliya was recorded on 07.03.2025 under the provisions of Section 108 of the Customs Act, 1962, wherein he, inter alia, stated that;

- He had traveled abroad twice, both times to Thailand. On both occasions, his travel tickets to Thailand were arranged by his maternal uncle (Mama), Mr. Piyush Parsotambhai Barvaliya, who has been residing in Bangkok, Thailand for over ten years.
- confirmed the facts recorded therein the panchnamas dated 06-07.3.2025 and 7.3.2025; recovery of a gold belt buckle; confirmed the recovery of pouches containing diamonds concealed in the underwear worn by him during his return journey on 6th March 2025 from Don Mueang Airport (DMK), Bangkok, to Sardar Vallabhbhai Patel International Airport (SVPI), Ahmedabad; the valuation process was conducted by the Government Approved Valuer, who thoroughly examined the items to determine their weight, purity, and market value, and subsequently submitted a detailed official valuation report. Upon questioning, he admitted it was made of gold and stated it was given to him by his maternal uncle, Mr. Piyush Parsotambhai Barvaliya, in Bangkok.
- His most recent trip began on 3rd March 2025. He returned from Don Mueang International Airport (DMK), Bangkok, to Ahmedabad on 6th March 2025 via flight FD 144 (PNR: ZYWWPM). He was intercepted by DRI officers while exiting through the Green Channel at Sardar Vallabhbhai Patel International Airport (SVPI), Ahmedabad.
- The ticket for his journey from Surat to Bangkok on 3rd March 2025 was booked by another maternal uncle residing in Surat.
- All food and miscellaneous expenses in Bangkok were borne by his maternal uncle (Mama), Mr. Piyush Parsotambhai Barvaliya.
- Mr. Piyush Parsotambhai Barvaliya has been residing in Bangkok for over 10 years and is engaged in the gold and diamond jewellery business, operating his own company, K.D. International Group Co. Ltd., in Bangkok.
- His Passport No. is Z7914388 (issued at Bangkok, Republic of India); his mobile numbers are +66851519927 and +916354382245.
- In India, Mr. Piyush's family resides at Shobhavadla Lashkar, Taluka Visavadar, Dist. Junagadh, Gujarat-362020.
- During the recent trip, Mr. Piyush Parsotambhai Barvaliya, gave him a belt (with a gold buckle) and an underwear (used to conceal diamond pouches) at his residence in Bangkok, instructing him to wear both for the return journey to India.
- Mr. Piyush Parsotambhai Barvaliya resides at 375/328 Belle Park Condominium Tower 3, 10th Floor, Soinarathiwas 24, Chong nonsi, Yan Nawa 10120, Bangkok.
- He was told by his uncle that, after arriving home in Ahmedabad, someone would contact him to collect the items; He does not know the identity of this receiver.

- Mr. Piyush Parsotambhai Barvaliya promised him some monetary reward for delivering the said gold belt buckle and diamonds, but did not specify the amount.
- Mr. Jay Hiteshkumar Bambharoliya expressed concern about being caught at the airport, but Mr. Piyush Parsotambhai Barvaliya assured him there would be no problem and did not disclose the quantity or quality of the diamonds.
- He followed his uncle's instructions and wore the belt with buckle made of gold and underwear concealing the diamonds for his return journey to Ahmedabad.
- he was allowed to witness the proceedings.
- He acknowledged that the government approved valuer's report identified the contents of the 8 pouches as natural diamonds, with a total carat weight and market value as per the report.
- He admitted he did not declare the gold or diamonds to customs authorities at Ahmedabad, nor did he carry any legitimate import/export documents.
- He confirmed that the items were brought in a concealed manner for the purpose of smuggling.
- As per the Valuation Report dated 07.03.2025, the gold belt buckle weighed 150.540 grams (purity 999.0/24 Kt, Tariff Value Rs.12,25,254/-, Market Value Rs.13,41,311/-).
- As per the Valuation Report dated 07.03.2025, the diamonds weighed 552.5 Carats with a total value of Rs. 3.39 Crores.
- He admitted that it is illegal to smuggle gold and diamonds without declaring them to Customs authorities.
- He acknowledged, after being explained the law, that the gold belt buckle and diamonds he attempted to smuggle from Bangkok to India are liable for confiscation under Section 111 of the Customs Act, 1962.

It appears that Mr. Jay Hiteshkumar Bambharoliya admitted to traveling twice to Thailand, with travel arranged by his maternal uncle, Mr. Piyush Parsotambhai Barvaliya, a Bangkok-based gold and diamond businessman. During his return trip from Bangkok on 6th March 2025, he was intercepted at Ahmedabad airport carrying a gold belt buckle and diamonds concealed in his underwear, provided by Mr. Piyush with instructions to smuggle them undeclared. The diamonds and gold were valued by a government-approved valuer. He acknowledged the illegality of smuggling, non-declaration of the items, and their liability to confiscation under Section 111 of the Customs Act, 1962. Mr. Jay claimed limited knowledge of the transaction but confirmed following instructions for concealment and delivery to an unknown recipient in Ahmedabad.

### **13. ARREST OF MR. JAY HITESHKUMAR BAMBHAROLIYA:**

On 07th March 2025, Mr. Jay Hiteshkumar Bambharoliya (S/o Mr. Hiteshkumar Kantibhai Bambharoliya, aged 19 years, resident of Plot Vistar, Rafala, Amreli, Gujarat, Passport No. C4176377) was placed under arrest under Section 104 of the Customs Act, 1962, as there was reason to believe that offences punishable under Section 135(1)(i)(A) and (B) of the Customs Act, 1962, had been committed. It was found that he had knowingly participated in a syndicate involved in the smuggling of 552.55 carats of diamonds (Market Value Rs.3,39,08,200/-) and 150.540 grams of gold (Market Value Rs.13,41,311/-) from Bangkok to India through SVPI Airport, Ahmedabad, by concealing these items in his underwear and belt buckle respectively. The diamonds and gold were recovered from his person and seized under panchnama proceedings dated 06/07.03.2025. The process of smuggling was undertaken in connivance with Mr. Piyush Parsotambhai Barvaliya @ Bangkok, with common intention to smuggle the said goods, while intentionally withholding these facts from Customs Authorities and DRI Officers and failing to produce any legitimate documents.

**14. FOLLOW UP ACTION:**

14.1 A search was conducted on 11th March 2025 at the residential premises of Mr. Bipinbhai Mansukhbhai Baravaliya, located at Plot No. 48, 1st and 2nd Floor, Ashirvad Park Society, Behind Swastik Tower, Sarthana Jakatnaka, Varachha, Surat-395006, and the proceedings were recorded under the panchnama dated 11.3.2025. Family members of Mr. Bipinbhai Baravaliya were present during the search, and no incriminating evidence relevant to the current inquiry was found. During the said search proceeding, on being asked Smt. Bhanu Bipinbhai Baravaliya, wife of Mr. Bipinbhai Baravaliya deposed that his husband is engaged in business of diamond and jewellery.

14.2 Summons dated 11th March 2025 and 11th April 2025 were issued to Mr. Bipinbhai Mansukhbhai Baravaliya; however, he failed to appear in response to both the summons.

14.3 CAF/SDR/CDR of mobile number 9313065146 belonged of Mr. Jay Hiteshkumar Bambharoliya, 6354382245 belonged to Mr. Piyush Purshotambhai Barwarlia and mobile number 9979745245 belonged to Mr. Bipinbhai Mansukhbhai Baravaliya, were called from the carrier vide letter F. No. DRI/AZU/GI-02/ENQ-24/2025 dated. 03.04.2023 and analysed. The same were received vide email dated 07.04.2025 and were further analysed and confronted to the concern persons while recording of their statement.

14.4. The statement of Mr. Bipinbhai Mansukhbhai Baravaliya, was recorded under Section 108 of the Customs Act, 1962, on 6th June 2025, in response to the summons dated 6th June 2025, wherein he inter-alia stated that:

- He did not respond to the summons dated 11.03.2025 (CBIC DIN 202503DDZ10000992809) issued by DRI, Surat, and 11.04.2025 (CBIC DIN 202504DDZ10000764484) issued by DRI, Ahmedabad, as he was feeling frightened, having never previously faced any inquiry, search, or arrest.
- He confirmed visiting SVPI Airport, Ahmedabad on 07.03.2025 after receiving a call around 1:30 A.M. from Mr. Piyush Purshotambhai Barwarlia, who informed him that his nephew, Mr. Jay Hiteshkumar Bambharoliya, had landed at the airport but was unreachable. Acting on this request, he went to SVPI Airport, Ahmedabad in his own car (registration number GJ05 RU 4408). After inquiring with CISF and Customs officials, he learned that Mr. Jay Hiteshkumar Bambharoliya had been taken to the DRI office; he did not visit the DRI office and returned to Surat later that night.
- Engaged in the business of metal stickers and share Market.
- Mr. Bipinbhai Baravaliya stated that Mr. Piyush Purshotambhai Baravaliya is his cousin and Mr. Jay Hiteshkumar Bambharoliya is Mr. Piyush's nephew.
- He and Mr. Piyush Purshotambhai Baravaliya are from Shohavadala (Lascar), Junagadh District, and their residences share a common wall there.
- He met Mr. Piyush Purshotambhai Baravaliya during his visit to Bangkok in the month of February 2025.
- To his knowledge, Mr. Piyush Purshotambhai Baravaliya has been residing in Bangkok for over 10 years and is the director of M/s K.D. International Group Co., Ltd., located in the JTC Area of Bangkok.
- he did not book any air ticket for Mr. Jay Hiteshkumar Bambharoliya, but only provided a printout of the ticket, which he received from Mr. Piyush Purshotambhai Baravaliya.
- He confirmed that Mr. Piyush Purshotambhai Baravaliya continues to reside in Bangkok.
- Prior to Mr. Jay Hiteshkumar Bambharoliya's departure for Bangkok from Surat, Mr Jay stayed at his residence on 02.03.2025 and on the morning of

03.03.2025, he accompanied Mr. Jay Hiteshkumar Bambharoliya to the airport and dropped him off for his flight.

- He explained that he has known Mr. Jay Hiteshkumar Bambharoliya since birth, as their villages (Rafala, Taluka Bagsara, Amreli District) are the same and they are family acquaintances.
- Upon perusal of the call data records for his mobile number (9979745245) and Mr. Jay's mobile number (9313065146) dated 01.03.2025 and 02.03.2025, stated that the calls were related to Mr. Jay's upcoming first international journey, as Mr. Jay had stayed at his residence prior to departure and was dropped off at the airport by him. The said calls exchanged were brief and mostly social in nature, such as greetings or travel-related queries.

Details of the relevant call data records provided by JIO and perused by Mr. Bipinbhai Mansukhbhai Baravaliya are reproduced as follows.

A Party Number	Call Type	Type Of Connection	B Party Number	Call Date	Call Time	Call Duration(Sec)
091-9979745245	In	Prepaid	091-9313065146	14/02/2025	15:08:43	63
091-9979745245	In	Prepaid	091-9313065146	19/02/2025	18:17:49	26
091-9979745245	Out	Prepaid	091-9313065146	1/3/2025	9:58:12	52
091-9979745245	In	Prepaid	091-9313065146	1/3/2025	10:29:06	27
091-9979745245	Out	Prepaid	091-9313065146	1/3/2025	12:48:58	46
091-9979745245	In	Prepaid	091-9313065146	1/3/2025	22:02:06	23
091-9979745245	In	Prepaid	091-9313065146	2/3/2025	4:28:11	15
091-9979745245	Out	Prepaid	091-9313065146	2/3/2025	22:46:17	13
091-9979745245	In	Prepaid	091-9313065146	2/3/2025	23:17:52	6

- he had traveled abroad several times, including more than 10 visits to Bangkok, as well as trips to Sri Lanka (2018) and Malaysia (2015), all for pleasure purposes.
- Categorically denied any concern or involvement regarding the recovery of 552.20 carats of natural diamonds and 150.540 grams of gold in buckle shape from Mr. Jay Hiteshkumar Bambharoliya during the panchnama proceedings on 06.03.2025.
- while he knows both Mr. Piyush Purshotambhai Barvaliya and his nephew Mr. Jay Hiteshkumar Bambharoliya, he has no business relationship with them.
- He stated that after Jay's arrest, Mr. Piyush Purshotambhai Barvaliya informed him that the diamonds and gold belonged to Mr. Piyush Purshotambhai Barvaliya and had been sent with his nephew, Mr. Jay Hiteshkumar Bambharoliya, for business purposes to help Jay to establish himself in business.
- it is illegal to smuggle diamonds without declaring them to the Customs authorities.

From the deposition of Mr. Bipinbhai Mansukhbhai Baravaliya, it is evident that he is engaged in the metal sticker and share market business and admitted familial ties with Mr. Piyush Parsotambhai Barvaliya, a Bangkok-based gold and diamond businessman, and Mr. Jay Hiteshkumar Bambharoliya, his nephew. He acknowledged accompanying Mr. Jay to the airport on 03.03.2025 prior to his departure to Bangkok. He denied involvement in the smuggling of 552.20 carats of diamonds and 150.540 grams of gold recovered from Mr. Jay during the panchnama proceedings dated 06.03.2025. He confirmed brief and predominantly social calls with Mr. Jay preceding the journey, as substantiated by call data records. Despite being informed post-arrest by Mr. Piyush that the diamonds and gold belonged to him and were sent via Mr. Jay for business purposes, Mr. Bipinbhai disavowed any business relationship with them. It is further incumbent to note that during the search proceedings at the residence of Mr. Bipinbhai Mansukhbhai Barvaliya, his wife, Smt. Bhanu Bipinbhai Barvaliya, unequivocally deposed that her husband is engaged in the business of diamonds and

jewellery. This unequivocal deposition stands in direct and material contradiction to the statements tendered by Mr. Bipinbhai himself. Such manifest contradictions constitute a deliberate act to mislead the investigating authorities and reflect mala fide intent.

### **FORENSIC ANALYSIS OF MOBILE FORENSIC:**

14.5 Mobile phone voluntarily received during recording of his statement from Mr. Jay Hiteshkumar Bambharoliya i.e. iPhone 11 Pro Max, model no. MWFE2LL/A, Serial No. FK1CD5E1N70H, having IMEI 353893109646191 and IMEI2 353893109629387 was forwarded to the Director/Office-in-Charge, Digital Forensics Laboratory, DGGI, NFSU Lab, Gandhinagar vide letter F. No. DRI/AZU/GI-02/ENQ-24/2025 Dated 3.4.2025 for forensic examination and retrieval of data. The retrieved data was received vide letter Case No DGGI-NFSU/DFL/2025/AZU/35/104 Dated 25.6.2025. The data retrieved and extracted from the said mobile phones were subsequently analysed in detail, and the relevant evidence i.e. WhatsApp communication between Mr. Jay Hiteshkumar Bambharoliya (Mobile No. 97230 39114) and Mr. Bipinbhai Mansukhbhai Barvaliya (Mobile Number 9979745245), Mr. Piyush Parsotambhai Barvaliya (Mobile Number +66851519927) was confronted to Mr. Jay Hiteshkumar Bambharoliya during the recording of his statement on 29.08.2025, as elaborated in the subsequent paragraph.

14.6 Statement of Mr. Jay Hiteshkumar Bambharoliya was recorded on 29.8.2025 under the provisions of Section 108 of the Customs Act, 1962, wherein he, inter alia, stated that;

- Mr. Piyush Parsotambhai Barvaliya currently resides in Bangkok and has not visited India for at least the past two years; his email ID is Bluegems99@gmail.com.
- Neither on his arrival from Bangkok on 06.03.2025 nor till date has Mr. Piyush Parsotambhai Barvaliya provided any documents related to the recovered/seized natural diamond (552.20 carats) and gold in buckle shape (150.540 grams).
- The gold in buckle shape (150.540 grams) was brought into India as per the directions of Mr. Bipin Barvaliya and was intended to be delivered to him or his authorized person; Mr. Piyush Parsotambhai Barvaliya had given the gold buckle.
- The natural diamond (552.20 carats) was given to Mr. Jay Bambharoliya by Mr. Piyush Parsotambhai Barvaliya to initiate his trading business on a commission basis; Mr. Bambharoliya possesses limited knowledge of the diamond industry.
- The markings on the pouches of the seized diamonds (such as 1/6, 1/5, 1/4, 1/3, and 1/2) denote the sizes of the diamonds, while numbers such as 163.05, 81.70, 70.81, etc., represent the carat values. (One carat equals 200 milligrams.)
- The intended trading price for the diamonds was approximately ₹30,000 to ₹40,000 per carat; apart from his commission, the remaining amount was to be remitted to Mr. Piyush Parsotambhai Barvaliya.
- Mr. Jay Bambharoliya perused WhatsApp chats with Mr. Piyush Parsotambhai Barvaliya and Shri Bipinbhai Mansukhbhai Barvaliya, retrieved from his iPhone 11 Pro Max (model MWFE2LL/A, Serial FK1CD5E1N70H), and affixed his dated signature on the printouts.
- Mobile number 9979745245 saved as 'Bipin Mama' belongs to Shri Bipinbhai Mansukhbhai Barvaliya; mobile number +66851519927 saved as 'Piyush Mama 2' belongs to Mr. Piyush Parsotambhai Barvaliya in Bangkok.
- WhatsApp chats with Bipin Mama revealed that Shri Bipinbhai Mansukhbhai Barvaliya owns the seized gold buckle and closely monitored the Bangkok trip,

coordinated travel documents, and arranged a driver (number 704169498) to receive Mr. Bambharoliya in Ahmedabad and escort him to Surat; Bipin Mama promised Rs. 25,000 to Rs. 30,000 for delivery of the gold buckle.

- WhatsApp chats with Piyush Mama 2 showed that from 03.03.2025 onwards, the maternal uncle closely monitored and guided Mr. Bambharoliya's entire journey from immigration to exit and return via continuous WhatsApp communication.

It appears that Mr. Piyush Parsotambhai Barvaliya, currently residing in Bangkok and absent from India for over two years, has not produced any documents related to the seized 552.20 carats of natural diamonds and 150.540 grams of gold in buckle form. The gold buckle, provided by Mr. Piyush as per instructions from Mr. Bipin Barvaliya, was intended for delivery to Mr. Bipin or his authorized agent. The diamonds were given by Mr. Piyush to Mr. Jay Bambharoliya to initiate his trading business on a commission basis, with Mr. Jay having limited knowledge of the diamond industry. WhatsApp chats retrieved from Mr. Jay's phone show ongoing coordination and control of the smuggling operation by Mr. Bipinbhai and Mr. Piyush, including detailed monitoring of Mr. Jay's journey and arrangements for the reception and transportation of the items. Mr. Bipin promised Rs. 25,000 to Rs. 30,000 for the delivery of the gold buckle. The markings on the diamond pouches indicate carat sizes and weights, with trading prices estimated at ₹30,000 to ₹40,000 per carat, with commissions and proceeds to be remitted to Mr. Piyush.

## **15. RELEVANT LEGAL PROVISIONS UNDER THE CUSTOM ACT, 1962:**

**Section 2(22):** "goods" includes -

- (a) ...;
- (b) ...;
- (c) baggage;
- (d) ...; and
- (e) ...;

**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;

**Section 2(39):** "**smuggling**", in relation to any goods, means any act or omission which will render such goods liable to confiscation under section 111 or section 113;

### **Section 11A: Definitions**

(a) "**illegal import**" means the import of any goods in contravention of the provisions of this Act or any other law for the time being in force

### **Section 77: Declaration by owner of baggage. -**

The owner of any baggage shall, for the purpose of clearing it, make a declaration of its contents to the proper officer.

### **Section 79. Bona fide baggage exempted from duty. -**

(1) The proper officer may, subject to any rules made under sub-section (2), pass free of duty -....

(2) the Central Government may make rules for the purpose of carrying out the provisions of this section and, in particular, such rules may specify -

.....

### **Section 100: Power to Search Suspected persons entering or leaving India, etc.**

- (1) If the proper officer has reason to believe that any person to whom this section applies has secreted about his person, any goods liable to confiscation or any documents relating thereto, he may search that person.
- (2) This section applies to the following persons, namely: -
- (a) any person who has landed from or is about to board, or is on board any vessel within the Indian customs waters;
  - (b) any person who has landed from or is about to board, or is on board a foreign-going aircraft;
  - (c) any person who has got out of, or is about to get into, or is in, a vehicle, which has arrived from, or is to proceed to any place outside India;
  - (d) any person not included in clauses (a), (b) or (c) who has entered or is about to leave India;
  - (e) any person in a customs area.

**Section 111. Confiscation of improperly imported goods, etc. -**

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

- (a) ...
- (b) ...
- (c) ...
- (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, shall be liable to confiscation;
- (i) any dutiable or prohibited goods found concealed in any manner in any package either before or after the unloading thereof;
- (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 transshipment, with the declaration for transshipment referred to in the proviso to sub-section (1) of section 54;]

**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, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111,

**Section 114AA. Penalty for use of false and incorrect material. -**If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.

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

**Section 120. Confiscation of smuggled goods notwithstanding any change in form, etc.**

- (1) Smuggled goods may be confiscated notwithstanding any change in their form.

**Section 123: Burden of proof in certain cases.** –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.

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.

**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 his bona fide baggage of jewellery upto a weight, of twenty grams with a value cap of fifty thousand rupees if brought by a gentleman passenger, or forty grams with a value cap of one lakh rupees if brought by a lady passenger.

**CBIC Customs Notification No. 50/2017-Customs dated 30.06.2017** where the condition regarding import of gold by passenger in the following manner: If,

1. (a) the duty is paid in convertible foreign currency;
- (b) the quantity of import does not exceed ten kilograms of gold and one hundred kilograms of silver per eligible passenger; and
2. the gold or silver is, -
  - (a) carried by the eligible passenger at the time of his arrival in India, or
  - (b) the total quantity of gold under items (i) and (ii) of Sr. No. 356 does not exceed one kilogram and the quantity of silver under Sr. No. 357 does not exceed ten kilograms per eligible passenger; and
  - (c) is taken delivery of from a customs bonded warehouse of the State Bank of India or the Minerals and Metals Trading Corporation Ltd., subject to the conditions 1;

Provided that **such eligible passenger files a declaration in the prescribed form before the proper officer of customs at the time of his arrival in India declaring his intention to take delivery of the gold or silver** from such a customs bonded warehouse and pays the duty leviable thereon before his clearance from customs.

Explanation.- For the purposes of this notification, **“eligible passenger” means a passenger of Indian origin or a passenger holding a valid passport, issued under the Passports Act, 1967 (15 of 1967), who is coming to India after a period of not less than six months of stay abroad;** and short visits, if any, made by the eligible passenger during the aforesaid period of six months shall be ignored if the total duration of stay on such visits does not exceed thirty days and such passenger has not availed of the exemption under this notification or under the notification being superseded at any time of such short visits.

### **FOREIGN TRADE (DEVELOPMENT AND REGULATION) ACT, 1992:**

#### **Section 3: Powers to Make Provisions Relating to Imports and Exports-**

(1) ....

(2) *The Central Government may also, by Order published in the Official Gazette, 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 and technology.*

*(3) 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 and all the provisions of that Act shall have effect accordingly.*

### **Section 7. Importer-exporter Code Number:**

*No person shall make any import or export except under an Importer-exporter Code Number granted by the Director General or the officer authorised by the Director General in this behalf, in accordance with the procedure specified in this behalf by the Director General.....*

- 2.01 FTP, 2023 regarding import /Exports of goods (a) Exports and Imports shall be 'Free' except when regulated by way of 'Prohibition', 'Restriction' or 'Exclusive trading through State Trading Enterprises (STEs)' as laid down in Indian Trade Classification (Harmonized System) [ITC (HS)] of Exports and Imports.
- Under ITC (HS) heading sub code 98030000, the import of all dutiable articles imported by a passenger or a member of a crew in their baggage is restricted, and such import is allowed only in accordance with the provisions of the Customs Baggage Rules as per clause 3(1) (h) of the Foreign Trade (Exemption from Application of Rules in Certain Cases) Order, 1993.

### **2.27 FTP, 2023 Import through Passenger Baggage:**

- (a) 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) Samples of such items that are otherwise freely importable under FTP may also be imported as part of passenger baggage without an Authorisation subject to Baggage Rules as notified by Customs from time to time.
- (c) Exporters coming from abroad are also allowed to import drawings, patterns, labels, price tags, buttons, belts, trimming and embellishments required for export, as part of their passenger baggage, without an Authorization subject to value limit as laid down in FTP or as per the relevant Customs notification(s) in this regard.
- (d) Any item(s) including Samples or Prototypes of items whose import policy is "restricted" or "prohibited" or is canalised through STEs are not permitted as part of passenger baggage except with a valid authorization/ permission issued by DGFT.

### **Rule 11 of Foreign Trade (Regulation) Rules, 1993:**

Declaration as to value and quality of imported goods. On the importation into, or exportation out of, any customs ports of any goods, whether liable to duty or not, the owner of such goods shall in the Bill of Entry or the Shipping Bill or any other documents prescribed under the Customs Act, 1962 (52 of 1962), state the value, quality and description of such goods to the best of his knowledge and belief and in case of exportation of goods, certify that the quality and specification of the goods as stated in those documents, are in accordance with the terms of the export contract entered into with the buyer or consignee in pursuance of which the goods are being exported and shall subscribe a declaration of the truth of such statement at the foot of such Bill of Entry or Shipping Bill or any other documents

**Section 11. Contravention of provisions of this Act, rules, orders and foreign trade policy-**

(1) *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 export and import policy for the time being in force.*

**16. CONTRAVENTION AND CHARGES:**

16.1 From the facts and evidences in the form of panchnama, statements and other evidences discussed hereinabove, it appears that this is a case of outright smuggling of diamond and gold through SVPI Airport, Ahmedabad. Mr. Piyush Parsotambhai Barvaliya and Mr. Bipinbhai Mansukhbhai Baravaliya are alleged to be the masterminds behind a smuggling racket involving the illegal import of 552.55 carats of natural diamonds valued at ₹3,39,08,200/- and 150.540 grams of 999.9/24Kt. gold worth approximately ₹13,41,311/-. The operation was reportedly executed with the assistance of Mr. Jay Hiteshkumar Bambharoliya, who acted as the carrier. Mr. Jay Hiteshkumar Bambharoliya concealed these high-value items and bypassed customs regulations, constituting a serious violation of Indian customs and foreign trade laws, leading to confiscation of goods and penal actions under relevant provisions of the Customs Act, 1962, and the Foreign Trade (Development and Regulation) Act.

16.2 Further, Under the Customs Act, 1962, Customs Baggage Declaration (Amendment) Regulations, 2016, Baggage Rules, 2016, Foreign Trade Policies 2015-20 and 2023, and the Foreign Trade (Development and Regulation) Act, 1992, every passenger entering India is legally obligated to declare all dutiable goods carried in baggage at the Green Channel and pay applicable duties. All dutiable articles falls under Customs Tariff Heading (CTH) 9803. Section 77 to 81 as contained in Chapter XI of the Customs Act, 1962, deals with the special provision regarding baggage. The present system of clearance of passenger's baggage is to great degree, based on the trust reposed in the passengers who are expected to make a bona fide and complete declaration of the contents of their baggage, for the purpose of clearing it, as envisaged in Sec. 77 of the Customs Act 1962. Section 79 of the Act talks of the *bona fide* baggage, which is exempted from Customs duty and proper officer has been empowered to pass free of duty any article which is in the baggage of a passenger and which has been in his use for a prescribed period or is for his use or is meant for making gifts or souvenir. Thus, a passenger arriving in India, statutorily is required to make a true and correct declaration about the contents of his baggage and only *bona fide* personal baggage is allowed clearance from the mode of passenger baggage and import in commercial quantity is not allowed.; failure to do so is a violation, attracting confiscation under Section 111 of the Customs Act, 1962.

16.3 In addition, the import of gold and diamonds violated the Foreign Trade (Development and Regulation) Act, 1992 (FTDR Act), Foreign Trade Policy (FTP), and the Handbook of Procedures under FTP. Section 11 of the FTDR Act mandates that no import shall occur except in accordance with the Act, rules, orders, and existing foreign trade policy. It further appears that, under the provisions of the Foreign Trade (Development and Regulation) Act, 1992, all imports and exports are required to be conducted in accordance with its provisions. Any restrictions or prohibitions under the said Act appear to be deemed as prohibitions under Section 11 of the Customs Act, 1962.

**In respect to the Smuggled Gold:**

16.4 Further, pursuant to DGFT Notification No. 49/2015-2020, **gold in any form, including gold above 22 carats, has been categorized under the restricted**

**category for import purposes.** and may only be imported through authorized channels as per FTP, RBI circulars, and CBIC notifications.

16.5 Further, as in the present case the passenger Mr. Jay Hiteshkumar Bambharoliya had gone to Bangkok on 03.03.2025 and returned on 06.03.2025 is not the eligible person in terms of the provisions of Notification Customs Notification No. 50/2017-Customs dated 30.06.2017. Hence, Mr. Jay Hiteshkumar Babbharoliya was not eligible to import 150.540 grams of 999.9/24Kt gold worth approximately ₹13,41,311/-, as the permissible limit for gold import by an eligible passenger is up to 1 kilogram after staying abroad for at least six months, with specified duty payment. Further, only passengers meeting these criteria and complying with customs formalities are allowed to import gold legally. Any import exceeding these limits without authorization is liable for confiscation and penalties under the Customs Act.

#### **Non- Bonafide Baggage:**

16.6 Further, the seized goods i.e. 552.55 carats of natural diamonds and 150.540 Grams of Gold having purity 999.9/24KT under the guise of Belt Buckle, found concealed, smuggled and carried by him were found to be of commercial quantity and does not qualify under the definition of "Bonafide baggage" in terms of Para 2.27 of the Foreign Trade Policy 2023. Mr. Jay Hiteshkuar Bambharoliya opted for green channel at the airport and on being asked by the officer, he clearly denied of having any dutiable items to declare before the Customs Authorities, which clearly shows his intention/preparedness for smuggling of natural Diamond and Gold through SVPI Airport.

#### **Smuggling:**

16.7 It appears that the carrying of said 552.55 carats of natural diamonds valued at ₹3,39,08,200/- (Rupees Three Crore Thirty Nine Lakh Eight Thousand Two Hundred only) and 150.540 Grams of Gold having purity 999.9/24Kt having market value ₹13,41,311/- (Rupees Thirteen Lakhs Forty One Thousand Three Hundred and Eleven only) in person by the above persons, as discussed in above paras is in contravention to the statutory provisions applicable for the import of gold and Diamonds and it amounts to "smuggling" as defined in Section 2(39) of the Customs Act, 1962.

#### **Prohibited Goods:**

16.8 Further, the transportation of the Foreign Origin goods, without proper documentations/papers is covered under "prohibition". In terms of Section 7 of the Foreign Trade (Development and Regulation) Act, 1992, no person shall make an import except under an importer exporter code number. In terms of Section 2(33) of the 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 in being force. Restrictions on importing precious metals and diamonds in commercial quantity through passenger baggage amount to prohibition; breaches render goods prohibited and liable for confiscation under the provisions of Customs Act, 1962. It further appears that, under the provisions of the Foreign Trade (Development and Regulation) Act, 1992, all imports and exports are required to be conducted in accordance with its provisions.

#### **Section 123 of the Customs Act, 1962:**

16.9 Further, in terms of provisions under Section 123 of the Customs Act, 1962, it is the responsibility of the person who is in possession of the said gold /silver

or the person claiming ownership of the same, to prove that the same were not smuggled gold. However, no person has come forward to claim the said seized goods.

16.10 In the instant case. Mr. Jay Hiteshkumar Bambharoliya had attempted to smuggle seized goods by way of concealment i.e. Diamonds in underwear and Gold under the guise of Belt Buckle from Don Mueang, Bangkok to Ahmedabad which was recovered when Mr. Jay Hiteshkumar Bambharoliya was intercepted based on a specific intelligence of DRI. Neither he produced any documents for its possession nor has he declared the same before the Customs on arrival and not even declared after his interception too. Hence, the said goods brought by him into India becomes prohibited goods, and he appears to have violated the provisions of Rule 11 of the Foreign Trade (Regulation) Rules, 1993 and Section 77 of the Customs Act, 1962, read with Regulation 3 of the Custom Baggage Declaration Regulations, 2013 as amended w.e.f. 01.03.2016, and thus appears to have rendered the natural diamonds and Gold liable to confiscation under Section 111(d), 111(i), 111(1) and 111(m) of the Customs Act, 1962 read with the Baggage Rules, 2016 (as amended) and the Foreign Trade Policy.

16.11 By the said act and omission on the part of the Mr. Jay Hiteshkumar Bambharoliya, Mr. Piyush Parsotambhai Barvaliya and Mr. Bipinbhai Mansukhbhai Baravaliya, the said 552.55 carats of natural diamonds valued at ₹3,39,08,200/- (Rupees Three Crore Thirty Nine Lakh Eight Thousand Two Hundred only) and 150.540 Grams of Gold having purity 999.9/24 KT having market value ₹13,41,311/- (Rupees Thirteen Lakhs Forty One Thousand Three Hundred and Eleven only) became liable to confiscation under the provisions of Section 111(d), 111(i), 111(l) and (m) of the Customs Act, 1962. Further, they had deliberately dealt with the said goods i.e. in carrying, removing, concealing, harboring, purchasing and selling and dealing with the goods which they knew or had reason to believe were liable to confiscation under the provisions of Section 111 of the Customs Act 1962. The acts of omission and commission on the part of them have rendered themselves liable for penal action under the provisions of Section 112 and 114AA of the Customs Act, 1962.

16.12 It further appears that the seized packing material were used for concealment of smuggled goods, the same are also liable to confiscation under the provisions of Section 119 of the Customs Act, 1962.

## **17. ROLES OF THE KEY PERSON:**

### **17.1 ROLE OF MR. JAY HITESHKUMAR BAMBHAROLIA:**

19.1.1 Mr. Jay Hiteshkumar Bambharolia played a central and deliberate role in the attempted smuggling of diamonds and gold into India. He knowingly and intentionally concealed eight pouches of cut and polished natural diamonds (totaling 552.55 carats, valued at ₹3,39,08,200/-) in his underwear and wore a belt with a gold buckle (150.540 grams, valued at ₹13,41,311/-), both of which were not declared to Customs authorities as required under the law.

17.1.2 His actions included **Concealment:** Deliberately hiding diamonds in his undergarments and gold in a belt buckle to evade detection during customs screening and personal search. **Non-declaration:** Willfully failing to declare the possession of these high-value goods at the Green Channel, in violation of Section 77 of the Customs Act, 1962 and the Baggage Rules, 2016. **Smuggling:** By these acts of commission and omission, he knowingly engaged in smuggling as defined under Section 2(39) of the Customs Act, 1962, rendering the goods liable to confiscation under Sections 111 and 119 of the Act.

17.1.3 The investigation further reveals that Mr. Jay Hiteshkumar Bambharolia's actions were part of a coordinated smuggling operation, with the diamonds and gold buckle supplied by overseas contact Mr. Piyush Purshotambhai Barvaliya in Bangkok and domestic contact Mr. Bipinbhai Mansukhbhai Baravaliya. This underscores his active involvement in a larger racket, demonstrating clear intent to evade customs duties and circumvent legal import regulations.

17.1.4 Mr. Jay Hiteshkumar Bambharolia's actions involved deliberate concealment and non-declaration of restricted goods, violating Section 77 and attracting confiscation under Sections 111(d), 111(i), 111(l) and 111(m) of the Customs Act, 1962. Such conduct constitutes "smuggling" under Section 2(39), with goods seized under Section 110 of the Customs Act, 1962.

17.1.5 By his acts and omissions, Mr. Jay Hiteshkumar Bambharolia has violated the provisions of the Customs Act, 1962, and the Foreign Trade (Development and Regulation) Act, 1992. As a result, he is liable to penalties, including confiscation of goods and prosecution, under Sections 112, 114AA, 119, and 135 of the Customs Act, 1962.

### **17.2           ROLE OF MR. PIYUSH PARSOTAMBHAI BARVALIYA @ BANGKOK AND MR. BIPINBHAI MANSUKHBHAI BARAVALIYA:**

17.2.1       Mr. Piyush Parsotambhai Barvaliya, a resident of Bangkok for over ten years and proprietor of K.D. International Group Co. Ltd., engaged in the gold and diamond jewelry trade, has been established as a key facilitator in the illegal importation of gold and diamonds into India. He was responsible for supplying the contraband i.e. Diamond and Gold to Mr. Jay Hiteshkumar Bambharolia, including arranging and financing his travel and expenses, furnishing the gold belt buckle and diamond-concealing apparel, and instructing him to carry these items covertly into India. Investigation has confirmed that the diamonds supplied by Mr. Piyush Parsotambhai Barvaliya were dispatched to India without adhering to requisite legal import mandates, notably lacking DGFT authorization, customs declaration, Provisions of the Foreign Trade Policy and Customs regulations. Such acts constitute prohibited importation in violation of the Customs Act, 1962, exposing the goods to confiscation and penal proceedings. Further, smuggled gold is classified as a prohibited item under the Customs Act, 1962, making its import illegal. Such gold falls within the scope of prohibition due to non-compliance with import conditions and restrictions, rendering it liable for confiscation and penal action under the law. Mr. Piyush Parsotambhai Barvaliya's conduct amounts to deliberate abetment and facilitation of smuggling, orchestrating concealment and unauthorized importation in breach of statutory provisions.

17.2.2       It cannot be regarded as a mere coincidence that the to-and-fro journeys of Mr. Jay Hiteshkumar Bambharolia were closely monitored and actively coordinated by Mr. Bipinbhai Mansukhbhai Baravaliya through continuous communication via WhatsApp and telephone calls. Mr. Bipinbhai even accompanied Mr. Jay from Surat to the airport. At midnight on 06.03.2025, Mr. Piyush Parsotambhai Barvaliya contacted Mr. Bipinbhai and instructed him to proceed to Ahmedabad to ascertain the whereabouts of Mr. Jay. However, this contention is misleading on the part of Mr. Bipinbhai, since the records clearly establish that he had remained in continuous touch with Mr. Jay ever since his departure. Further, it is evident from the deposition of Mr. Jay that Mr. Bipinbhai had shared the mobile number of a person who had been deputed/arranged by him to bring Mr. Jay from his residence in Ahmedabad to Surat for the purpose of delivering the smuggled gold belt buckle. Further, Mr. Jay Hiteshkumar Bambharolia maintained direct contact with Mr. Piyush Parsotambhai Barvaliya, yet the travel documents, including ticket copies, were handled by Mr. Bipinbhai Mansukhbhai Baravaliya.

17.2.3 Mr. Bipinbhai Mansukhbhai Baravaliya's active supervision throughout the process ensured the smooth execution of the smuggling operation. Significantly, he had also promised a monetary reward of Rs.25,000 to Rs.30,000 to Mr. Jay Hiteshkumar Bambharolia for the successful delivery of the gold belt buckle.

17.2.4 Considering Mr. Jay Hiteshkumar Bambharolia's limited knowledge/contacts of the diamond industry, and the established involvement of Mr. Bipinbhai Mansukhbhai Baravaliya and Mr. Piyush Parsotambhai Baravaliya in the diamond sector—further corroborated by their meeting in Bangkok in February 2025—it is evident that the latter two masterminded the smuggling operation and deliberately utilized Mr. Jay as the carrier.

17.2.5 It is pertinent to underscore that Mr. Piyush Parsotambhai Baravaliya has deliberately attempted to obfuscate and mislead the investigation. During recording of his statement under Section 108 of the Customs Act, 1962, on 06.06.2025, he falsely represented that his vocation was limited to the business of metal stickers and share trading. Contrarily, during the panchnama proceedings held at his residence on 11.03.2025, his wife categorically deposed that he was engaged in the business of diamonds and jewellery. Such contradictory and materially false declarations amount to deliberate concealment and misrepresentation of facts, thereby constituting an offence punishable under the Customs Act, 1962. These false statements obstruct the course of due investigation and warrant strict penal consequences under the relevant provisions of the Customs law for furnishing false information to the authorities and for obstructing the investigation.

17.2.6 The assertion that the gold buckle was handed over to Mr. Jay Hiteshkumar Bambharolia for his own business purposes is an afterthought, clearly intended to obfuscate liability. Moreover, the longstanding acquaintance and association between Mr. Piyush Parsotambhai Baravaliya and Mr. Bipinbhai Baravaliya further reinforces the inference that the smuggling activity was jointly planned, coordinated, and executed by them.

17.2.7 By their acts and omissions, Mr. Piyush Parsotambhai Baravaliya and Mr. Bipinbhai Baravaliya have concerned themselves by dispatching/importing goods in violation of Indian Import laws and thereby made them liable for penal consequences, including confiscation and prosecution under Sections 111, 112, 114AA, 119, and 135 of the Customs Act, 1962, as well as non-compliance under the Foreign Trade (Development and Regulation) Act, 1992. His actions demonstrate involvement in an organized smuggling syndicate evading customs laws, causing substantial revenue loss to the Government of India.

**18.** Accordingly, a Show Cause Notice was issued to Mr. Jay Hiteshkumar Bambharolia, Mr. Piyush Parsotambhai Baravaliya & Mr. Bipinbhai Mansukhbhai Baravaliya, as to why: -

- (i) The said 552.55 Carats of Natural Diamonds Valued at ₹3,39,08,200/- (Rupees Three Crore Thirty Nine Lakh Eight Thousand Two Hundred only) and 150.540 Grams of Gold having purity 999.9/24Kt having Market Value ₹13,41,311/- (Rupees Thirteen Lakhs Forty One Thousand Three Hundred and Eleven only) attempted to be smuggled into India in contravention of the provisions of the Customs Act, 1962 should not be held liable to confiscation under the provisions of Sections 111(d), 111(i), 111(l) and (m) of the Customs Act, 1962.

- (ii) Remnants of the packing material used for concealment of the seized Natural Diamonds i.e. underwear should not be confiscated under Section 119 of the Customs Act, 1962.
- (iii) In the event of the option under sub-section (1) of Section 125 of the Customs Act, 1962, is exercised then,
  - a) Applicable duty determined under the provisions of Section 78 of the Customs Act, 1962, along with related charges, should not be recovered in terms of sub-section (2) of Section 125 read with Section 28 of the Customs Act, 1962.
  - b) Interest on the duty amount as per clause (a) above should not be charged and recovered under the provisions of Section 28AA of the Customs Act, 1962.
  - iv) Penalty should not be imposed upon him, under the provisions of Section 112, Section 114AA of the Customs Act, 1962.

## **19. DEFENSE REPLY AND RECORD OF PERSONAL HEARING:**

### **19.1.1 DEFENSE REPLY:**

The noticees i.e. (i) Mr. Jay Hiteshkumar Bambharoliya, (ii) Mr. Piyush Parsotambhai Barvaliya and (iii) Mr. Bipinbhai Mansukhbhai Baravaliya, submitted their defense reply/ written submission through their advocated Shri Rishikesh Mehra, against the allegation made against them in the SCN, on dated 01.12.2025 and 19.12.2025.

### **19.1.2 DEFENSE REPLY OF SHRI JAY HITESHKUMAR BAMBHAROLIYA:**

It was stated that Shri Jay Hiteshkumar Bambharoliya opted for the Green Channel and was intercepted by DRI officers, which was taken as evidence that he failed to declare the goods under Section 77 of the Customs Act, 1962, and that upon opting for a personal search before a Gazetted Officer under Sections 100 and 102, a gold belt buckle worn by him and diamonds concealed in his underwear were recovered. The gold and diamonds were valued on 07.03.2025 by authorized valuers, with the gold belt buckle weighing 150.450 grams valued at Rs. 13,41,311/- and 552.55 carats of loose natural diamonds valued at Rs. 3,39,08,200/-, following which his statement was recorded, he was arrested, and remanded to judicial custody, wherein it was recorded that his travel was arranged by his relative Bipin Barvaliya and that his uncle Piyush Parsotambhai Barvaliya @ Bangkok provided him with the gold belt and underwear containing diamonds for delivery in India; however, this statement was later retracted. It was further stated that Bipinbhai Baravaliya denied involvement during interrogation on 06.06.2025, but on the basis of WhatsApp chats, Shri Jay Hiteshkumar Bambharoliya was again interrogated on 29.08.2025, during which it was alleged that Bipinbhai Baravaliya was the beneficial owner of the gold belt buckle and that the diamonds were given to him by his uncle for sale on a commission basis, while he maintained that the entire narration in the show cause notice was fabricated by the DRI to support false allegations of non-declaration to Customs.

### **Challenge to the Alleged Interception of the Noticee While Allegedly Attempting to Cross the Green Channel — Prosecution Cannot Selectively Rely on Evidence While Suppressing Exculpatory Material**

It was submitted that the allegation that the noticee was intercepted while attempting to cross the green channel was factually incorrect and legally untenable, as the interception actually occurred at the immigration counter area, which precedes the customs clearance zone where a passenger is required to opt for either the green or red channel. At that stage, the noticee had not reached the point of making a customs declaration, nor were the DRI officers competent “proper officers” under Section 77 of

the Customs Act, 1962 to receive such a declaration. It was further contended that the noticee voluntarily disclosed the possession of the gold and diamonds to the DRI officers and expressed his willingness to declare the goods before the proper officer at the red channel, but he was denied this statutory right when the DRI officers proceeded with seizure without producing him before the customs authority. This action effectively prevented the noticee from complying with the law and vitiated the proceedings, as no person can be penalized for non-compliance when compliance is rendered impossible by the authorities themselves. The allegation of an attempt to cross the green channel was stated to be unsupported by credible evidence, particularly due to the department's failure to collect or rely upon CCTV footage from the airport, which would have conclusively established the actual place of interception. This omission was argued to be deliberate and discriminatory, especially when contrasted with the department's reliance on video recording during a residential search at Surat, demonstrating selective evidence collection. It was therefore contended that such cherry-picking and suppression of material evidence violated the principles of fair investigation and natural justice, warranted an adverse inference against the prosecution, and rendered the allegation of smuggling based on an alleged attempt to cross the green channel unsustainable.

### **Challenge to the Legality and Procedural Propriety of the Personal Search Conducted on Shri Jay Hiteshkumar Bambharoliya:**

It was submitted that the personal search conducted on Shri Jay Hiteshkumar Bambharoliya was illegal, invalid, and vitiated by serious procedural lapses, as the mandatory safeguards under Sections 100 and 102 of the Customs Act, 1962 were not complied with. It was contended that Section 102(3) requires strict adherence, mandating production of the person before a gazetted officer or magistrate who must independently apply his mind and issue a specific authorization for the search, failing which the person must be discharged. In the present case, there was no documentary evidence of any written authorization or direction by the gazetted officer, nor any acknowledgment of his presence, supervision, or application of mind, as evidenced by the absence of his signature on the panchnama and the lack of reference to such authorization in the Show Cause Notice. It was further argued that even assuming any oral direction was given, the same could not substitute the mandatory written authorization required by law. Additionally, it was submitted that the personal search was wholly unnecessary and unjustified, as Shri Jay Hiteshkumar Bambharoliya had voluntarily disclosed possession of the gold buckle and diamonds immediately upon interception, thereby negating any reasonable belief of concealment or mens rea necessary to invoke Section 100. Conducting a personal search despite such voluntary disclosure was argued to be a mala fide exercise aimed at creating a false narrative of concealment and fabricating evidence. It was therefore contended that the entire search proceeding was a nullity in law, that any recovery allegedly made during such illegal search was inadmissible in evidence, and that no adverse inference could be drawn against Shri Jay Hiteshkumar Bambharoliya on the basis of such tainted proceedings.

### **Manipulation of the Seizure Proceedings by the DRI Officers:**

It was alleged that the seizure proceedings conducted by the DRI officers were manipulated and procedurally unreliable, as reflected from inconsistencies and irregularities in the panchnamas and evidentiary documentation. It was stated that as per the panchnama dated 06/07.03.2025, Shri Jay Hiteshkumar Bambharoliya was shown as being intercepted while crossing the green channel at SVPI Airport and was subjected to a personal search under Section 100 of the Customs Act, during which a 24K gold buckle and eight polythene pouches containing diamonds were allegedly recovered. The gold buckle was valued on 07.03.2025 by a government-approved valuer, while the diamonds could not be valued at night due to the

unavailability of a valuer and were merely detained under the panchnama, which was drawn by a Senior Intelligence Officer of DRI but was signed only by him despite the presence of several other officers, raising doubts about its authenticity. It was further stated that a separate panchnama dated 07.03.2025 was drawn at the DRI office during daytime hours for valuation of the diamonds, while the noticee remained in overnight custody, and that a different set of officers participated in this proceeding. Serious concern was raised regarding the photographic evidence appended to both panchnamas, as the images of the diamond pouches appearing in the airport panchnama and the subsequent valuation panchnama were identical in all material aspects, including arrangement, markings, perspective, and positioning. It was contended that this identity of images could only indicate reuse of the same photograph, thereby casting grave doubt on whether fresh photographs were taken during the valuation proceedings or whether the diamonds were even physically produced at that time. This, it was argued, demonstrated manipulation of records, non-compliance with basic evidentiary protocols, and seriously undermined the credibility and legality of the seizure and valuation proceedings.

### **Improper Valuation Methodology and Deliberate Inflation of Value of the Gold Buckle:**

It was contended that the valuation of the gold buckle was carried out using an improper and legally impermissible methodology, resulting in deliberate inflation of its value with the collateral objective of facilitating the arrest of Shri Jay Hiteshkumar Bambharoliya. It was submitted that although the government-approved valuer, Shri Soni Kartikey Vasantrai, correctly mentioned the applicable tariff value of the gold buckle as Rs.12,25,254/-, he simultaneously certified a higher market value of Rs.13,41,311/- without any legal justification, despite the goods having been seized within the customs area of the airport prior to clearance. It was argued that under the Customs Act and applicable valuation rules, tariff value alone is relevant for assessment of duty, penal consequences, and arrest thresholds in such circumstances, while market value is legally irrelevant at that stage. The inclusion of market value was therefore alleged to be a conscious and mala fide act intended to artificially raise the aggregate value of the seized goods in order to justify stricter penal action and arrest. It was further contended that this dual valuation reflected lack of independence on the part of the valuer, amounted to selective and arbitrary application of valuation principles, and deviated from established customs practice. Such deliberate inflation of value was argued to be an abuse of power, violative of constitutional safeguards relating to personal liberty, and sufficient to vitiate the valuation certificate as well as all consequential actions, including the arrest, which were stated to be illegal and without jurisdiction.

### **No Chain of Custody was Maintained. Transfer of Custody of the Goods Between Officers Not Duly Documented. There is No Proof That the Items Assessed/Valued On 7-3-25 were the Same of Those Recovered/Seized on 6/7-3-25:**

It was submitted that the panchnama and valuation report dated 7th March 2025 are fundamentally flawed because no proper chain of custody was maintained between the recovery of the goods on 6/7 March and their purported valuation the next day. The noticee argued that the DRI officers reused the same photograph in both panchnamas, creating serious doubts about whether the items assessed on 7th March were the same as those recovered on 6/7 March, and whether any tampering or substitution occurred during transit or storage. The submission emphasized that when custody of evidence is transferred between officers, the prosecution must provide contemporaneous records to prove continuity, and mere presumption is insufficient. Without documentation showing who handled the items, when, and under what conditions, the integrity of the evidence is compromised. It was argued that chain of custody is essential to ensure evidence is genuine, untampered, and legally admissible, and the failure to maintain it in this case renders both the

panchnama and valuation report inadmissible, raising serious doubts about manipulation and falsification of the proceedings.

**Competence of Shri Soni Kartikey Vasantrai in assessment of the value of the diamonds is questionable. Challenging the validity and legality of the proceedings conducted on 07.03.2025 and the valuation certificate issued by Shri Soni Kartikey Vasantrai for the diamonds:**

It was submitted that the proceedings conducted on 07.03.2025 for the valuation of diamonds, and the valuation certificate issued by Shri Soni Kartikey Vasantrai, are fundamentally flawed, illegal, and inadmissible. The noticee contended that Shri Vasantrai's competence to assess diamonds is questionable, as he had only been engaged for valuation of the gold buckle during the first panchnama on 06/07.03.2025 and was explicitly not requested to value the diamonds at that time, indicating that he was not considered qualified for such assessment. The second proceeding on 07.03.2025 involved a different set of officers, lacked a documented chain of custody, and failed to establish that the diamonds assessed were the same as those seized, raising serious doubts about authenticity and integrity. Further, the absence of proper documentation, the involvement of unqualified staff, and the contradictory positions on the valuer's competence render the process opaque, inconsistent, and prejudicial to the noticee. It was argued that, in light of these serious deficiencies, the 07.03.2025 proceedings and the valuation certificate for the diamonds cannot be relied upon, and a fresh valuation should be conducted by a three-member panel of independent, certified diamond experts with substantial industry experience to ensure transparency, accuracy, and credibility. The noticee prayed that the 07.03.2025 proceedings and the associated valuation certificate be declared invalid and inadmissible, and that any action based on them be set aside as illegal and without jurisdiction.

**Seizure Memo dated 7-3-25 was issued without a DIN. In the absence of a DIN, the Seizure Memo in question should be considered that it was never issued.:**

It was respectfully submitted that the Seizure Memo dated 07.03.2025 issued by the I.O/DRI/Ahmedabad for the diamonds and gold valued at Rs. 3,39,08,200/- and Rs. 13,41,311/- respectively, is invalid as it was issued without a Document Identification Number (DIN). The DIN system, introduced by the CBIC from 08.11.2019 through Circulars 37/2019-Customs and 43/2019, mandates that all departmental communications—including notices, orders, summons, letters, and correspondence—must bear a DIN to ensure transparency, accountability, and legality. Any communication issued without a digitally generated DIN is considered non-est in law and holds no validity. Since the seizure memo lacked a DIN, it must be treated as never issued, rendering the seizure itself invalid, and consequently, the arrest based on that seizure illegal. It was further submitted that compliance with statutory requirements is mandatory, and failure to adhere to such provisions carries the specified legal consequences, as affirmed by the Supreme Court in *Baru Ram vs. Parsanni AIR 1959 SC 93*.

**Arrest of the noticee based on the valuation report issued by the so-called Government Approved Valuer Shri Soni Kartikey Vasantrai was illegal. Request for revaluation of the diamonds under seizure was rejected without giving any reason:**

It was submitted that the arrest of Shri Jay Hiteshkumar Bambharoliya based on the valuation report issued by the Government Approved Valuer, Shri Soni Kartikey Vasantrai, was illegal and procedurally flawed. The noticee, a 19-year-old from a modest agricultural family, had traveled to Bangkok to explore employment in his uncle's jewelry business and had been entrusted with diamonds and gold by his uncle to sell in India, with explicit instructions to declare the goods and pay customs duty. However, in a misguided attempt to evade duty, he concealed the goods, leading to

interception by DRI officers at Ahmedabad Airport. The valuation report, relied upon for his arrest, was fundamentally defective: it used an unauthorized form, failed to count individual diamonds, ignored basic gemological assessment protocols, and lacked disclosure of methodology, equipment, or the valuer's credentials. The noticee argued that this overvaluation—assigning Rs. 3.39 crore for diamonds instead of the actual invoice value of approximately Rs. 38.7 lakh—artificially converted a bailable offense into a non-bailable one, causing undue hardship. The arrest was therefore arbitrary, violating principles of fairness, due process, and Article 21 of the Constitution. It was also submitted that as per established CESTAT precedents, proper diamond valuation requires two independent experts—one chosen by the department and another by the appellant—rather than reliance on a single valuer, and that the correct customs valuation should consider the invoice value of Rs. 38.73 lakh. The noticee challenged the admissibility and credibility of the valuer's report and requested a reassessment to ensure compliance with legal and procedural safeguards.

**The diamonds were not assayed on the basis of the standard procedure. The valuation certificate issued by Shri Soni Kartikey Vasantri is liable to be rejected:**

It is submitted that the valuation certificate issued by Shri Soni Kartikey Vasantri for the diamonds seized from Shri Jay Hiteshkumar Bambharoliya is fundamentally flawed and legally unreliable. During the initial proceedings, DRI did not directly request Shri Soni for the valuation, and he was accompanied by two assistants, raising questions about his sole competence and whether all three should have signed the certificate. Moreover, the number of diamonds was never ascertained, and the assessment was conducted using a synthetic diamond scanner on bulk pouches rather than individual stones, ignoring the 4Cs grading system (carat, cut, color, clarity), inclusions, and other parameters critical for proper valuation. The certificate only considered weight and rough shape, with size fractions presented in a manner potentially misleading to non-experts. Shri Soni himself is a diamond trader, which raises conflict-of-interest concerns, and the certificate failed to explain the methodology or reasoning for the assigned value of Rs. 3.39 crore. Legal precedents under the Indian Evidence Act, 2023 and Supreme Court judgments emphasize that expert opinions must be based on clear data, methodology, and reasoning, enabling the Court to independently test their accuracy. In the present case, the certificate provides no such basis, making it inadmissible and liable to be rejected, as it cannot be relied upon to determine the value of the diamonds or justify the noticee's arrest or other proceedings.

**Denial of request for revaluation and violation of principles of natural justice. Prejudice was caused to the noticee:**

It is respectfully submitted that Shri Jay Hiteshkumar Bambharoliya, through his authorized advocate, had made detailed and well-reasoned requests for revaluation of the diamonds seized from him, including a reminder dated 31.07.2025, but these were completely ignored by the authorities without any reasons or justification. The requests highlighted serious concerns regarding the exorbitantly high valuation of Rs. 3,39,08,200/-, the lack of specialized expertise of Shri Kartikey Vasantri Soni in valuing cut and polished diamonds, and the need for revaluation by a three-member panel of independent certified diamond experts using proper gemmological methods. By refusing to consider this request, the authorities violated the principles of natural justice, including the audi alteram partem rule, and failed to provide Shri Jay Hiteshkumar Bambharoliya an opportunity to challenge a crucial piece of evidence that determined whether the alleged offense was bailable or non-bailable, justified his arrest, and affected penalties. The authorities' complete silence and issuance of the Show Cause Notice without addressing or even acknowledging the representation constitute arbitrary exercise of power, bias, suppression of material facts, and a denial of the fundamental right to a fair hearing, thereby causing grave prejudice to the

noticee. It is therefore submitted that the Show Cause Notice cannot be sustained without first conducting a comprehensive revaluation by a panel of three independent certified diamond experts, as requested, to ensure fairness, accuracy, and adherence to the principles of natural justice.

**The Noticee's statement dated 7-3-25 was involuntary and against truth. It cannot be relied upon:**

It is respectfully submitted that the statement made by Shri Jay Hiteshkumar Bambharoliya on 7-3-25 was involuntary, given under force, threat, or coercion, and is therefore legally unreliable and cannot be relied upon. The law clearly establishes that no confession or statement is admissible against an accused unless it is voluntary, made without fear of prejudice, hope of advantage, or coercion, and reflects the free will of the person. The noticee's statement was contrary to the truth, and there is no corroborative evidence supporting it. Sections 24–27 of the Evidence Act, 1872, along with constitutional safeguards and Supreme Court precedents, emphasize that involuntary confessions are inherently untrustworthy, and confessions obtained under coercion, inducement, or oppressive conditions must be excluded. Numerous judgments, including *Shankaria v. State of Rajasthan*, *Sevantilal Karsondas Modi v. State of Maharashtra*, and *Nazir Khan v. State of Delhi*, confirm that confessions must be voluntary, truthful, and supported by corroboration to be admissible. In the present case, the statement was taken in circumstances that raise serious doubt as to its voluntariness, and reliance on it would violate the noticee's rights against self-incrimination and due process. Therefore, the statement dated 7-3-25 is inadmissible, should be excluded from evidence, and cannot form the basis of any adverse action against the noticee.

**Retracted statement of the noticee dated 7-3-25 in the absence of any corroborative evidence from an independent source outside the confession should not have been relied upon in the present case:**

The noticee respectfully submitted that the retracted statement of Shri Jay Hiteshkumar Bambharoliya dated 07.03.2025 cannot be relied upon in the absence of independent corroborative evidence. At the time of the alleged seizure, he was only 19 years old and lacked understanding of technical and legal provisions, and the statement was recorded under coercion, forcing him to sign it. While the statement claimed involvement of an unknown person and absence of relevant documents, independent invoices and submissions proved otherwise, undermining the veracity of both the 07.03.2025 and 29.08.2025 statements. Legal principles, including Sections 24, 26, 108 of the Evidence Act and Customs Act, Supreme Court precedents such as *Rafikul Alam v. State of West Bengal*, *Vinod Solanki v. Union of India*, and multiple High Court rulings, consistently hold that a retracted confession is a weak piece of evidence and cannot form the sole basis for conviction or penalty without independent corroboration. The retracted statement, being potentially influenced by inducement, threat, or pressure, lacks reliability and must be discarded in judicial or quasi-judicial proceedings. Therefore, the noticee argued that no adverse action can validly be based solely on the retracted statement dated 07.03.2025.

**CDRs in the absence of certificate under section 65B of the Evidence Act cannot be relied upon:**

The noticees submitted that the Call Data Records (CDRs) relied upon by the Department cannot be admitted as evidence in the absence of a certificate under Section 65B of the Indian Evidence Act, 1872. The CDRs were used to allege that the noticees were in contact before and during the alleged offence, yet copies of the records were not provided to them. Section 65B mandates that electronic records, including CDRs, must be accompanied by a certificate from a senior officer responsible for the computer on which the records were generated or stored, verifying the authenticity

and integrity of the data. Mere printouts without such certification are inadmissible as secondary evidence, and oral testimony about the contents of the electronic record cannot substitute for this statutory requirement. Further, the SCN does not specify the subject matter of the calls, and there is no independent corroboration that these calls relate to any illegal activity. Reliance on unverified CDRs alone cannot establish culpability. The noticees cited judgments from the Delhi High Court (*Vikas Shukla v. CBI*) and CESTAT Bangalore (*Shafeek P.K. v. Commissioner of Customs*) to support the principle that call records without proper certification or context are insufficient to sustain allegations, and therefore the CDRs relied upon are invalid and cannot form the basis of the SCN.

**Evidence i.e. whatsapp chats allegedly retrieved by forensic examination of the mobile phones cannot be relied upon in the absence of seizure of the mobile phone and absence of chain of custody:**

The noticee submitted that the WhatsApp messages allegedly retrieved from his mobile phone cannot be relied upon as evidence because the proper legal procedures were not followed. Although the SCN claimed that the iPhone 11 Pro Max was voluntarily provided and examined by the Digital Forensics Laboratory, the mobile phone was never formally seized, and no chain of custody was maintained, raising serious doubts about the integrity and authenticity of the data. The messages were used to implicate Shri. Bipinbhai Mansukbhai Barvaliya and Shri. Piyush Parsothambhai Barvaliya in the alleged transactions, but neither of them was examined to corroborate ownership or involvement. The noticee argued that electronic communications are only admissible if they are relevant, authentic, and obtained through lawful procedures, with proper certification or expert verification; otherwise, they could be manipulated or altered. Citing *Archana Rawat vs Ashok Kumar Rawat*, it was noted that printouts of messages require proper proof under the Indian Evidence Act, and mere retrieval without legal formalities is insufficient. Given the absence of seizure and chain of custody, the noticee emphasized that the alleged WhatsApp evidence is unreliable, could have been tampered with, and therefore cannot be relied upon in the proceedings.

**Contradictions in the statements of the noticee prove that they were not true and voluntary:**

The noticee submitted that the contradictions in his statements demonstrate that they were neither true nor voluntary. His statement dated 07.03.2025 claimed that in Thailand, Shri Piyush Parsothambhai Barvaliya gave him the gold belt buckle and diamonds to hand over to an unknown person, whereas his later statement dated 29.08.2025 clarified that the gold buckle belonged to Shri Bipinbhai Mansukbhai Barvaliya and the diamonds were brought by his uncle, Shri Piyush Parsothambhai Barvaliya, for trading on a commission basis in India. However, neither Shri Bipinbhai nor Shri Piyush Parsothambhai was interrogated to verify the second statement. The Adjudicating Authority relied solely on the 29.08.2025 statement, ignoring the 07.03.2025 statement. Moreover, the invoices for the gold and diamond purchases, submitted along with Shri Jay Hiteshkumar Bambharoliya's bail petition, show that the 29.08.2025 statement was truthful and voluntary, thereby undermining any reliance on the earlier contradictory statement. This proves that the first statement cannot be considered reliable.

**Question of applicability of the legal provisions alleged in the impugned Show Cause Notice:**

The noticee submitted that the legal provisions cited in the impugned Show Cause Notice dated 03.09.2025, including the Customs Act 1962, Baggage Rules, Foreign Trade Policy, DGFT Notifications, and Sections 7, 11, 2(33), 2(39), and 123 of the Customs Act, were not fully applicable to his case. He argued that while passengers are required to declare dutiable goods, the applicability of these provisions depends

on whether the goods carried fall under dutiable or restricted categories and whether the quantities were commercial in nature. He further stated that the noticee was not eligible to import commercial quantities and did not possess an Importer Exporter Code, and that mere carriage of goods does not automatically constitute smuggling without proof of intent or procedural violation. He emphasized that the SCN failed to demonstrate the applicability of the provisions to his specific circumstances and that compliance with legal definitions, eligibility criteria, and quantity restrictions was essential before alleging a violation.

**Challenge to the applicability of the abovesaid provisions:**

**i. Section 77 of the Customs Act, 1962:** The noticee contended that Section 77 of the Customs Act, 1962 was misapplied in his case, as he was apprehended at the immigration counter, not at the green channel as alleged in the Panchanama dated 06/07.03.2025, which he claimed was fabricated by the DRI. He argued that if the interception at the green channel were true, a personal search should have been conducted under the direction of a Gazetted Officer of Customs or a Magistrate as required under Section 102(3), which did not happen, and the Superintendent of Customs, Shri Uma Ram, did not authorize or sign the Panchanama. He maintained that he voluntarily disclosed and handed over the gold and diamonds at the immigration counter, but the DRI prevented him from formally declaring the goods at the red channel. He further stated that independent witnesses were available and proceedings were recorded on mobile phones, but such evidence was ignored. The noticee requested that CCTV footage from the immigration counter and green gate exit be examined to verify the facts and to allow cross-examination of Panchanama witnesses, emphasizing that without such digital evidence, the claim that he failed to declare the goods at the red channel was entirely incorrect.

**ii. Classification Of Baggage Goods:** The noticee acknowledged that the imported goods fell under Customs Tariff Heading (CTH) 98.03, but submitted that certain procedural exemptions apply to the clearance of baggage goods, which he stated would be discussed in the following paragraphs.

**iii. Section 11 Of the Customs Act 1962:** The noticee submitted that while Section 11 of the Foreign Trade (Development & Regulation) Act, 1992 and the Foreign Trade Policy declare certain restrictions, these must be read along with Section 11(3) of the Customs Act, 1962, which requires that any prohibition or restriction on import or export must be specifically notified under the Customs Act to be enforceable. Since gold and diamonds were not notified under Section 11 of the Customs Act, the noticee argued that any action regarding their import should follow the applicable provisions of other laws. He further noted that under the Foreign Trade Policy 2023, gold is a restricted item, but for baggage imports, no such restriction existed, as reflected in Notification No. 26/2016-Customs dated 31.03.2016.

**iv. Gold Whether Restricted for Import as Baggage Goods:** The noticee submitted that although gold is generally a restricted item for import by general importers, passengers and crew are permitted to import gold in any form without restriction, as per Notification No. 26/2016-Customs dated 31.03.2016, amended by a corrigendum on 02.04.2016 under Section 25 of the Customs Act, 1962, and that this notification was not mentioned in the show cause notice.

**v. Non-Applicability of Notification No.50/2017-Customs (TARIFF):** The noticee submitted that while it was true he was not eligible to import goods under Notification No. 50/2017-Customs dated 30.06.2017, Notification No. 26/2016-Customs dated 31.03.2016, as amended on 02.04.2016, specifically applies to passengers and crew not covered under Notification No. 50/2017. He further noted that in case the customs duty was high, an Indian tourist could exercise the option to export the goods under Section 80 of the Customs Act, 1962.

**vi. Commercial Quantity:** The noticee submitted that the term “commercial quantity” does not appear in para 2.27 of the Foreign Trade Policy (FTP) 2023. He noted that para 2.27(a) only refers to bona fide household goods and personal effects being allowed as passenger baggage under limits, terms, and conditions set out in the Baggage Rules framed under Section 79 of the Customs Act, 1962. Since commercial quantity is not defined or notified under any Customs law, the goods cleared under Notification No. 50/2017-Customs dated 30.06.2017 and Notification No. 26/2016-Customs dated 31.03.2016 (amended 02.04.2016) should be considered bona fide baggage goods.

**vii. Requirement Of IEC:** The noticee contended that although Section 7 of the Foreign Trade (Development & Regulation) Act, 1992 mandates that no person shall import goods without an Importer Exporter Code (IEC), certain provisions of the Foreign Trade Policy (FTP) are exempted for baggage goods. He submitted that para 2.05(a) of FTP 2023 requires an IEC for import or export unless specifically exempted, and that para 2.07(a)(i) of the Handbook of Procedures read with Order 3(2)(c) of the Foreign Trade (Exemption from Application of Rules in Certain Cases) Order, 1993 exempts bona fide baggage imports from the IEC requirement. Therefore, he argued that the allegation that he imported goods without a valid IEC was legally untenable.

**viii. Prohibition And Smuggling:** The noticee argued that the general provisions regarding smuggling under Section 2(39) and prohibited goods under Section 2(33) of the Customs Act, 1962, must be established through proper evidence. He submitted that “prohibited goods” under Section 2(33) exclude goods for which the conditions of import or export have been complied with, and that the gold and diamonds he carried were dutiable baggage items permitted under Notification No. 26/2016-Customs dated 31.03.2016, which imposed no restrictive conditions. Therefore, he contended that the goods were not prohibited, and that smuggling under Section 2(39) could not be alleged, since any act or omission attracting confiscation under Sections 111 or 113 did not occur. He further noted that only CCTV footage could verify any such alleged non-declaration, which had not been produced.

**ix. Burden Of Proof:** The noticee submitted that under Section 123 of the Customs Act, 1962, the burden of proof lies on the person if goods notified under the section are seized on reasonable belief. However, he contended that he was intercepted at the immigration counter and prevented from paying the applicable duty at the red channel customs counters, making the seizure itself illegal. Consequently, he argued that Section 123 was not applicable in the present circumstances.

**Misuse of power by DRI officers. Mandatory provision 102(3) was not adhered to in the present case:**

The noticee contended that the DRI officers had misused their powers and failed to comply with the mandatory provisions of Section 102(3) of the Customs Act, 1962. He submitted that he was intercepted at the immigration counter, his baggage collected from the belt, and he was prevented from approaching the red channel Customs officers to declare his goods under Section 77. The delegation of powers under Customs Notification No. 26/2022 did not authorize the Intelligence Officer of DRI to act in this manner, as he was not a proper officer under Section 77. The noticee argued that although the panchnama dated 06/07.03.2025 mentioned his option to be searched before a Gazetted Officer, Shri. Uma Ram, the purported Gazetted Officer, did not issue any order under Section 102(3), nor did he sign the panchnama to confirm his presence. The personal search was thus conducted without adherence to the legal safeguards, vitiating the proceedings. He cited the Bombay High Court in *Union of India vs. Narendra Ratanchand Jain* and the Supreme Court in *Vijaysinh Chandubha Jadeja vs. State of Gujarat*, emphasizing that non-compliance with Section 102(3) deprives the suspect of procedural protection and renders the search and seizure suspect. In the instant case, the absence of CCTV footage and mandatory

orders under Section 102(3) demonstrated that the interception and seizure were legally untenable.

**Proposal for confiscation of the goods under section 111 is not maintainable:**

The noticee argued that the proposal for confiscation of the seized gold and diamonds under Sections 111(d), 111(i), 111(l), and 111(m) of the Customs Act, 1962 was legally unsustainable. He submitted that under Section 111(d), only prohibited goods can be confiscated, but the seized items were baggage goods classified under CTH 98.03, dutiable but not prohibited, and exempt from the IEC requirement for bona fide baggage imports, making confiscation under this subsection inapplicable. Regarding Section 111(i), the noticee contended that the allegation of concealment was invalid since the mandatory procedure under Section 102(3) was not followed, and the goods were voluntarily declared at the immigration counter; any attempt to show concealment via a fabricated panchnama without CCTV verification was untenable. For Section 111(l), since he was prevented from declaring the goods to the proper officer at the red channel, confiscation for non-declaration or excess goods was unjustifiable. Similarly, under Section 111(m), he argued that the alleged misdeclaration of value was baseless because he voluntarily declared the diamonds' value as Rs. 38,73,975/- supported by invoices from K.D. International Group Co. and Aunrean Gems Company Limited, and no investigation challenged these declared values; gold assessment was also made per the tariff value, making the confiscation proposal legally untenable.

**Challenge to the show cause notice on the ground of fatal ambiguity in proposal for imposition of penalty under para 20.1(iv):**

The noticee contended that the show cause notice dated 03.09.2025 was fundamentally defective and legally untenable due to a fatal ambiguity in the proposal for imposition of penalty under para 20.1(iv). He submitted that the notice addressed three distinct noticees but used the singular pronoun "him" while proposing penalties under Sections 112 and 114AA of the Customs Act, 1962, without specifying which of the three noticees was intended to be penalized. This ambiguity, he argued, prevented any of the noticees from understanding whether they were individually liable or whether the penalty applied collectively, thus violating their right to be heard and undermining natural justice. He emphasized that the three noticees had distinct roles in the alleged smuggling operation, which would attract different degrees of culpability and penalty, making clarity essential. Reliance was placed on precedents such as *M/s Shubham Electricals vs Commissioner of Service Tax*, where ambiguous show cause notices were quashed. The noticee further argued that the body of the SCN could not cure this defect, as the operative portion proposing the penalty must itself be explicit, and that the ambiguity had practical consequences for adjudication proceedings, rendering them legally unsustainable. Therefore, he submitted that the SCN was incurably defective, violated principles of natural justice, and could not form a valid basis for adjudication, and it must be set aside.

**Proposal for imposition of penalty under Section 112 is invalid:**

The noticee contended that the proposal to impose penalty under Section 112 of the Customs Act, 1962 in the show cause notice dated 03.09.2025 was legally untenable due to a failure to specify whether the penalty was being invoked under Section 112(a) or 112(b). He submitted that the omission rendered the notice vague and ambiguous, preventing him from understanding the precise charge or preparing an effective defense. Reliance was placed on *B. Lakshmidhand v. Government of India (1983 12 ELT 322, Madras)* and *Collector of Customs and Central Excise, Chandigarh v. C. Ajit Singh (32 ELT 769, Tribunal)*, which held that penal provisions must be invoked with precision, and failure to specify the applicable clause invalidates the penalty. He further argued that Sections 112(a) and (b) relate to distinct offences, and the

adjudicating authority must identify the specific clause in both the show cause notice and the final order. Additionally, he contended that the simultaneous proposal of penalties under Sections 112 and 114AA for allegedly interconnected violations of the same transaction was arbitrary and unsustainable. Since he had been intercepted before reaching the Customs counter and prevented from declaring the goods, the applicability of Section 114AA was further contested. In view of these defects, he submitted that the SCN proposing penalties under Sections 112 and 114AA was perverse, legally untenable, and liable to be set aside.

**Demand of interest payable u/s 28AA of the Customs Act 1962 not sustainable:**

The noticee submitted that the demand for interest under Section 28AA of the Customs Act, 1962 was unsustainable. He contended that interest under Section 28AA is payable only by a person liable to pay duty, and it accrues from the first day of the month following the month in which the duty ought to have been paid. In the present case, the goods had been seized and remained in the custody of the department, and the duty payable had not yet been determined. He argued that interest could only be charged once the duty is assessed and cleared, i.e., from the date of the adjudicating authority's order confirming the duty. Therefore, any claim of interest prior to such assessment or clearance was legally untenable, and the liability to pay interest would arise only after the order on the impugned SCN was passed.

**The noticee claims ownership of the gold and diamonds under seizure and redemption of the goods for re-export:**

The noticees submitted that the gold and diamonds under seizure belonged to them, with Noticee-2, Sri Piyush Parsotham Baravaliya, being the owner and having handed the goods to Shri Jay Hiteshkumar Bambharoliya for transport to India as baggage. They argued that the goods were legally importable and that the detention of Shri Bambharoliya prevented proper declaration, making any alleged misdeclaration unproven. They further contended that the seized items were restricted but not prohibited, and under Section 125 of the Customs Act, 1962, the adjudicating authority was obliged to provide the owner or possessor the option for redemption on payment of applicable duty or fine. The noticees cited legal provisions and precedents, including the Supreme Court and High Court rulings, which upheld the discretionary power of authorities to release confiscated goods on payment of a redemption fine, emphasizing that ownership or possession establishes entitlement. They concluded that, considering these facts and judicial precedents, the seized gold and diamonds should be released to them for redemption or re-export.

**Summary of the submissions:** The noticees submitted that Shri Uma Ram, Superintendent of Customs, did not sign the Panchanama dated 06-07.03.2025, and therefore his presence and the mandatory order under Section 102(3) of the Customs Act, 1962, were not proved, rendering the search and seizure proceedings invalid. They further argued that although Panchas were present during the search of Shri Bipin Mansukhbhai Baravaliya's residence on 11.03.2025, the DRI officers relied on mobile recordings instead of available CCTV footage at SVPI Airport, which should be examined due to contradictory claims about the place of interception of Shri Jay Hiteshkumar Bambharoliya. The noticees contended that gold and diamonds were freely importable as baggage under Notification No. 26/2016 and were not prohibited, and that Shri Bambharoliya was intercepted before he could declare the goods, making the seizure invalid and the goods liable to be treated as detained under Section 80 for re-export to Bangkok. They challenged the valuation certificate dated 07.03.2025, claiming it was not based on proper 4Cs testing and falsely inflated the value of 552.55 carats of diamonds. They also noted that invoices proving legitimate sale and transfer of the goods were submitted but ignored, and the invoice value should be considered for duty assessment or re-export. Finally, they submitted that the statements recorded

from Shri Bambharoliya on 07.03.2025 and 29.08.2025 were coerced, inconsistent, and therefore unreliable.

**Final submission:** The noticees finally submitted that they respectfully requested the proposed confiscation of the seized goods to be dropped, and since the seizure itself was invalid, they prayed that the goods be released and allowed for re-export to Thailand under Section 80 of the Customs Act, 1962.

### **19.1.3 DEFENSE REPLY OF SHRI PIYUSH PARSOTAMBHAI BARAVALIYA:**

The defense reply of Shri Piyush Parsotambhai Baravaliya, submitted through his advocate Shri Rishikesh Mehra, stated that the noticee-2 had been residing in Bangkok since 2011 and ran a diamond and gold jewelry business under M/s K.D. International Co Ltd. He clarified that noticee-1, Shri Jey Hiteshkumar Bambharoliya, was his sister's son, and noticee-3 was also a close relative. The reply contended that the allegations of noticee-2 facilitating illegal importation of gold and diamonds were legally untenable, as the diamonds and gold were supplied as gifts with invoices, and noticee-1 was instructed to declare them at the red channel but was intercepted at the immigration counter. The defense emphasized that the underwear in which the diamonds were carried had pockets designed for safe transport, not for concealment, and that baggage goods like gold and diamonds fall under Sections 77-81 of the Customs Act, which govern passenger imports, making noticee-2 not responsible for declaration. The reply further noted that the diamonds and gold were dutiable but not prohibited under Customs Notification No. 26/2016, and no mis-declaration could be attributed to noticee-2. It was argued that coercive statements from noticee-1 did not implicate noticee-2, and the alleged concealment in the underwear was an unsubstantiated tactic. Finally, the defense requested that CCTV footage from the green channel, immigration area, and baggage conveyor belt be examined to verify the true sequence of events before any orders were passed.

#### **Contradictions In the Statements of The Noticee-1:**

It was argued that the statements of noticee-1 contained clear contradictions. In his 07.03.2025 statement, he reportedly claimed that noticee-2 handed him a gold belt buckle and underwear concealing diamonds, instructing him to hand them over to someone at home after leaving SVPI Airport, with payment to follow. However, in the 29.08.2025 statement, noticee-1 allegedly claimed that the gold belt buckle was brought under noticee-3's directions and that the diamonds were given to him for his own business on commission. The defense contended that these discrepancies demonstrated that both statements were fabricated, untrue, and involuntary. Further, it was noted that the invoices for the diamonds had already been provided to DRI in March 2025 with the bail application, yet the 29.08.2025 statement falsely claimed that noticee-2 had not supplied them, indicating deliberate fabrication intended to support false allegations by the DRI.

#### **Error In Valuation Certification:**

It was submitted that there were significant errors in the valuation of the diamonds by the DRI. The valuation report No. 1745/2025-25 dated 07.03.2025, issued by Sri. Soni Kartikey Vasantrai of KV Jewels, allegedly did not include the complete testing results and incorrectly valued 552.55 carats of diamonds at Rs. 3,39,08,200/-. The noticee-1, during bail proceedings and in a request for revaluation to the Principal Commissioner of Customs, had declared the value of the diamonds at Rs. 38,73,975/- as per invoice No. 498573 dated 05.03.2025 issued by K.D. International Group Co Ltd, Bangkok, supported by the supplier invoice No. 428967 dated 04.03.2025 from Aunrean Gems Company Limited. It was argued that since the declared value was not formally rejected under the Customs Act, 1962, it should be considered for all customs purposes.

Further, it was contended that during the first panchnama on 06/07.03.2025, the DRI did not engage Sri. Soni Kartikey Vasantryai initially and instead sought an unknown customs officer to arrange a diamond valuer, who was unavailable. Vasantryai later appeared on 07.03.2025 with two assistants, Sri. Manish Vanechand Sanghvi and Sri. Mahendra Ajay Bhai Paris, to assess the diamonds. The defense argued that this raised two possibilities: either Vasantryai was not a qualified valuer and thus the valuation certificate was invalid, or multiple experts assessed the diamonds, in which case the certificate should have been jointly signed, which it was not. Additionally, it was noted that Vasantryai was a diamond trader himself, raising a potential conflict of interest, and cross-examination was necessary to verify whether he would personally purchase the diamonds at the value stated in his certificate.

### **Diamonds Grading & Valuation – Authenticated Method:**

It was submitted that the valuation of the diamonds by Sri. Soni Kartikey Vasantryai was fundamentally flawed and did not follow authenticated methods recognized internationally, such as those prescribed by the Gemological Institute of America (GIA). The GIA grading system assesses diamonds based on the “Four Cs” — Color, Clarity, Cut, and Carat weight — with precise measurement standards, whereas Vasantryai’s report failed to test inclusions affecting clarity, assess color properly, or consider the cut. Instead of quoting carat weights in standard terms, he used fractions (1/2, 1/3, etc.), which could mislead the Adjudicating Authority and non-experts, since one carat equals 100 points. It was noted that Vasantryai himself had previously acknowledged in a 2013 blog post the importance of evaluating all four parameters for accurate diamond valuation.

Further, under Section 45 of the Bharatiya Sakshya Adhinyam, 2023, expert opinions must include the grounds and data on which the opinion is based to allow the court to independently assess the evidence. Supreme Court judgments were cited to show that expert evidence is advisory and must be supported by methodology and rationale. In the instant case, Vasantryai did not provide reasoning or test results for each diamond individually, merely stating limited parameters like round shape and approximate size. As such, it was argued that his valuation certificate No. 1745/2025-25 dated 07.03.2025 was invalid and that the invoice-declared value of Rs. 38,73,975/- should be accepted for all customs purposes.

### **Personal search carried out on noticee-1 is illegal:**

It was submitted that the personal search of noticee-1 at SVPI Airport was illegal. The submission highlighted that while Section 100 of the Customs Act, 1962 empowers a customs officer to conduct a personal search, Section 102 lays down mandatory procedural safeguards. In particular, Section 102(3) requires that a gazetted customs officer or magistrate must either discharge the person if no reasonable grounds exist or direct that the search be conducted. In this case, it was contended that Sri. Uma Ram, Superintendent of Customs, did not direct or authorize the search in writing, nor was his presence during the search proved, as he did not sign the Panchanama dated 06/07.03.2025. It was further stated that noticee-1 had already voluntarily disclosed possession of the impugned gold and diamonds to the officers who intercepted him, making a personal search unnecessary. Therefore, it was argued that the DRI had fabricated documentation regarding the personal search to falsely establish an allegation of concealment.

### **Challenge to the show cause notice on the ground of fatal ambiguity in proposal for imposition of penalty under para 20.1(iv):**

It was submitted that the Show Cause Notice dated 03.09.2025 issued to three distinct noticees regarding alleged smuggling of gold and diamonds suffers from a fundamental ambiguity in para 20.1(iv), rendering it legally untenable and violative of natural justice. The submission pointed out that the notice proposes a penalty under Sections

112 and 114AA of the Customs Act, 1962 using the singular pronoun “him” without specifying which of the three noticees is intended to be penalized. This ambiguity was said to prevent the noticees from knowing the precise case against them, thereby undermining their ability to prepare an effective defense. It was emphasized that each noticee had a distinct role—noticee-1 as the carrier of goods, noticee-2 as the supplier, and noticee-3 as the facilitator—and that Sections 112 and 114AA require individual determination of culpability. Reliance was placed on judicial precedents, including *M/s Shubham Electricals vs. Commissioner of Service Tax*, to argue that vague or ambiguous show cause notices are unsustainable. The submission further contended that the ambiguity cannot be cured by reading the notice as a whole or by subsequent clarification, and that the singular reference “him” fails to inform whether penalty is proposed against one or all three noticees. It was highlighted that this defect not only violates the principles of natural justice but also creates practical difficulties for adjudication, as it is unclear whose defense should be considered regarding the penalty. Consequently, it was urged that the notice is fundamentally defective, legally unsustainable, and must be set aside.

**Proposal for imposition of penalty under Section 112 is invalid:**

The noticee argued that the Show Cause Notice (SCN) issued for the imposition of penalty under Section 112 of the Customs Act was ambiguous, as it did not specify whether the penalty was being proposed under Section 112(a) or Section 112(b). Citing the case of *B. Lakshmidhand vs. Government of India (1983)*, the noticee contended that penal action must clearly state the applicable clause, as failure to do so renders the proceedings invalid. They also referred to Tribunal rulings and Supreme Court judgments, such as *Thakur Amar Singh vs. State of Rajasthan*, emphasizing that such ambiguity violates natural justice and the noticee's right to know the charge against them. The noticee argued that the SCN's failure to specify the clause under Section 112 makes the penalty proposal legally unsustainable and requested the adjudicating authority to set aside the proposal for penalty on these grounds.

**Noticee is not liable for any penalty under section 114AA of the Customs Act, 1962:**

The noticee contended that they are not liable for any penalty under Section 114AA of the Customs Act, 1962, arguing that the provision requires a person to knowingly or intentionally make, sign, use, or cause to be made, signed, or used, any declaration, statement, or document that is false or incorrect in a material particular. They emphasized that a show cause notice must clearly specify the particular action alleged, the exact declaration, statement, or document involved, and the specific particulars claimed to be false or incorrect, to enable an effective defense. The noticee further argued that the mens rea requirement under Section 114AA places a heavy burden on the Department to prove conscious and deliberate wrongdoing, which was not discharged in the present case. They noted that the invoice issued by noticee-2, relied upon by noticee-1, was submitted in court and not proven to be forged or fabricated, and that the SCN did not render any specific finding against noticee-2. Consequently, the noticee maintained that the proposal to impose penalty under Section 114AA lacked proper application of mind and was legally untenable.

**Summary Of Defense Submission:** The noticee-2 submitted in their defense that the supply of the impugned gold and diamonds to noticee-1 was lawful, supported by invoices from K.D. International Group Co Ltd and Aunrean Gems Company, which were submitted to the DRI but ignored and never rejected. They argued that the diamond, weighing only 110.51 grams, was kept in the inner pocket of underwear—a feature commonly sold by top brands—and thus does not constitute concealment. Noticee-2 contended there is no evidence that they instructed noticee-1 to evade customs, and that the personal search of noticee-1 was invalid since no order under

Section 102(3) of the Customs Act, 1962 was passed. They further stated that merely monitoring noticee-1's travel cannot amount to facilitation of illegal import, and that the gold and diamonds are freely importable under Customs Notification No. 26/2016, so they cannot be treated as prohibited goods. As declarations under Section 77 of the Customs Act, 1962 must be made by the passenger at the Red Channel, noticee-2 argued they cannot be held liable for confiscation or penalties. They also highlighted contradictions in noticee-1's statements of 07.03.2025 and 29.08.2025, disputed the location of the alleged interception, and requested that CCTV footage and cross-examination of the panchas, officers, and diamond valuer Sri. Soni Kartikey Vasantrai be allowed before any order is passed. Lastly, they requested that evidence from officers who did not sign the panchnama dated 06/07.03.2025 should not be considered.

**Prayer:** The noticee-2 prayed that the action to impose penalty against them may be dropped in the interest of justice, and further requested leave to add, alter, or amend any of the submissions made, as well as an opportunity to be heard in person.

#### **19.4 DEFENSE REPLY OF SHRI BIPINBHAI MANSUKBHAI BARAVALIYA:**

The defense reply on behalf of noticee-3, Shri Bipinbhai Mansukbhai Baravaliya, submitted through his advocate Shri Rishikesh Mehra, stated that noticee-3 runs a metal sticker business and is also engaged in share trading, while being closely related to noticee-2 and noticee-1. It contended that the allegations in the show cause notice (SCN) claiming that noticee-3 monitored noticee-1's movements, arranged his travel, and was involved in the smuggling of gold and diamonds, were baseless. The defense argued that the alleged monitoring was merely family care, as noticee-1 was a 19-year-old relative traveling with valuable goods. It emphasized that the supply of gold and diamonds by noticee-2 to noticee-1 was supported by valid invoices, and that noticee-3 did not control the declaration of baggage goods under Section 77 of the Customs Act. The defense further highlighted that noticee-3's statement regarding his business was truthful and that the claims of misrepresentation were false, as the authorities already knew about his diamond and jewelry dealings. It also pointed out contradictions in noticee-1's statements, the misapplication of Customs notifications, and procedural irregularities in the investigation, including the rapid preparation of the SCN without confronting noticee-3 with key statements. Overall, the defense argued that noticee-3 was wrongly implicated, the SCN was legally untenable, and no penalty could be imposed on him under Sections 112 or 114AA of the Customs Act.

#### **Challenge to the show cause notice on the ground of fatal ambiguity in proposal for imposition of penalty under para 20.1(iv):**

The defense challenges the show cause notice (SCN) dated 03.09.2025 on the grounds of a fatal ambiguity regarding the proposed penalty under Section 112 and Section 114AA of the Customs Act, 1962. The SCN fails to clearly specify which of the three noticees (Noticee-1, Noticee-2, or Noticee-3) is being proposed for penalty. The use of the singular pronoun "him" in relation to three distinct individuals creates confusion and violates the principle of natural justice. The SCN is the foundation of any adjudication proceedings, and it must provide clarity to the noticees on what they are required to meet. In this case, the ambiguity makes it impossible for the noticees to ascertain who faces the penalty, which undermines their ability to prepare an effective defense. The defense further argues that the SCN should have clearly identified which individual was involved in which act, as the roles and culpability of the noticees are different, and penalties under the relevant sections of the Customs Act must be determined based on individual actions. The defense relies on precedents, including the case of *M/s Shubham Electricals vs. Commissioner of Service Tax*, where an

ambiguous SCN was quashed. The defect in the notice is considered fundamental, rendering it invalid and unsustainable, as it deprives the noticees of their right to a fair hearing. The ambiguity cannot be cured by subsequent clarification or interpretation and must result in the SCN being set aside. Moreover, the failure to clearly identify which noticee is subject to the penalty creates procedural complications in the adjudication process and undermines the fairness of the proceedings. Therefore, it is respectfully submitted that the SCN be quashed for its inherent defects.

**Proposal for imposition of penalty under Section 112 is invalid:**

The defense challenges the imposition of penalty under Section 112 of the Customs Act, 1962, on the grounds of ambiguity and lack of clarity in the show cause notice (SCN). The notice fails to specify whether the penalty is being proposed under Section 112(a) or 112(b), which are distinct provisions for different types of violations. According to the case law, particularly *B. Lakshmi Chand vs. Govt. of India* (1983) and *C. Ajit Singh* (32 ELT 769), if the authorities are unclear about which specific clause of Section 112 applies, the penalty cannot be sustained. The defense argues that the SCN's vagueness about the applicable clause, as well as the failure to clearly specify which provision applies to each noticee, renders the proceedings defective. The defense further emphasizes that the failure to mention whether the penalty falls under Clause (a) or (b) of Section 112 is not a mere technical error, but a critical flaw that affects the fairness of the proceedings. The legal effect of such ambiguity would be a failure to meet the statutory requirement for clarity and specificity, which is necessary for proper adjudication. The defense also cites rulings from the Supreme Court and Tribunal decisions to assert that such ambiguity in the SCN cannot be overlooked and must result in the notice being struck down. The penalty should be linked to clear evidence of the specific violation committed, and the adjudicating authority must specify which clause of Section 112 applies before proceeding with penalties. Thus, the imposition of penalty is invalid unless the notice clearly specifies the applicable clause of Section 112.

**Noticee is not liable for any penalty under section 114AA of the Customs Act, 1962:**

The defense submitted that the noticee should not be liable for any penalty under Section 114AA of the Customs Act, 1962, due to several key reasons. They argued that the show cause notice (SCN) lacked specificity, failing to identify which actions—such as making, signing, or using a false document—were allegedly committed by the noticee. Furthermore, the SCN did not clarify which documents were false or incorrect, making it impossible for the noticee to mount an effective defense. The defense also emphasized that Section 114AA requires proof of mens rea (intentional wrongdoing), and the Department had not demonstrated that the noticee had such intent. Additionally, they pointed out that the invoice provided by noticee-2 was not proven to be forged, and no findings were made regarding noticee-3's liability under Section 114AA. The defense argued that the proposal for penalty was based on vague and unsubstantiated allegations, thereby rendering it untenable and invalid.

**Summary Of Defense Submission:** The defense argued that the gold and diamonds involved in the case are not prohibited goods, as they are freely importable under Customs Notification No. 26/2016, and thus, Section 111(d) of the Customs Act cannot be invoked. The offense is a misdeclaration under Section 77 of the Customs Act, and only the passenger (noticee-1) is liable for any violation in making the declaration before the Customs officer, not noticee-3, who is a relative of noticee-1. The defense further pointed out inconsistencies in the statements of noticee-1, including contradictions between the statements of March and August 2025, which weaken the credibility of the allegations against noticee-3. They also highlighted that

the invoices for the gold and diamonds were legitimate and not rejected by the DRI, and that there is no evidence to prove that noticee-3 instructed noticee-1 to avoid declaring the goods. The defense also claimed that the search and seizure of noticee-1 were invalid, as the necessary order under Section 102(3) was not passed before the search. Additionally, the defense emphasized that the monitoring of noticee-1 by his family members cannot be considered as facilitation of illegal import. They requested that the penalty under Sections 112 and 114AA on noticee-3 be dropped and that cross-examination of investigating officers and noticee-1 be allowed before any decisions are made. They also requested that evidence from officers who did not sign the panchanama be excluded from consideration.

**Prayer:** The defense prayer is for the action to impose a penalty on noticee-3 to be dropped, seeking justice on the grounds of the arguments presented. Additionally, noticee-3 has requested to be heard in person during the proceedings.

### **19.5 REQUEST FOR OPPORTUNITY FOR CROSS-EXAMINATION OF WITNESSES, OFFICERS AND GOVERNMENT APPROVED VALUER:**

The defense, on behalf of noticee Shri Jay Hiteshkumar Bambharoliya, has formally requested an opportunity for cross-examination of various witnesses, officers, and the Government Approved Valuer involved in the adjudication process related to the Show Cause Notice issued on 03.09.2025. The defense argues that the proceedings must be fair and just, citing the fundamental right to cross-examine witnesses under Article 14 and 21 of the Constitution of India, as well as Section 122A of the Customs Act, 1962. The defense emphasizes that the right to cross-examine is crucial for ensuring the principles of natural justice and a fair hearing. It is pointed out that various courts, including the Supreme Court, have ruled that denying this right is a serious violation of natural justice. Moreover, the defense refers to legal precedents that support the necessity of addressing the request for cross-examination before finalizing the adjudication process. The defense further insists that the opportunity for cross-examination should be provided to test the validity and truthfulness of the statements relied upon by the department. This request is seen as part of ensuring the fairness of the adjudication and not an attempt to delay proceedings.

### **19.6 PERSONAL HEARING:**

Adequate opportunities of personal hearing were given to all noticees in the Show Cause on dated 10.11.2025, 19.11.2025, 01.12.2025, the noticees requested for adjournment and re-schedule the personal hearing after 10 to 15 days through their advocate. Accordingly, the noticees were given again an opportunity for appearing on 19.12.2025.

Accordingly, Shri Rishikesh J Mehra, Advocate, appeared for personal hearing on 19.12.2025, on behalf of the Noticees i.e. (i) Mr. Jay Hiteshkumar Bambharoliya, (ii) Mr. Piyush Parsotambhai Barvaliya and (iii) Mr. Bipinbhai Mansukhbhai Baravaliya.

He reiterated the written submission filed on 01.12.2025 and also requested to give the opportunity of cross examination of the witnesses, officers and Govt. approved valuer, has requested through his written request filed on 30.10.2025. He again requests to revalue the seized diamonds. He stated that the Noticees are not liable for any Penal Action.

He requested to release the seized goods and drop the SCN.

Further, during the Personal Hearing, Advocate Shri Rishikesh J Mehra submitted following submissions on behalf of the Noticees i.e. (i) Mr. Jay Hiteshkumar

Bambharoliya, (ii) Mr. Piyush Parsotambhai Barvaliya and (iii) Mr. Bipinbhai Mansukhbhai Baravaliya as under:-

**(i) Noticee Mr. Jay Hiteshkumar Bambharioliya:**

The reply submits that the entire proceedings against the noticee, a 19-year-old youth from a modest background, are vitiated by grave procedural illegality, fabrication of evidence, and systematic denial of natural justice. The case is founded on coerced and contradictory statements, illegal search and seizure, manipulated panchnamas, suppression of exculpatory material, and a grossly inflated and unscientific valuation of the seized gold and diamonds. The noticee was intercepted at the immigration counter before reaching the customs declaration area and was therefore prevented from exercising his statutory right to declare the goods at the red channel; moreover, the DRI officers who intercepted him were not the proper officers under Section 77 of the Customs Act. The absence of CCTV footage from the airport, despite its availability, coupled with duplicate photographs across separate panchnamas and a complete break in the chain of custody, raises serious doubts about the authenticity of the seizure and valuation proceedings. The mandatory safeguards under Section 102(3) governing personal searches were not followed, rendering the search illegal, while the seizure memo itself is invalid for want of a Document Identification Number. The valuation of diamonds was conducted by an incompetent and conflicted valuer without application of recognized gemmological standards, and the higher market value of gold was improperly relied upon to justify arrest. Requests for revaluation and cross-examination of key witnesses, including panchas, valuers, and officers, were arbitrarily denied, further violating the noticee's right to a fair hearing. The electronic evidence relied upon, including call records and WhatsApp messages, is inadmissible due to absence of statutory certification and lack of chain of custody. The legal provisions invoked in the SCN are inapplicable, as the goods are freely importable baggage items under Notification No. 26/2016-Customs and cannot be treated as prohibited goods, and the alleged violations relating to IEC and commercial imports do not apply to passenger baggage. Finally, the SCN suffers from fatal ambiguity by failing to clearly identify the noticee against whom penalties are proposed and by not specifying the applicable clauses of Sections 112 and 114AA, thereby depriving the noticee of a meaningful opportunity to defend himself. In these circumstances, the proceedings are legally unsustainable and deserve to be dropped in their entirety.

**(ii) Noticee Mr. Piyush Parsotambhai Baravaliya:**

The show cause notice proposing penalties against Noticee-2 is legally unsustainable as it is based on incorrect application of law, suppression of material evidence, and absence of mens-rea. Noticee-2, an NRI jeweler based in Bangkok, lawfully supplied gold and diamonds to his nephew under valid commercial invoices, which were duly submitted to the DRI but were deliberately ignored without any investigation or rejection. The goods in question are freely importable as baggage under Customs Notification No. 26/2016-Tariff and cannot be treated as prohibited goods, limiting any alleged offence to mis-declaration under Section 77, which is an obligation exclusively of the passenger and not of a foreign-based supplier. There is no evidence that Noticee-2 instructed non-declaration or concealment, and even the statements relied upon by the Department are contradictory, fabricated, and contradicted by documentary records. The allegation of concealment through underwear pockets is speculative and unsupported by law, while the personal search itself is illegal due to non-compliance with Section 102(3) of the Customs Act. Further, the SCN suffers from fatal ambiguity by failing to specify against whom penalties are proposed, under which clause of Section 112, or what precise acts attract Section 114AA, thereby violating principles of natural justice. The essential ingredients of intentional or knowing falsification under Section 114AA are not established, as the invoices were never

proved false or fabricated. The valuation of diamonds is also unreliable, having been conducted by an incompetent and conflicted valuer without adherence to accepted grading standards or evidentiary requirements. In the absence of legally admissible evidence, proper valuation, or clear statutory violations attributable to Noticee-2, the proposed penalties are arbitrary and deserve to be dropped in the interest of justice.

**(iii) Noticee Mr. Bipinbhai Mansukbhai Baravaliya:**

The show cause notice issued in relation to the seizure of gold and diamonds at Ahmedabad Airport is legally defective and unsustainable, particularly insofar as it seeks to impose penalties on Noticee-3, Sri Bipinbhai Mansukbhai Baravaliya. The notice suffers from serious ambiguity by failing to clearly specify against which noticee the proposed penalties under Sections 112 and 114AA are intended and by not identifying the applicable sub-clause of Section 112, thereby violating principles of natural justice. The investigation also demonstrates non-application of mind, as baggage imports are governed by Chapter XI of the Customs Act and relevant notifications permit the import of gold and diamonds on payment of duty, rendering the invocation of provisions relating to prohibited goods untenable. The allegation of misdeclaration under Section 77 can only be attributed to the passenger, Noticee-1, and not to relatives such as Noticee-3. The case against Noticee-3 rests solely on a belated, contradictory, and uncorroborated statement of Noticee-1, while earlier statements and documentary evidence, including valid purchase invoices submitted to authorities, negate any involvement or mens rea on the part of Noticee-3. No incriminating material was recovered from Noticee-3, and routine family assistance, such as ticket handling or travel supervision of a young relative, has been wrongly construed as facilitation of smuggling. Further, the essential ingredients for penalty under Section 114AA, including conscious and intentional use of false documents, have not been established. In the absence of clear findings, credible evidence, or legal basis, the proposal to impose penalties on Noticee-3 is arbitrary and deserves to be dropped in the interest of justice.

**20. DISCUSSION AND FINDINGS:**

**20.1** I have carefully gone through the case records, Show Cause Notice, relied upon documents to Show Cause Notice and Statements of the Noticees alongwith any submission made by the noticees and the relevant legal provisions pertaining to this case. Further, sufficient opportunities to be heard were extended to all the noticees of the SCN following the Principles of Natural Justice. I am of the opinion that sufficient opportunities have been offered to the Noticee in keeping with the principle of natural justice and there is no prudence in keeping the matter in abeyance indefinitely. I, therefore, proceed to decide the case on the basis of evidence and documents available on record.

In the instant case, I find that the main issues to be decided are whether:

- i. The said 552.55 Carats of Natural Diamonds Valued at ₹3,39,08,200/- (Rupees Three Crore Thirty Nine Lakh Eight Thousand Two Hundred only) and 150.540 Grams of Gold having purity 999.9/24Kt having Market Value ₹13,41,311/- (Rupees Thirteen Lakhs Fourty-One Thousand Three Hundred Eleven Only) attempted to be smuggled into India by Mr. Jay Hiteshkumar Bambharoliya in contravention of the provisions of the Customs Act, 1962 and subsequently seized vide Seizure Order dated 07.03.2025 under Panchnama Proceedings dated 06-07.03.2025 are liable for confiscation under Sections 111(d), 111(i), 111(l) and 111(m) of the Customs Act, 1962 or not.

- ii. Remnants of the packing material used for concealment of the seized Natural Diamonds i.e. underwear seized vide Seizure Memo dated 07.03.2025 are liable for confiscation under Section 119 of the Customs Act, 1962 or not.
- iii. The noticees are liable for penal action under Section 112 and Section 114AA of the Customs Act, 1962 or not.

**20.2.** I find that Panchnama has drawn out the fact that based on intelligence received by the Directorate of Revenue Intelligence, Zonal Unit, Ahmedabad, the officers of the DRI intercepted the passenger Mr. Jay Hiteshkumar Bambharoliya, arrived from Don Mueang, Bangkok on flight FD144 at 22:10 hours on dated.06.03.2025, was suspected of carrying commercial quantities of diamonds in their baggage or person. Mr. Jay Hiteshkumar Bambharoliya was intercepted while he attempted to exit through the Green Channel and, upon inquiry, denied carrying any declarable items, including gold and precious stones. During the interception, he was informed that his personal search and baggage examination would be conducted. I find that the passenger Mr. Jay Hiteshkumar Bambharoliya was screened through the Door Frame Metal Detector (DFMD) after removing all metallic objects from his person. However, no audible alarm was triggered, indicating the presence of any metal on his body or clothing. However, when his belt and purse were screened, officers observed unusual metallic images in the belt buckle. Upon closer inspection, the belt buckle was found to have an abnormal weight. When questioned, Mr. Jay Hiteshkumar Bambharoliya admitted that the buckle was made of gold and stated that it had been provided to him by Mr. Piyush Parsotambhai Barvaliya residing at Bangkok.

**20.3.** I further find that during a personal search conducted in the presence of panchas and a Gazetted Officer of Customs led to the discovery of a transparent polythene packet concealed in his underwear, containing eight small transparent pouches with shining material resembling diamonds, bearing markings and writings. Mr. Jay Hiteshkumar Bambharoliya stated that the material in question was diamond. He further explained that he was unaware of its exact quantity, quality, or value. He also informed the officer that he did not possess any bill or certificate for the diamonds, and that he had neither filed any declaration nor made any disclosure to the Customs or Directorate of Revenue Intelligence (DRI) authorities regarding the same. Mr. Bambharoliya admitted that the diamonds were intended for smuggling and were therefore concealed.

**20.4** I find that the Government Approved Valuer Mr. Kartikey Vasantrai Soni, submitted Valuation Report vide **Certificate No.1740/2024-25 dated 07.03.2025**, confirming that the gold recovered weighed 150.540 grams, had a purity of 999.9/24Kt, was coated with white rhodium, with a Market Value of ₹13,41,311/- and a Tariff Value of ₹12,25,254/-. I further find that the testing and valuation of the diamonds were conducted under the panchnama proceedings dated 07.03.2025. Upon completion of weighment and quality identification, Mr. Kartikey Vasantrai Soni, Government Approved Valuer, submitted his detailed report vide **Certificate No.1745/2024-25 dated 07.03.2025**, specifying the valuation and findings of the diamonds. As per the said Certificate No.1745/2024-25 dated 07.03.2025, the said 08 pouches contained Cut and Polished Natural Diamonds, totaling 552.55 Carats, with a total Market Value of ₹3,39,08,200/-.

**20.5** I find that the 552.55 Carats of smuggled diamond having total value of ₹3,39,08,200/- (Rupees Three Crore Thirty Nine Lakhs Eight Thousand Two Hundred only) and Gold having weight of 150.540 having purity 999.9/24kt having market value of ₹13,41,311/-(Rupees Thirteen Lakhs Forty One Thousand Three Hundred and Eleven only) were attempted to be smuggled in India in contravention of the provisions of Customs Act, 1962, Foreign Trade Policy, Baggage Rules, 2016,

the same were seized under the provisions of Section 110 of the Customs Act, Seizure Memo issued vide F. No. DRI/AZU/GI-02/ENQ-24/2025 dated 07.03.2025, on reasonable belief that the said goods along with packing material are liable for confiscation under the provision of Section 111 of the Customs Act, 1962, on account of being attempted to smuggle in India in contravention of the provisions of the Customs Act, 1962, Foreign Trade Policy, Baggage Rules, 2016 etc.

**20.6** I find that **Mr. Jay Hiteshkumar Bambharoliya**, in his statement dated 07.03.2025 under Section 108 of the Customs Act, admitted that during his trip to Bangkok arranged by his maternal uncle, Mr. Piyush Parsotambhai Barvaliya, he was instructed to smuggle a gold belt buckle and pouches of diamonds concealed in his underwear into India. On 6th March 2025, while returning via flight FD 144, he was intercepted at Ahmedabad airport by DRI officers, who recovered the items. The government valuer confirmed the seized goods as a 150.540gram gold buckle worth ₹13,41,311/- and 552.5 carats of natural diamonds valued at ₹3,39,08,200/-. Jay acknowledged that he had no import/export documents, admitted the concealment was for smuggling, and confirmed Piyush's involvement in arranging tickets, expenses, and instructions. He further accepted that the goods were liable for confiscation under Section 111 of the Customs Act. Consequently, Jay was arrested under Section 104 for knowingly participating in a smuggling syndicate with Piyush Barvaliya, intending to illegally import gold and diamonds into India.

**20.7** I find that **Mr. Jay Hiteshkumar Bambharoliya's statement** recorded on 29.08.2025 under Section 108 of the Customs Act revealed that Mr. Piyush Parsotambhai Barvaliya, residing in Bangkok and absent from India for over two years, provided him with 552.20 carats of natural diamonds and a 150.540gram gold buckle without any supporting documents. The gold buckle was sent under the instructions of Mr. Bipinbhai Mansukhbhai Baravaliya, its owner, and intended for delivery to him or his agent, while the diamonds were given to Jay to start a trading business on commission, despite his limited knowledge of the industry. WhatsApp chats retrieved from Jay's phone showed that both Piyush and Bipin closely coordinated and monitored the smuggling operation, including travel arrangements, immigration guidance, and transport logistics. The diamonds were valued at ₹30,000–₹40,000 per carat, with proceeds to be remitted to Piyush, and Bipin promised Jay ₹25,000–₹30,000 for delivering the gold buckle.

**20.8** I find that **Mr. Bipinbhai Mansukhbhai Baravaliya**, in his statement recorded on 06.06.2025 under Section 108 of the Customs Act, admitted his family ties with Mr. Piyush Parsotambhai Barvaliya of Bangkok and his nephew Mr. Jay Hiteshkumar Bambharoliya, but denied involvement in the smuggling of 552.20 carats of diamonds and 150.540 grams of gold seized from Jay on 06.03.2025. He acknowledged accompanying Jay to the airport on 03.03.2025, providing a ticket printout received from Piyush, and making brief social calls with Jay before his journey. Although he claimed to be engaged only in the metal sticker and share market business, his wife, Smt. Bhanu Bipinbhai Baravaliya, deposed that he was involved in the diamond and jewellery trade, directly contradicting his own statement. This contradiction suggests an attempt to mislead investigators and indicates mala fide intent.

**20.9** I further find that the iPhone 11 Pro Max voluntarily submitted by Mr. Jay Hiteshkumar Bambharoliya during his statement was forwarded to the Digital Forensics Laboratory, DGGI, NFSU Gandhinagar, for examination and data retrieval. The extracted data, received on 25.06.2025, was thoroughly analyzed and revealed WhatsApp communications between Mr. Jay Bambharoliya (Mobile No. 97230 39114), Mr. Bipinbhai Mansukhbhai Baravaliya (Mobile No. 9979745245), and Mr. Piyush Parsotambhai Barvaliya (Mobile No. +66851519927). This evidence was subsequently

confronted to Mr. Jay Bambharoliya during the recording of his statement on 29.08.2025.

**21. I find from the statements of the noticees, Panchnama and other evidences available with records, the noticees played role in the case as under-**

**21.1 Noticee Mr. Jay Hiteshkumar Bambharolia:** From the evidence available on record, including the Panchnama dated 06-07.03.2025, the statement of **Mr. Jay Hiteshkumar Bambharolia** recorded on 07.03.2025, and 29.08.2025, the statements of other involved persons recorded under Section 108 of the Customs Act, 1962, and the forensic and digital data, I find that Mr. Jay Hiteshkumar Bambharolia played a central and deliberate role in the attempted smuggling of high-value gold and diamonds into India. He knowingly concealed eight pouches of cut and polished natural diamonds (552.55 Carats, valued at ₹3,39,08,200/-) in his underwear and wore a belt with a gold buckle (150.540 grams, valued at ₹13,41,311/-), failing to declare them to Customs authorities. His actions involved **deliberate concealment, non-declaration**, and active participation in **smuggling**, in violation of Sections 77, 111, and 119 of the Customs Act, 1962, and the Baggage Rules, 2016. Investigations revealed that his conduct was part of a coordinated smuggling operation, with the items supplied by overseas contact Mr. Piyush Parsotambhai Barvaliya in Bangkok and domestic contact Mr. Bipinbhai Mansukhbhai Baravaliya, demonstrating clear intent to evade customs duties.

Accordingly, I find that his acts constitute smuggling under Section 2(39) and make him liable for confiscation of goods under Section 110, as well as penalties and prosecution under Sections 112, 114AA, 119, and 135 of the Customs Act, 1962, and the Foreign Trade (Development and Regulation) Act, 1992.

**21.2 Noticee Mr. Piyush Parsotambhai Barvaliya and Mr. Bipinbhai Mansukhbhai Baravaliya:** From the evidence available on record, including the Panchnama dated 06-07.03.2025, the statement of **Mr. Jay Hiteshkumar Bambharolia** recorded on 07.03.2025, and 29.08.2025, the statements of other involved persons recorded under Section 108 of the Customs Act, 1962, and the forensic and digital data, I find that Mr. Piyush Parsotambhai Barvaliya, a Bangkok resident for over ten years and proprietor of K.D. International Group Co. Ltd., acted as the principal facilitator of the illegal importation of diamonds and gold into India. He supplied the contraband—including 552.55 carats of diamonds and a 150.540-gram gold belt buckle—to Mr. Jay Hiteshkumar Bambharolia, arranged and financed his travel, provided concealment apparel, and instructed him to carry the items covertly. These goods were imported without complying with legal mandates, including DGFT authorization and customs declarations, rendering their import prohibited under the Customs Act, 1962.

I find that Mr. Bipinbhai Mansukhbhai Baravaliya played an active coordinating role domestically, closely monitoring Mr. Jay's travel via WhatsApp and telephone, accompanying him from Surat to the airport, and arranging a driver for transportation of the contraband from Ahmedabad to Surat. He also promised Rs. 25,000–30,000 to Mr. Jay for the delivery of the gold buckle. Investigations revealed that he and Mr. Piyush collaborated, utilizing Mr. Jay, who had limited knowledge of the diamond trade, as the courier, thereby masterminding the smuggling operation.

I find that both Mr. Piyush and Mr. Bipinbhai attempted to mislead the investigation. Mr. Piyush falsely claimed in his statement under Section 108 that he was only involved in metal stickers and share trading, contradicting his wife's deposition that he is engaged in diamonds and jewellery. Claims that the gold and diamonds were intended for Mr. Jay's personal business were deemed an afterthought to obscure liability.

Accordingly. I find that their acts constitute deliberate abetment of smuggling, violation of Customs import laws, and participation in an organized smuggling syndicate, making them liable for confiscation and prosecution under Sections 111, 112, 114AA, 119, and 135 of the Customs Act, 1962, and provisions of the Foreign Trade (Development and Regulation) Act, 1992, causing significant revenue loss to the Government of India.

**22. Defence of the all Noticees:** I find that the three noticees—Shri Jay Hiteshkumar Bambharioliya (Noticee-1), Shri Piyush Parsotambhai Baravaliya (Noticee-2), and Shri Bipinbhai Mansukbhai Baravaliya (Noticee-3)—have collectively raised a series of defenses to contest the penalties proposed under the Customs Act, 1962.

**22.1 Mr. Jay Hiteshkumar Bambharioliya's Defense:** The noticee, Shri Jay Hiteshkumar Bambharioliya, a 19-year-old from a modest agricultural family, argues that he has been wrongfully implicated in the case through fabricated evidence, procedural violations, and breaches of natural justice. He asserts that the entire case is based on manipulated documents, coerced statements, and the suppression of material evidence, rendering the Show Cause Notice legally unsustainable. The noticee highlights several violations, including his denial of the right to cross-examine witnesses, failure to consider his representations regarding the valuation of seized diamonds, and the absence of CCTV footage that could corroborate his account. Furthermore, the search conducted on him is claimed to be illegal due to non-compliance with statutory requirements, including the lack of proper authorization and a deliberate attempt to fabricate evidence. The valuation of the goods, particularly the diamonds and gold buckle, is alleged to be inflated and flawed, undermining the case against him. Additionally, the failure to comply with mandatory legal provisions, such as the absence of a Document Identification Number (DIN) on the Seizure Memo, further weakens the department's case. The noticee contends that the Show Cause Notice is ambiguous and legally defective, and the penalty proposed lacks clarity. As relief, the noticee seeks the dismissal of the proceedings, the release of the seized goods for re-export, or their redemption on payment of duty, citing violations of his constitutional rights and wrongful detention.

**22.2 Mr. Piyush Parsotambhai Baravaliya's Defense:** The advocate for Shri Piyush Parsotambhai Baravaliya (Noticee-2) argued that he, an NRI residing in Bangkok and involved in the diamond and gold business, legally supplied diamonds to his nephew, Noticee-1, who was later intercepted at Ahmedabad Airport. The goods were provided with proper invoices and were intended to be declared at the red channel for duty payment, but Noticee-1 was intercepted before reaching the channel. The advocate contended that the allegations against Noticee-2 were based on assumptions, highlighting that the goods were legally supplied as a gift and not subject to the provisions governing commercial imports. He emphasized that the personal search conducted was illegal as it lacked proper authorization, and that the valuation of the goods was flawed. Additionally, the advocate pointed out contradictions in the statements made by Noticee-1 and called for the cross-examination of witnesses and officers. The defense concluded by requesting the Show Cause Notice be dropped, arguing it was legally unsustainable due to violations of natural justice and improper procedures.

**22.3 Bipinbhai Mansukbhai Baravaliya's Defense:** The noticee, Shri Bipinbhai Mansukbhai Baravaliya, denies any involvement in the alleged smuggling activities and disputes the Show Cause Notice (SCN) on several grounds. He highlights the fundamental ambiguity in the notice, particularly the use of the pronoun "him," which fails to clearly specify whether the penalty is being proposed for him or any of the other noticees. This lack of clarity, according to the noticee, undermines his right to a fair defense and violates principles of natural justice. The noticee also challenges

the legal framework under which the goods were classified as commercial imports, asserting that the items involved—gold and diamonds—are dutiable and freely importable under the relevant customs notification. He further disputes the evidence, claiming that the statements against him are contradictory and fabricated, particularly regarding the alleged ownership of the gold belt buckle and diamonds. Additionally, he argues that there was no legal obligation for him to ensure customs declaration, as it was the passenger's responsibility, not the supplier's. Finally, the noticee asserts that the investigation was flawed, with the SCN failing to provide specific findings or evidence to support the imposition of penalties under Sections 112 and 114AA of the Customs Act, 1962, and seeks the dismissal of the proceedings.

**22.4 From the above defence submissions, I find that the noticees—Shri Jay Hiteshkumar Bambharioliya, Shri Piyush Parsotambhai Baravaliya and Shri Bipinbhai Mansukbhai Baravaliya have collectively raised a series of defenses to contest the Show Cause Notice. The main contests are as under: -**

***Challenge to the Alleged Interception of the Noticee While Allegedly Attempting to Cross the Green Channel — Prosecution Cannot Selectively Rely on Evidence While Suppressing Exculpatory Material:***

The contention of the noticee is nothing but an afterthought as had it been not intercepted the noticee would have escaped. DRI had intercepted on specific intelligence developed noticee was intercepted while he attempted to exit through the Green Channel and, upon inquiry, denied carrying any declarable items, and he was also offered the option to be searched in the presence of an Executive Magistrate or a Gazetted Officer, and he consented to being searched in front of the Superintendent, AIU, and Customs Ahmedabad. Further, when his belt and purse were screened, belt buckle was found to have an abnormal weight and on being asked, noticee had admitted that buckle of belt was made of gold and it was given to him by him by Mr. Piyush Parsotambhai Baravaliya residing at Bangkok. Even after finding the gold buckle, the noticee had not informed the officer that he had brought diamond with him and only during the personal search in presence of panchas and a Gazetted Officer of Customs led to the discovery of a transparent polythene packet concealed in his underwear, containing eight small transparent pouches with containing diamonds. Further, till date he has not produce any evidence of its legitimate purchase.

***Challenge to the Legality and Procedural Propriety of the Personal Search Conducted on Shri Jay Hiteshkumar Bambharoliya:***

The said contention is also nothing but an afterthought, as the time of interception of the noticee he was was given the option to be searched in the presence of an Executive Magistrate or a Gazetted Officer, and he consented to being searched in front of the Superintendent, AIU, and Customs Ahmedabad. The said facts are mentioned in the Panchnama dated 06-07.03.2025.

***Manipulation of the Seizure Proceedings by the DRI Officers:***

All the aforesaid contentions were not made during the Panchanama proceeding and noticee have admitted the facts of Panchanama dated 06/07.03.2025 and had signed. Further during recording of his statement on 07.03.2025, noticee has confirmed the facts of the panchnama proceedings dated 06/07.03.2025. It is settled law that admitted facts need not be proved.

***Improper Valuation Methodology and Deliberate Inflation of Value of the Gold Buckle:***

Aforesaid contention are bald as no contrary evidence to prove that valuation done by government-approved valuer, Shri Soni Kartikey Vasantrai was higher. Valuer has given the value based on the prevalent market value of the gold on the relevant date. Further, noticee has signed the panchnama and seizure and have also confirmed the facts mentioned in Panchnama in his statement recorded on 07.03.2025.

***No Chain of Custody was Maintained. Transfer Of Custody of the Goods Between Officers Not Duly Documented. There is No Proof That the Items Assessed/Valued On 7-3-25 were the Same of Those Recovered/Seized On 6/7-3-25:***

The said allegation has no basis as the noticee was present during the panchnama proceeding and valuation conduction by government-approved valuer, Shri Soni Kartikey Vasantrai. He has signed the Panchanama Proceedings dated 06/07.03.2025 and further in his statement dated 07.03.2025 have admitted the correctness of the Panchanama proceeding.

***Competence of Shri Soni Kartikey Vasantrai in assessment of the value of the diamonds is questionable. Challenging the validity and legality of the proceedings conducted on 07.03.2025 and the valuation certificate issued by Shri Soni Kartikey Vasantrai for the diamonds:***

The aforesaid allegation has no basis as the Gold Valuer are being appointed with due process by the department and only after the thorough verification of the competence of the valuer, they are empaneled. The noticee has not produce any contrary evidence and mere bald allegation are made which is not tenable.

***Seizure Memo dated 7-3-25 was issued without a DIN. In the absence of a DIN, the Seizure Memo in question should be considered that it was never issued.:***

The said contain is baseless as the seizure memo is part of the panchnama dated 06/07.03.2025 and it has been specifically mentioned in the Panchnama dated 06/07.03.2025 and the noticee was present during the preparation of the panchnama and seizure memo and since it was part of the panchnama which is prepared at the Airport in presence of the Panchas and noticee himself, DIN is not generated as it was not letter/communication which was issued to the noticee in his absence. Noticee himself was present during the panchnama proceeding and therefore allegation of non-mention of DIN in seizure memo is not acceptable.

***Arrest of the noticee based on the valuation report issued by the so-called Government Approved Valuer Shri Soni Kartikey Vasantrai was illegal. Request for revaluation of the diamonds under seizure was rejected without giving any reason:***

The allegation is baseless as the noticee has till date neither produced any evidence to prove his innocence as he failed to produce purchase invoice and as to why the diamonds were smuggled in concealed in his underwear.

***The Noticee's statement dated 7-3-25 was involuntary and against truth. It cannot be relied upon:***

The said facts are nothing but an afterthought. As the noticee has neither made retraction immediately nor have produced any evidence that his statement was recorded under duress. Only at the time of filing reply to the SCN, the noticee have stated the facts of retraction without any evidence. Further, it is time and again held that statement recorded by the Customs Officer is valid. Further, I find that that there is no dispute the Gold and Diamonds are found from the possession of the noticee and onus is on the noticee to prove that the goods were not smuggled. To fortify my said stand, I rely on the decision of Hon'ble Allahabad High Court rendered in case

of Commissioner of Customs, C.G.O. Vs. Sonam International reported in 2012 (275) ELT 326 (All.). Relevant Paras of the decision are reproduced as under:

**“96.** *In one other case reported in AIR 1965 SC 476 = 2008 (228) E.L.T. 8 (S.C.), Hukma v. State of Rajasthan, Hon’ble Supreme Court ruled that once it is found in consequence of Section 178A of the Sea Custom Act that the person was carrying the gold, the circumstances under which the gold was discovered, the manner in which he was carrying smuggled gold, the considerable quantity of the gold that was being carried namely, blocks and bars in which the major portion of the gold was found and expected to recover gold it may be inferred that the accused was evading the prohibition. The circumstances should be taken up cumulatively.*

**97.** *In the case of Kewal Krishan v. State of Punjab reported in AIR 1967 SC 737 = 1993 (67) E.L.T. 17 (S.C.) their lordship’s held that when goods are seized with reasonable belief that they are smuggled one then onus proving that they are not smuggled goods i.e. not of foreign origin on which duty was not paid shall be on the person on whose possession the goods are seized. The onus shall not be on the prosecution to show that the goods are not of Indian origin.*

*In case contention of respondent’s counsel is accepted then it will amount to shifting of onus on the prosecution.*

**98.** *Their Lordship of Hon’ble Supreme Court in a case reported in 1996 (83) E.L.T. 258 (S.C.). Naresh J. Sukhawani v. Union of India had held as under -*

*“4. It must be remembered that the statement made before the Customs officials is not a statement recorded under Section 161 of the Criminal Procedure Code, 1973. Therefore, it is a material piece of evidence collected by Customs officials under Section 108 of the Customs Act. That material incriminates the petitioner inculcating him in the contravention of the provisions of the Customs Act. The material can certainly be used to connect the petitioner in the contravention inasmuch as Mr. Dudani’s statement clearly inculpates not only himself but also the petitioner. It can, therefore, be used as substantive evidence connecting the petitioner with the contravention by exporting foreign currency out of India. Therefore, we do not think that there is any illegality in the order of confiscation of foreign currency and imposition of penalty. There is no ground warranting reduction of fine.”*

**99.** *In other case reported in 1997 (89) E.L.T. 646 (S.C.), Surjeet Singh Chhabra v. Union of India their lordship of Hon’ble Supreme court while considering the confessional statement held that statement though retracted at later stage shall be admissible. For convenience relevant para from the judgment of Surjeet Singh Chhabra (supra) is reproduced as under :-*

*“3. It is true that the petitioner had confessed that he purchased the gold and had brought it. He admitted that he purchased the gold and converted it as a Kara. In this situation, bringing the gold without permission of the authority is in contravention of the Customs Duty Act and also FERA. When the petitioner seeks for cross-examination of the witnesses who have said that the recovery was made from the petitioner, necessarily an opportunity requires to be given for the cross-examination of the witnesses as regards the place at which recovery was made. Since the dispute concerns the confiscation of the jewellery, whether at conveyor belt or at the green channel, perhaps the witnesses were required to be called. But in view of confession made by him, it binds him and, therefore, in the facts and circumstances of this case the failure to give him the opportunity to cross-examine the witnesses is not violative of principle of natural justice. It is contended that the petitioner had retracted within six days from the confession. Therefore, he is entitled to cross-examine the panch witnesses before the authority takes a decision on proof of the offence. We find no force in this contention. The Customs official are not police officers. The confession, though retracted, is an admission and binds the petitioner. So there is no need to call panch witnesses for examination and cross-examination by the petitioner.”*

**100.** *In the case, Surjeet Singh Chhabra and Naresh J. Sukhawani (supra) Hon’ble*

Supreme Court while interpreting Section 108 and 111 of Customs Act, has held that confessional statement made before the custom officers, retracted, shall be binding since custom officers are not police officers. Accordingly, the statement of Pradeep Pathak cannot be thrown out as baseless only because of retraction at later stage.

**101.** *It shall be relevant to take note of the fact that at no stage, the respondent has either led evidence or tried to rebut the appellant's version that M/s. Anivet Industries, does not have got any manufacturing unit at Nepal and it imports vitamin-E from China, Germany and other countries. No effort was made by the respondent to establish that vitamin-E to the extent of 49% could have been used as animal feed supplement. Rather, it has been submitted that 1-2 gms., is mixed in one tone or more in animal feed."*

Further, I rely on the ratio of decision of Hon'ble Supreme Court rendered in case of Hukma Vs. State of Rajasthan reported in 2008 (228) EKT 8 (S.C.). Relevant Para of said decision are reproduced as under:

**"8.** *There remains for consideration the last point raised by the learned counsel, [namely, that even if Lal Singh had authority to seize at the place where the seizure was made and s. 178-A of the Sea Customs Act applied, the prosecution had still to prove by further evidence that the accused had the mens rea necessary to constitute the offence. Learned counsel rightly pointed that while s. 178-A has the result of placing the burden of proof that the gold was not smuggled on the accused, it is of no assistance to the prosecution to prove that the accused was carrying the gold knowingly to evade the prohibition which was for the time being in force with respect to the import of gold into India. Once, however, it is found, as it must be found in this case, in consequence of the provisions of s. 178-A (the accused has not tried to discharge the burden that lay on him that the gold was not smuggled) that he was carrying smuggled gold, the circumstances under which the gold was discovered, the manner in which he was carrying the gold, the considerable quantity of the gold that was being carried and the form in which gold was being carried, namely, blocks and bars in which the major portion of the gold was found, all these circumstances establish beyond a shadow of doubt that accused was carrying the gold knowingly and with the intention of evading the prohibition that was in force with respect to the import of gold into the country. Mr. Kapur tried to argue that when gold is carried by persons, they often carry it in this manner in a pouli concealed under trousers. That may well be so. Here, however, there is an additional circumstance that a pointsman of the Railway, not expected to have so much gold in his possession, was carrying the gold which was, as already mentioned in six blocks and 22 bars apart from some small pieces and one pair of murkees. The total quantity was as much as 286 tolas and 11 annas, that is, about three kilograms. When all these circumstances are taken together, it is not possible to accept learned counsel's suggestion that he might be carrying the gold innocently having purchased it from somebody. In our opinion, the High Court has rightly held that all the ingredients of the offence under s. 167(81) of the Sea Customs Act have been established. It may be mentioned that it has not been disputed before us that if we believe the story of the recovery of the gold from the appellant, the circumstances are sufficient to establish that Lal Singh seized the gold in the reasonable belief that these were smuggled goods."*

**Retracted statement of the noticee dated 7-3-25 in the absence of any corroborative evidence from an independent source outside the confession should not have been relied upon in the present case:**

The said allegation is baseless as the noticee has neither made retraction immediately nor have produced any evidence to prove that that his statement was recorded under threat, duress or promise. The retraction made only at the time of filing reply to the Show Cause Notice. To negate this allegation, I rely on the ratio of decision of Hon'ble Gujarat High Court rendered in case of Principal Commissioner of Customs Vs.

Kishan Manjibhai Gadhesariya reported in 2023 (2) Centax 63 (Guj). Relevant Paras are reproduced as under:

**“43.** *The Supreme Court, while interpreting Sections 107 and 108 respectively of the Customs Act, held in Romesh Chandra Mehta v. State of West Bengal 1968 taxmann.com 3/[1969] 2 SCR 461, that any statement made by a person against whom an enquiry is made by a Customs Officer is not a statement made by a person accused of an offence, but he being an officer concerned or the person in authority, Section 24 of the Indian Evidence Act would be attracted and which provides that a confession made by an accused is irrelevant in a criminal proceedings, if the making of the confession appears to the Court to have been caused by any inducement, threat or promise having reference to the charge against accused persons, proceeding from a person in authority and sufficient in the opinion of the Court, to give the accused person grounds, which would appear to him reasonable, for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him.*

**44.** *In D.Bhoormall's case (supra), while examining the provisions of Sections 167(8) and 178A of the Sea Customs Act, the Supreme Court held:*

*"33. Another point to be noted is that the incidence, extent and nature of the burden of proof for proceedings for confiscation under the first part of the entry in the 3rd column of clause (8) of Section 167, may not be the same as in proceedings when the imposition of the other kind of penalty under the second part of the entry is contemplated. We have already alluded to this aspect of the matter. It will be sufficient to reiterate that the penalty of confiscation is a penalty in rem which is enforced against the goods and the second kind of penalty is one in personam which is enforced against the person concerned in the smuggling of the goods. In the case of the former, therefore, it is not necessary for the Customs authorities to prove that any particular person is concerned with their illicit importation or exportation. It is enough if the Department furnishes prima facie proof of the goods being smuggled stocks. In the case of the latter penalty, the Department has to prove further that the person proceeded against was concerned in the smuggling."*

**45.** *In K.T.M.S. Mohd. v. Union of India [1992] 3 SCC 178, the Court made a distinction between the provisions of the FERA and the Income-tax Act held in para 31 as follows:*

*"31. Leave apart, even if the officers of the Enforcement intend to take action against the deponent of a statement on the basis of his inculpatory statement which has been subsequently repudiated, the officer concerned must take both the statements together, give a finding about the nature of the repudiation and then act upon the earlier inculpatory one. If on the other hand, the officer concerned bisects the two statements and make use of the inculpatory statement alone conveniently bypassing the other, such a stand cannot be a legally permissible because admissibility, reliability and the evidentiary value of the statement of the inculpatory statement depend on the benchmark of the provisions of the Evidence Act and the general criminal law."*

**46.** *Holding in categorical terms that Section 24 of the Indian Evidence Act shall apply, it was held:*

*"But suffice to say that the core of all the decisions of this Court is to the effect that the voluntary nature of any statement made either before the Custom Authorities or the officers of Enforcement under the relevant provisions of the respective Acts is a sine qua non to act on it for any purpose and if the statement appears to have been obtained by any inducement, threat, coercion or by any improper means that statement must be rejected brevi manu. At the same time, it is to be noted that merely because a statement is retracted, it cannot be recorded as involuntary or unlawfully obtained. It is only for the maker of the statement who alleges inducement, threat, promise etc. to establish that such improper means has been adopted. However, even if the maker of the statement fails to establish his allegations of inducement, threat etc. against the officer who recorded the statement, the authority while acting on the inculpatory statement of*

*the maker is not completely relieved of his obligations in at least subjectively applying its mind to the subsequent retraction to hold that the inculpatory statement was not extorted. It thus boils down that the authority or any Court intending to act upon the inculpatory statement as a voluntary one should apply its mind to the retraction and reject the same in writing. It is only on this principle of law, this Court in several decisions has ruled that even in passing a detention order on the basis of an inculpatory statement of a detenu who has violated the provisions of the FERA or the Customs Act etc. the detaining authority should consider the subsequent retraction and record its opinion before accepting the inculpatory statement lest the order will be vitiated."*

**47.** *The Court then held in para 25 that the initial burden to prove that the confession was voluntary in nature, would be on the department. The special or peculiar knowledge of the person proceeded against would not relieve the prosecution or the Department altogether of the burden of producing some evidence in respect of that fact in issue.*

**48.** *In Vinod Solanki v. Union of India, 2009 (233) E.L.T. 157 (S.C.) = 2009 (13) S.T.R. 337 (S.C.), the Supreme Court considered the effect of retraction of the statement in proceedings of penalty under Foreign Exchange Regulation Act, 1973. The Supreme Court held that indisputably a confession made by an accused would come within the purview of Section 24 of the Indian Evidence Act, 1872. The proceedings under the Act are quasi criminal in nature. Section 50 of the Act is penal provision. It prescribes that in the event of contravention of any of the provisions of the Act or the Rules, directions or order penalty in exceeding 5 times of the amount of value involved in any such contravention may be imposed. Section 71 of the Act provides for burden of proof in certain cases. Sub-section (2) of Section 71 provides for burden of proof that foreign exchange acquired by such person, has been used for the purpose for which permission to acquire was granted, shall be on such person. The Act as Special Act confers various powers under the authorities. Even if salutary principle 'mens rea' and 'actus reus' in the proceedings under the Act may not be held to be applicable, it is now a settled principle that presumption of innocence as contained in Article 14(2) of the International Covenant on civil and political rights is a human right, although per se it may not be treated to be a fundamental right within the meaning of Article 21 of the Constitution of India. Sub-section (2) of Section 71 places burden of proof upon an accused or proceedee only when the foreign exchange acquired has been used for the purpose for which permission to acquire it was granted and not for mere possession thereof. The Parliament advisedly did not make any provision placing the burden of proof on the accused/proceedee.*

**49.** *In para 22 the Supreme Court said:*

*"22. It is a trite law that evidence brought on record by way of confession which stood retracted must be substantially corroborated by other independent and cogent evidences, which would lend adequate assurance to the Court that it may seek to rely thereupon. We are not oblivious of some decisions of this Court wherein reliance has been placed for supporting such contention but we must also notice that in some of the cases retracted confession has been used as a piece of corroborative evidence and not as the evidence on the basis whereof alone a judgment of conviction and sentence has been recorded." [See Pon Adithan v. Deputy Director, Narcotics Control Bureau, Madras, MANU/SC/0403/1999 : (1999) 6 SCC 1].*

**50.** *In K.I. Pavunny v. Assistant Collector (HQ), CCE 1997 (90) E.L.T. 241 (SC)/[1997] 3 SCC 721, it was held that a person suspected by a Customs Officer is not an accused at that stage. He becomes an accused only when summons are issued by a competent Court/Magistrate pursuant to a complaint lodged by the competent Customs Officer. His statement recorded under section 108 or during confiscation proceedings is not that of an accused within the meaning of Section 24 of the Evidence Act. The Customs Officer in such case although not police officer, is an authority within the meaning of Section 24 of the Evidence Act. The evidence is admissible under section 135 of the Customs*

*Act, although subsequently retracted, if on facts found voluntary and truthful. Only in such case it can form exclusive basis for conviction. It is, however, a rule of prudence and practice that the Court seeks assurance from other facts and circumstances to corroborate retraction of confession. The Supreme Court held that object of the Act in empowering the Customs Officer to record evidence under section 108 is to collect information of the contravention of the provisions of the Act or concealment of the contraband, to avoid or avoidance of the duty of excise so as to enable them to collect the evidence of the proof of contravention of the provisions of the Act for initiating proceedings for further action of confiscation of the contraband or imposition of penalty. By virtue of authority of law the officer exercises the power under the Act is an authority, within the meaning of Section 24 of the Evidence Act.*

**51.** *There is no prohibition under the Evidence Act to rely upon retracted confession to prove the prosecution case so as to make the same the basis for conviction of the accused. The practice and prudence require that the Court could examine the evidence adduced by the prosecution to find out whether there were any other facts and circumstances to corroborate the retracted confession. It is not necessary that there should be corroboration from independent evidence adduced by the prosecution to corroborate each detail contained on the confessional statement. The Court is required to examine whether the confessional statement was voluntary; in other words whether it was not obtained by threat, duress or promise. If the Court is satisfied from the evidence that it was voluntary, then it is required to examine whether the statement is true. If the Court on examination of the evidence finds that the retracted confession is true, that part of the inculpatory portion could be relied upon to base the conviction. However, prudence and practice require that the Court would seek assurance getting corroboration from other evidence adduced by the prosecution.*

**95.** *The veracity of the facts admitted in the statements dated 21-4-2009, 29-4-2009, 24-6-2009 and 27-6-2009 respectively by Sanjay also find support from the statements of others/accomplices and the evidence which were found pursuant thereto, during the investigation. Although the said statements later came to be retracted by subsequent statement recorded on 4-7-2009 before the JMFC in the Criminal Proceedings under the NDPS Act, 1985, yet, the statements recorded under section 108 have evidentiary value and constitute substantive evidence. A belated retraction after considerable length of time would not have the same efficacy in law as the retraction made at the earlier point of time from the day of the statement.”*

***CDRs in the absence of certificate under section 65B of the Evidence Act cannot be relied upon:***

The said contention is not acceptable as the Hon’ble Supreme Court in the case of Shafhi Mohammad Vs. The State of Himachal Pradesh in special Leave Petition (CRL) No. 2302 of 2017 has held that requirement of certificate under Section 65B(h) is not always mandatory and the applicability of requirement of certificate being procedural can be relaxed by Court wherever interest of justice so justifies as under:

*“(11) The applicability of procedural requirement under Section 65B(4) of the Evidence Act of furnishing certificate is to be applied only when such electronic evidence is produced by a person who is in a position to produce such certificate being in control of the said device and not of the opposite party. In a case where electronic evidence is produced by a party who is not in possession of a device, applicability of Sections 63 and 65 of the Evidence Act cannot be held to be excluded. In such case, procedure under the said Sections can certainly be invoked. If this is not so permitted, it will be denial of justice to the person who is in possession of authentic evidence/witness but on account of manner of proving, such document is kept out of consideration by the court in absence of certificate under Section 65B(4) of the Evidence Act, which party producing cannot possibly secure. Thus, requirement of certificate under Section 65B(h) is not always mandatory.*

*“(12) Accordingly, we clarify the legal position on the subject on the admissibility of the electronic evidence, especially by a party who is not in possession of device from which the document is produced. Such party cannot be required to produce certificate under Section 65B(4) of the Evidence Act. The applicability of requirement of certificate being procedural can be relaxed by Court wherever interest of justice so justifies.”*

**Contradictions in the statements of the noticee prove that they were not true and voluntary:**

The said allegation is not tenable as noticee himself in his statement dated 07.03.2025 had admitted that in Thailand, Shri Piyush Parsothambhai Barvaliya had given him the gold belt buckle and diamonds to hand over to an unknown person and further in his statement dated 29.08.2025 have admitted that gold in buckle (150.540 grams) shape was brought into India as per the direction of Mr. Bipin Barvaliaya and was to be delivered him or his authorised person and natural diamond (552.20 carat) was given to him (noticee Hay Bhambhoriliya) by Mr. Piyush Parshotambhai Barvalia to initiate his trading business on a commission basis. Further, the said facts corroborate with the call details and therefore, as per the dictum that admitted facts need not be proved, the allegation of contradiction in statements does not acceptable.

**Challenge to the applicability of the abovesaid provisions:**

- i. Section 77 of the Customs Act, 1962.**
- ii. Classification Of Baggage Goods:**
- iii. Section 11 Of the Customs Act 1962.**
- iv. Gold Whether Restricted for Import as Baggage Goods:**
- v. Non-Applicability of Notification No.50/2017-Customs (TARIFF)**
- vi. Commercial Quantity:**
- vii. Requirement Of IEC:**
- viii. Prohibition And Smuggling:**
- ix. Burden Of Proof:**

Questioning the applicability of the legal provisions alleged in the impugned Show Cause Notice is not tenable as it is an undisputed facts that based on the intelligence developed by the DRI, the noticee was intercepted only after failing to made declaration before the customs on his arrival and the gold in buckle shape and diamonds were recovered from the possession of the noticee and noticee failed to produce any evidence of its legal possession. I find the ratio of decision of Hon'ble Delhi Tribunal rendered in the case of Rakesh Luthra Vs. Commr. of Cus. (Air Port & General), New Delhi reported in 2024 (387) ELT 691 (Tri. Del) is squarely applicable to the present case. Relevant Para is reproduced as under:

**“8.1** *In the instant case, it is on record that the four passengers had gone to Bangkok on 5-6-2019 and had returned on 8-6-2019. Therefore, the appellants did not satisfy the requirements of the aforesaid notification in order to be eligible to import the gold legally. It is also on record that the appellants were intercepted near the exit gate. The argument that they were prevented from making the declaration is clearly an afterthought. The gold was recovered from their person. It is also noted that the appellants, in their respective statements have accepted that there were aware of the Customs procedures for passenger clearance, and that Gold was dutiable. Consequently, the argument that there is no concealment or attempt to smuggle cannot be accepted. As regards the argument of the appellants that Gold is not a prohibited item, we note that the High Court of Gujarat in the case Bhargavraj Rameshkumar Mehta v. Union of India [2018 (361) E.L.T. 260 (Guj.)] held that attempt to smuggle by concealing the same, and breaching the condition for the import of such goods would*

make them 'prohibited goods' in terms of Section 2(33) of the Customs Act, 1962. The relevant paras of the aforesaid decision is reproduced hereinbelow:

We may recall, the contention of the "15. Counsel for the petitioner in this respect was that the gold at the relevant time was freely importable. Import of gold was not prohibited. Case of the petitioner would therefore, fall under clause (ii) of Section 112 and penalty not exceeding 10% of the duty sought to be evaded would be the maximum penalty imposable. Such contention shall have to be examined in the light of the statutory provisions noted above. As noted, Section 111 of the Act provides for various eventualities in which the goods brought from a place outside India would be liable for confiscation. As per clause (d) of Section 111, goods which are imported or attempted to be imported or are brought within the Customs quarters for import contrary to any prohibition imposed by or under the Act or any other law for the time being in force, would be liable for confiscation. Similarly, for dutiable or prohibited goods found concealed in any manner in any conveyance would also be liable to confiscation. As per Section 2(39) the term 'smuggling' would mean in relation to any goods, any act or omission which will render such goods liable to confiscation under Section 111 or Section 113. Thus, clearly Section 111 of the Customs Act prohibits any attempt at concealment of goods and bringing the same within the territory of India without declaration and payment of prescribed duty. Term 'prohibited goods' as defined under Section 2(33) means any goods, the import or export of which is subject to any prohibition under the Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with. This definition therefore, comes in two parts. The first part of the definition explains the term 'prohibited goods' as to mean those goods, import or export of which is subject to any prohibition under the law. The second part is exclusionary in nature and excludes from the term 'prohibited goods', in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with. From the definition of term 'prohibited goods', in case of goods, import of which is permitted would be excluded subject to satisfaction of the condition that conditions for export have been complied with. By necessary implication therefore in case of goods, import of which is conditional, would fall within the definition of prohibited goods if such conditions are not complied with.

Further clarity in this respect would be available when one refers to the term 'dutiable goods' as to mean any goods which are chargeable to duty and on which duty has not been paid. We refer to this definition since Section 112 makes the distinction in respect of goods in respect of which any prohibition is imposed and dutiable goods other than prohibited goods. When clause (ii) of Section 112 therefore, refers to dutiable goods other than prohibited goods, it shall necessarily have the reference to the goods, import of which is not prohibited or of which import is permissible subject to fulfilment of conditions and such conditions have been complied with. Condition of declaration of dutiable goods, their assessment and payment of customs duties and other charges is a fundamental and essential condition for import of dutiable goods within the country. Attempt to smuggle the goods would breach all these conditions. When clearly the goods are sought to be brought within the territory of India concealed in some other goods which may be carrying no duty or lesser duty, there is clear breach of conditions of import of goods though per se import of goods may not be prohibited."

**8.2** Further, in the case at hand, the facts are the appellants were carrying gold in their person and were intercepted near the exit gate of the Customs Baggage Hall, which clearly establishes their intention to smuggle the Gold. In this regard, we note that the Supreme Court in the case of *Om Prakash Bhatia v. Commissioner of Customs, Delhi* reported in [2003 (155) E.L.T. 423 (S.C.) = 2003 taxmann.com 482 (S.C.)] and in case of *Sheikh Mohd. Omer v. Collector of Customs, Calcutta and Others* reported in

*[1983 (13) E.L.T. 1439 (S.C.)] held that smuggling in relation to any goods is forbidden and totally prohibited. Failure to check the goods on the arrival at the customs station and payment of duty at the rate prescribed, would fall under the second limb of Section 112(a) of the Act, which states omission to do any act, which act or omission, would render such goods liable for confiscation under Section 111 of the Act, and clause (b) to Section 111 of the Act covers the persons involved.*

**10.** *We now take up the appeal filed by the Department wherein the adjudicating authority had in the impugned order had permitted redemption of gold on payment of fine to appellant Rakesh Luthra, and permission to re-export the gold to 2 other appellants Sonia and Mamik Luthra, and have prayed for absolute confiscation of the gold. We note that all the four appellants collectively brought 5218 grams of gold (in the form of bars, not in the form of ornaments) from Bangkok. It is also established that all the appellants attempted to smuggle the gold with an intention to evade Customs Duty by not declaring the non-bona fide baggage which was commercial in nature. It is also established that the appellants were 'ineligible passengers' to import gold in terms of Notification No. 50/2017-Cus., dated 30-6-2017 and also provisions of Foreign Trade (Development and Regulation) Act, 1992, Foreign Trade (Exemption from Application of Rules in Certain Cases) Rules, 1993 and Foreign Trade Policy, 2015-20. We also note that Section 80 of Customs Act, 1962 provides for 'temporary detention of baggage', which is applicable in respect of only those goods for which a true declaration has been made under Section 77. Under Section 80, 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. In the instant case, though the appellants had not declared the gold and the fact remains that the passengers were intercepted by the officers of customs at the exit gate. This clearly establishes the intent was to walk away with the gold without payment of duty that was lawfully due to the Government. This is also corroborated by their statements that similar modus operandi was adopted when they had returned from Dubai. In this regard, the decision of the High Court of Gujarat in the case Bhargavraj Rameshkumar Mehta v. Union of India (supra) held that attempt to smuggle by concealing the same, and breaching the condition for the import of such goods would make them 'prohibited goods' in terms of Section 2(33) of the Customs Act, 1962. Once it is established that the goods are prohibited, then there cannot be an option for either redemption or re-export, and such goods are liable for absolute confiscation. In this context, we note that the Tribunal in the case of Sunny Kakkar v. Principal Commissioner of Customs (Preventive), New Delhi [2023 (385) E.L.T. 258 (Tri. - Del.) = (2023) 5 Centax 261 (Tri. - Del.)] upheld the absolute confiscation of Gold. The relevant paras of this decision is reproduced hereinafter:*

*As per Section 2(39) "smuggling", in relation to any goods, '32. means any act or omission which will render such goods liable to confiscation under section 111 or section 113. Therefore, if the gold bars in dispute are held liable for confiscation under section 111, they will fall under the category of smuggled gold as per Section 2(39). Another important section in this regard is Section 123 which reads as follows:*

**Section 123 - Burden of proof in certain cases.** *Where any goods to - (1) 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.*

*This section shall apply to gold, and manufactures thereof,(2) watches, and any other class of goods which the Central Government may by notification in the Official Gazette specify.*

*Section 123 shifts the burden of proof from the Department to the person from whom the goods have been seized in respect to gold and certain other goods which are notified. Undisputedly, the bars in question were of gold and they had foreign markings and were packed in a bag with the address of the jeweller in Dubai. The bars were examined by an expert and were held to be foreign origin gold of 995 purity. All these gave the officers reasonable belief that the gold bars were of foreign origin. Since import of gold is restricted, if foreign origin gold bars were legally imported it was incumbent upon the importer and any other person to whom they may have been sold to show documents that the gold was legally imported. This responsibility is cast upon the appellant as per Section 123. The gold was seized and after its assessment, statements of the appellant were recorded in which he explained that he procured the gold from one Shri Harish of Dubai who told him that Shri Ahadees would contact him and give him the gold bars and accordingly, he was waiting at Rajeev Chowk Metro Station whether transaction took place. He had, at no point of time, produced any document to show that the gold was legally imported. According to his statement, the arrangement which he had with Shri Harish was that he would send gold through one of his persons (Shri Ahadees in this case) and after selling the gold he would pay Shri Harish. At the time of receiving the gold he would pay only some amount to the person handing over the gold. In this case, the amount which he paid in a pink polythene bag was Rs. 5,45,000/- to Shri Ahadees. These statements were corroborated by the statement of Shri Ahadees. Neither Shri Ahadees nor the appellant have at any point of time produced any document to show that the gold was legally imported by them or that it was purchased by them from somebody who had legally imported it.*

*Learned Counsel for the appellant submitted that on 8-12-2015 the appellant had retracted his statement and, therefore, it cannot be relied upon. We have gone through the statements made before the Learned CMM by the appellant in his application for bail which is at pages 109 to 112 of the appeal book. The application only states that the statement was not made by the appellant. However, there is nothing in the statement made before the Learned CMM explaining the nature of the gold seized from the appellant. In the absence of any other explanation, the statements made by the appellant and Shri Ahadees before the officer must be accepted as correct. These statements corroborate each other and with the panchnama. The cross-examination of Shri Ahadees by the learned counsel for the appellant also confirm the facts pertaining to this seizure and also that on previous two occasions smuggled gold was transacted between the appellant and Shri Ahadees. The mobile phone recovered from the appellant and which was used to communicate with Shri Ahadees was also obtained in the name of Shri Kaskyrbayev a Kazakhi national who was not even in India at the time the SIM card was issued which corroborates the clandestine nature of the transaction in the confiscated gold.'*

**10.1** *As per the facts of the case, the seizure of gold from the appellants, as recorded in the panchnama and admitted in their respective statements is undisputed. It is also established that the gold was of foreign origin. It is also established that the appellants were attempting to smuggle the gold without payment of duty. We also note that legal import of gold is governed by certain conditions which the appellants do not fulfil. Therefore, we are of the considered opinion that the gold recovered from the appellants is liable for absolute confiscation."*

**Misuse of power by DRI officers. Mandatory provision 102(3) was not adhered to in the present case:**

The said allegation is baseless as the Officer of DRI had given option to the noticee as to whether he be searched in the preset of an Executive Magistrate or a Gazetted Office and the noticee had consented to being searched in from of the Superintendent, AIU, Ahmedabad.

**22.5 Request for Opportunity for Cross-Examination of Witnesses, Officers and Government Approved Valuer:** The defense, on behalf of noticee Shri Jay Hiteshkumar Bambharoliya, has formally requested an opportunity for cross-examination of various witnesses, officers, and the Government Approved Valuer involved in the adjudication process related to the Show Cause Notice issued on 03.09.2025.

Further, considering the plea for cross-examination, I observe that though it cannot be denied that the right of cross-examination in any quasi-judicial proceeding is a valuable right given to the passenger as these proceedings may have adverse consequences, at the same time, under certain circumstances, this right of cross-examination is not absolute and can be taken away in the facts and circumstances of the case. It is well established that the evidence in adjudication proceeding need not be like the one in criminal cases. Insofar as the request made for cross-examination of the panch-witnesses, I observe that when the passenger has not pointed out the manner as to how the facts recorded in the panchnama are faulty, either by denial or by other evidence, an authority adjudicating the matter does not get to consider the prayer for cross-examination of the panch-witnesses. It is clearly on record that the panchnama proceedings at SVPI Airport were recorded in the presence of the passenger and he had signed the Panchnama. I find that the panchnama clearly draws out the fact that the passenger had crossed the Red Channel and opted for Green Channel clearance to exit from the SVPI Airport. During screening, a gold belt buckle of abnormal weight was detected, which the passenger admitted was made of gold and supplied by Mr. Piyush Parsotambhai Barvaliya of Bangkok. A further personal search resulted in the recovery of eight pouches concealed in his undergarments, which were found to contain cut and polished diamonds. The passenger stated that he had not declared the goods and admitted concealment. The seized diamonds weighing 552.55 Carats and gold weighing 150.540 grams were examined and valued by a Government Approved Valuer, who assessed Diamond's total market value at **₹3,39,08,200/-** and gold buckle's total market **valued at ₹13,41,311/- (Total valued at ₹3,52,49,511/-)**. The goods, along with packing material and travel documents, were detained and subsequently seized on 07.03.2025 under Section 110 of the Customs Act, 1962, on the reasonable belief that they were attempted to be smuggled into India in violation of the Customs Act, Foreign Trade Policy, and Baggage Rules, 2016.

The passenger has not been able to show that the panch-witnesses in this case were found to be influenced by the Department and the statement of the passenger recorded under Section 108 of the Customs Act, 1962 was not recorded in all fairness. The principles of natural justice only require that if any evidence is sought to be relied upon by the Department, then that evidence should be supplied and if the Department want to rely on the statement of any person, the copy of such statement must be furnished and if the passenger/noticee want to cross-examine that person then an opportunity should be given to them. But in this case, the Department is not placing reliance on the statement of any person other than the statement of the passenger himself. In fact, the Department has not taken the statements of any persons other than the passenger in this case. Hence, when the Department itself is not relying on any such statements of any other persons, the question of tendering them for cross-examination does not arise. Similarly, the request made by the passenger seeking cross-examination of the investigating officer gave no reasons as to why the cross-examination of the investigating officer is necessary for appropriate

disposal of the notice, bearing in mind that they are not the witnesses upon which the show cause notice was issued/relies. Therefore, no ground for cross-examination of the panchas or the investigating officer is made out by the passenger in this case as it has not been established that denial of opportunity for cross-examination of Panchas and the investigating officers would seriously prejudice the defence of the passenger in this case. There is no material on record to suggest that the passenger ever retracted his confessional statement regarding the smuggling of gold and diamonds through SVPI Airport, Ahmedabad. He has also not denied having made the statement. In this regard I rely upon the judgments in the case of **Odiyanda Ayyappa Muddaiah vs. CC, Mangalore wherein the Hon'ble CESTAT, Bangalore [2019 (370) E.L. T. 1399 (Tri. - Bang.)]** as affirmed by the **Hon'ble High Court of Karnataka [2020 (373) E.L.T. 159 (Kar.)]** in the case of smuggling of gold through Mangalore Airport booked by DRI, Mangalore, wherein, while appreciating the evidences, have concurrently held that the passenger having admitted his role in the act of smuggling of gold in his statement furnished before the Customs Officers under Section 108 of the Customs Act, 1962 which was never retracted and never contended that statement was obtained from him under threat or duress or coercion, there is no infirmity in the order of confiscation of gold and imposition of penalty by the adjudicating authority. In the subject case, affirming the judgment of the Hon'ble CESTAT, Bangalore, the *Hon'ble High Court of Karnataka* in its judgment dated 12.02.2019 in Appeal No. 43 of 2018 [2020 (373) E.L.T. 159 (Kar.)] has clearly held thus:

*"9. Insofar as, merits of the case is concerned, it would clearly emerge from the orders of the original authority as affirmed by the appellate authority the statement of appellant recorded under Section 108 of the Customs Act penalty under Section 112(a) came to be imposed. In fact, whatsapp messages exchanged between the passengers including the appellant herein, which formed part and parcel of the show cause notice and adjudication order, it came to be held that appellant herein has admitted in his statement furnished under Section 108 of the Customs Act and his role in the act of smuggling of gold or in other words, appellant has admitted his guilt, which statement so tendered by him was before the Customs officers, who is not a police officer. A statement of an accused under Section 108 when recorded by a Customs Officer the safeguards provided under Section 164 of Cr. P.C. is not required to be followed. It is in this background, original authority as well as appellate authority have examined the statement.*

*10. In fact, appellant has not retracted his retrospective statement and it has never been contended by the appellant that statement has been obtained from him under threat or duress or coercion. It is only after show cause notice was issued proposing to levy penalty, appellant has tried to retrace his steps and not before the said date. It is for this reason appellate tribunal has recorded the following finding:*

*"6.1 Further, the contention of the Learned Counsel for the appellant saying that the appellants were not subjected to cross-examination is not tenable in law because the appellants never retracted their statements at any point of time and in their original statements made before the Customs Officer under Section 108, they have clearly admitted their involvement in smuggling activity on payment of remuneration. The versions of the appellants given before the Customs Officer were also proved from their WhatsApp communication."*

*11. In the light of aforesaid discussion, we are of the considered view there is no substantial question of law involved in this appeal for being admitted, adjudicated and answered."*

Therefore, in view of my findings recorded above in the facts and circumstances of the case on hand and also respectfully following the judgments of the Hon'ble CESTAT Bangalore as affirmed by the Hon'ble High Court of Karnataka (supra), I find no merit in the plea of the passenger for affording opportunity of cross-examination of the panch witnesses and the investigating officer in this case.

**23.** I further find that the noticee had not declared the said diamonds and gold, which were in commercial quantity and in his possession, as envisaged under Section 77 of the Customs Act, 1962. It is also observed that the import was also for mala fide purposes, as the gold and diamonds were clandestinely carried for the sake of receiving a monetary benefit. Therefore, the said diamonds weighing 552.55 Carats valued at ₹3,39,08,200/- and gold weighing 150.540 grams valued at ₹13,41,311/-, were attempted to be imported improperly by the passenger Mr. Jay Hiteshkumar Bambharolia without declaring to the Customs on his arrival from Don Mueang, Bangkok cannot be treated as bona fide household goods or personal effects.

**23.1** As per Section 2(33) of the Customs Act, 1962, "prohibited goods" is defined as 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. I find that in the instant case, the noticee had attempted to illicitly import the impugned diamonds by way of concealment in his underwear and a gold buckle without declaration to the Customs and without complying with the relevant provisions of the Customs Act, 1962;

Foreign Trade (Development and Regulation) Act, 1992, Foreign Trade (Regulation) Rules, 1993 Foreign Trade Policy 2015-20/2023 and other relevant notifications. The diamonds and gold attempted to import improperly by the passenger without following the due process of law and without adhering to the conditions and procedures of import, have thus acquired the nature of being prohibited goods given Section 2(33) of the Act.

**23.2** I further find that the diamond and gold is not on the list of prohibited items but import of the same is controlled. The view taken by the *Hon'ble Supreme Court in the case of Om Prakash Bhatia* however in very clear terms lays down the principle that if the 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 prescribed conditions has made the diamonds and gold seized in the present case "prohibited goods" as the passenger, trying to smuggle them, inside of India. I find that Mr. Jay Hiteshkumar Bambharolia confessed to carrying the said natural diamonds and gold buckle clandestinely and the same was recovered from his possession and was kept undeclared with an intention to smuggle the same. By using this modus, it is proved that the goods are offending in nature and therefore prohibited on their importation. Here, the mandatory conditions required to import diamonds concealed in his underwear, are not fulfilled by the passenger.

**23.3** I find that given the discussion in the foregoing Paras, it is evident that Mr. Jay Hiteshkumar Bambharolia had admitted that he was carrying the said gold and Diamonds with the intent to smuggle them inside India without declaring them before customs officers. Further, the Government approved valuer after examining the gold and diamonds recovered from Mr. Jay Hiteshkumar Bambharolia, identified the same as natural diamonds having a total weight of 552.55 Carats and certified their market value to be ₹3,39,08,200/- and the gold buckle total weight of 150.540 grams, having purity of 999.9/24Kt. and market value of ₹13,41,311/-. The said goods were then placed under seizure vide Seizure Order/Memo dated 07.03.2025

under Panchnama dated 06-07.03.2025 under the reasonable belief that the goods clandestinely carried by the passenger to be “smuggled goods” as defined under Section 2(39) of the Customs Act, 1962. Given the facts of the present case before me and the judgements and rulings cited above, the natural diamonds weighing 552.55 carats and gold buckle weighing 150.540 grams recovered from the passenger, are liable to absolute confiscation under Section 111(d), 111(i), 111(l), and 111(m) of the Customs Act, 1962. Further, remnants of the packing material used for concealment of the seized Natural Diamonds seized vide Seizure Memo dated 07.03.2025 are also liable for confiscation under Section 119 of the Customs Act, 1962.

**23.4** I find that by the above acts of contravention, the passenger i.e. Mr. Jay Hiteshkumar Bambharolia had rendered the impugned goods i.e. gold buckle and natural diamonds to confiscation under the provisions of Section 111(d), 111(i), 111(l), and 111(m) of the Customs Act, 1962. By using the modus of concealing the natural diamond in his underwear, it is observed that the passenger was fully aware that the import of said goods was offending in nature. I find that Mr. Jay Hiteshkumar Bambharoliya admitted that in his statement on dated 07.03.2025 that he traveled twice to Thailand, both trips arranged by his maternal uncle, Mr. Piyush Parsotambhai Barvaliya, a Bangkok-based gold and diamond businessman who has resided there for over ten years. During his most recent return from Bangkok on 6th March 2025, he was intercepted at Sardar Vallabhbhai Patel International Airport (SVPI), Ahmedabad, while carrying a gold belt buckle weighing 150.540 grams and eight pouches containing 552.20 carats of natural diamonds, both provided by Mr. Piyush Parsotambhai Barvaliya. The gold and diamonds were concealed in his clothing, following instructions from Mr. Piyush Parsotambhai Barvaliya, who promised a monetary reward, and were to be delivered to an unknown recipient. The items were examined by a government-approved valuer, confirming their weight, purity, and market value (gold: ₹13,41,311/-; diamonds: ₹3,39,08,200/-). Mr. Jay Hiteshkumar Bambharoliya admitted that he did not declare the items, possessed no valid import/export documents, and acknowledged the illegality of smuggling under Section 111 of the Customs Act, 1962.

**23.5** I further find in a later statement on 29.08.2025, Mr. Jay Hiteshkumar Bambharoliya clarified that the gold buckle was brought into India per instructions from Mr. Bipinbhai Baravaliya for delivery to him or his authorized agent, while the diamonds were provided by Mr. Piyush Parsotambhai Barvaliya to initiate Mr. Jay Hiteshkumar Bambharoliya’s trading business on a commission basis, though he had limited knowledge of the diamond trade. WhatsApp chats retrieved from Mr. Jay Hiteshkumar Bambharoliya’s phone demonstrated that both Mr. Bipin and Mr. Piyush Parsotambhai Barvaliya closely monitored and coordinated his travel, including immigration and reception arrangements, with Mr. Bipin promising Rs. 25,000–30,000 for delivery of the gold buckle. Diamond pouches bore markings indicating carat weights, with intended trading prices of ₹30,000–40,000 per carat, with proceeds remitted to Mr. Piyush Parsotambhai Barvaliya.

**23.6** I find from the statement dated 06.06.2025 of Mr. Bipinbhai Mansukhbhai Baravaliya on that he was engaged in the metal sticker and share market business, acknowledged familial ties with Mr. Piyush Parsotambhai Barvaliya and Mr. Jay Hiteshkumar Bambharoliya. He confirmed accompanying Mr. Jay Hiteshkumar Bambharoliya to SVPI Airport on 03.03.2025 prior to his departure to Bangkok and acknowledged brief, mainly social calls with him beforehand, as corroborated by call data records. Mr. Bipin denied any involvement in the smuggling of the gold and diamonds recovered from Mr. Jay Hiteshkumar Bambharoliya and asserted he had no business relationship with either Mr. Piyush Parsotambhai Barvaliya or Mr. Jay Hiteshkumar Bambharoliya. After Mr. Jay Hiteshkumar Bambharoliya’s interception, he was informed by Mr. Piyush Parsotambhai Barvaliya

that the items belonged to him and were sent via Mr. Jay Hiteshkumar Bambharoliya for business purposes. Notably, his wife, Smt. Bhanu Bipinbhai Baravaliya, stated that Mr. Bipin is engaged in the diamond and jewellery business, contradicting his statements and suggesting potential misrepresentation to the authorities.

By the said act and omission on the part of the Mr. Jay Hiteshkumar Bambharoliya, Mr. Piyush Parsotambhai Barvaliya and Mr. Bipinbhai Mansukhbhai Baravaliya, the said 552.55 carats of natural diamonds valued at ₹3,39,08,200/- (Rupees Three Crore Thirty Nine Lakh Eight Thousand Two Hundred only) and 150.540 Grams of Gold having purity 999.9/24Kt having market value ₹13,41,311/- became liable to confiscation under the provisions of Section 111(d), 111(i), 111(l) and 111(m) of the Customs Act, 1962. Further, they had deliberately dealt with the said goods i.e. in carrying, removing, concealing, harboring, purchasing and selling and dealing with the goods which they knew or had reason to believe were liable to confiscation under the provisions of Section 111 of the Customs Act 1962. The acts of omission and commission on the part of them have rendered themselves liable for penal action under the provisions of Section 112 and 114AA of the Customs Act, 1962 liable for penalty under Section 112 and 114AA of the Customs Act, 1962 as amended.

**23.7** I find that the noticee had attempted to illicitly import the impugned diamonds by way of concealment in his underwear and a gold buckle without declaration to the Customs and without complying the relevant provisions of the Customs Act, 1962; Foreign Trade (Development and Regulation) Act, 1992, Foreign Trade (Regulation) Rules, 1993 Foreign Trade Policy 2015-20/2023 and thereby the impugned diamonds and the gold buckle have assumed the characteristics of prohibited goods due to contravention of various legal provisions viz, Section 11, 50, 77 and 79 of Customs Act, 1962; Section 3, 7 and 11 of the Foreign Trade (Development and Regulation) Act, 1992; Rule 11 and 12 of the Foreign Trade (Regulation) Rules, 1993; DGFTFTP Notification No.43/2015-20 dated 22.11.2021 and Para 1.11/1.13, 2.05, 2.06, 2.08, 2.26/2.27 and 2.45 of Foreign Trade Policy 2015-2020/2023. I find that the DGFT-FTP Notification No.43/2015-20 dated 22.11.2021 stipulates that “*Export of natural diamonds shall **not be permitted** unless the concerned exporter is registered with Gems & Jewellery EPC, which is the designated importing and exporting authority of India for Kimberley Process Certification Scheme (KPCS).*” The noticee could not produce any document evidencing registration with the Gems & Jewellery EPC. Further, the Foreign Trade Policy has mandated documents viz, Bill of Lading/ Airway Bill/ Lorry Receipt/ Railway Receipt/Postal Receipt; Commercial Invoice cum Packing List; Shipping Bill/Bill of Export/ Postal Bill of Export for export of goods. The noticee could not produce any of the requisite documents in this regard. Neither did he have an IEC (Importer Exporter Code) which is mandatory for export/import from/to India as detailed in paragraph 2.05 of the Foreign Trade Policy. Given the contraventions of the various provisions of law as detailed supra, the impugned diamonds have assumed the characteristics of ‘prohibited goods’ keeping in view the various judicial pronouncements on the issue.

**23.8** I find that as already discussed in the foregoing paras, the Hon'ble Supreme Court in the case of Om Prakash Bhatia reported in 2003 (155) ELT 423 (SC) has held that if the importation and exportation of goods are subject to certain prescribed conditions, which are to be fulfilled before or after clearance of goods, the goods would fall within the ambit of 'prohibited goods' if such conditions are not fulfilled. In the instant case, the diamonds were kept undeclared, concealed and were being carried by the said noticee without fulfilment of prescribed conditions. Further, when the noticee was asked to produce legal proof/document and KPC Certificate about the possession of natural diamonds by him, he failed to produce any proof before the authorities. Therefore, it demonstrates that the diamonds and gold buckle recovered from the noticee were not legitimately sourced and were meant to be used

for commercial purposes to earn some money. Further, the noticee has admitted in his statement that he had kept diamonds and gold buckle undeclared with the intent of smuggling the same for monetary consideration and therefore, the impugned goods, are to be treated as goods prohibited in nature. Thus, "mens rea" on the passenger's part is established as he did not declare to the Customs Authorities in any manner about the Natural Diamonds and Gold and also did not possess the documents evidencing the legitimate acquisition of the said diamonds and gold and was smuggling the goods for monetary consideration.

**23.9** I find that the impugned 552.55 carats of natural diamonds, valued at ₹3,39,08,200/- and gold buckle 150.540 Grams valued at ₹13,41,311/- attempted to be improperly imported without declaration to the Customs are therefore, liable for absolute confiscation under Section 111(d), 111(i), 111(l) and 111(m) of the Customs Act, 1962. The noticee in his statements has confessed that he was carrying the impugned diamonds and a gold buckle concealed in his clothes but had not declared the same before Customs Authorities at SVP International Airport as he wanted to smuggle the said goods. Given the discussions in the foregoing paragraphs, I hold that the Natural Diamonds weighing 552.55 Carats and a gold buckle weighing 150.540 grams, clandestinely carried by the passenger Mr. Jay Hiteshkumar Bambharolia with an intention to import the same illicitly from Customs Airport without declaration are liable for absolute confiscation. **In the instant case, I am therefore, not inclined to use my discretion to give an option to redeem the gold and the diamonds on payment of redemption fine, as envisaged under Section 125 of the Act. In this context, I find that 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-**

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

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

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 at 2009 (247) ELT 21(Mad) has ruled that as the goods were prohibited and there was concealment, the Commissioner's order for absolute confiscation was upheld.

**23.10** I, further, 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).*

**23.11** Given the facts of the present case before me and the judgements and rulings cited above, the gold and the diamonds clandestinely carried by the passenger are liable to be confiscated absolutely. I, therefore, hold in unequivocal terms that the natural diamonds having a total weight of **552.55** Carats and valued at **₹3,39,08,200/-** and gold buckle weighing **150.540 grams**, valued at **₹13,41,311/-** carried by the noticee and placed under seizure, are liable for absolute confiscation under Section 111(d), 111(i), 111(l) and 111(m) of the Customs Act, 1962. I find that the Remnants of the packing material used for concealment of the seized Natural Diamonds seized vide Seizure Memo dated 07.03.2025 are liable for confiscation under Section 119 of the Customs Act, 1962.

**23.12** Based on the above findings, it is evident that the noticee, Mr. Jay Hiteshkumar Bambharolia was a Primary Courier. He played a central and deliberate role in the attempted smuggling of 552.55 carats of natural diamonds (valued at ₹3,39,08,200/-) and a 150.540-gram gold belt buckle (valued at ₹13,41,311/-) into India. He knowingly concealed the diamonds in his underwear and wore the gold buckle belt during his return from Bangkok on 6th March 2025, failing to declare them at Customs as required under Section 77 of the Customs Act, 1962 and the Baggage Rules, 2016. His actions constituted deliberate concealment, non-declaration, and smuggling under Section 2(39) of the Customs Act, making the goods liable for confiscation under Sections 111 and 119. Investigations and recovered WhatsApp communications confirmed that his conduct was part of a coordinated smuggling operation, with both overseas and domestic facilitators, demonstrating clear intent to evade customs duties. Mr. Jay's limited knowledge of the diamond trade and reliance on instructions from his uncles indicate that he was used as the carrier in the larger racket, though he actively complied with concealment and delivery instructions. I further find that Mr. Piyush Parsotambhai Barvaliya was an Overseas Mastermind. He is a Bangkok resident for over ten years and proprietor of K.D. International Group Co. Ltd., acted as the principal orchestrator of the smuggling operation. He supplied the diamonds and gold, arranged and financed Mr. Jay's travel and expenses, provided concealment apparel, and instructed Mr. Jay to carry the contraband into India covertly. The importation was executed without DGFT authorization or customs declaration, violating Customs Act provisions and rendering the goods prohibited. Investigations also revealed deliberate attempts by Mr. Piyush to mislead authorities, falsely claiming in his Section 108 statement that he was only engaged in metal sticker and share trading, despite his wife's deposition confirming his involvement in the diamond and jewellery business. WhatsApp records showed that he continuously monitored and guided Mr. Jay's journey, ensuring the smooth execution of the smuggling operation.

I find that Mr. Bipinbhai Mansukhbhai Barvaliya was a Domestic Coordinator and he facilitated the operation domestically, coordinating Mr. Jay's movements within India. He accompanied Mr. Jay to the airport in Surat, provided travel document support, arranged a driver to escort Mr. Jay from Ahmedabad to Surat for delivery of the gold buckle, and remained in continuous communication with him via WhatsApp and telephone. He also promised a monetary reward of Rs.25,000–30,000 for successful delivery of the gold belt buckle. Evidence indicates that he collaborated closely with Mr. Piyush to ensure the operation's success, despite falsely claiming in his statement that he had no involvement in the smuggling of diamonds or gold.

**23.13.** I find that the investigation establishes that the smuggling was a jointly orchestrated operation. Mr. Piyush and Mr. Bipin masterminded the logistics and supervision, while Mr. Jay acted as the courier. Mr. Jay's limited expertise in the diamond trade underscores the deliberate use of a third party to transport contraband. All three individuals' actions constitute violations of the Customs Act, 1962, including Sections 111, 112, 114AA, 119, and 135, as well as provisions of the Foreign Trade (Development and Regulation) Act, 1992. Their conduct involved deliberate concealment, non-declaration, abetment of smuggling, and misrepresentation, making them liable for confiscation of goods, penalties, and prosecution. The operation caused significant potential revenue loss to the Government of India and reflects involvement in an organized smuggling syndicate.

**Thus, the noticees have thereby rendered the said goods liable for confiscation under Section 111(d), 111(i), 111(l) and 111(m) of the Customs Act, 1962. I also find that the noticees are liable for penalty under Section 112 and 114AA of the Customs Act, 1962 for his abovementioned acts of commission and omission.**

**24. Accordingly, I pass the following order:**

**ORDER**

- (i) I order absolute confiscation of the said 552.55 Carats of Natural Diamonds** Valued at **₹3,39,08,200/-** (Rupees Three Crore Thirty Nine Lakh Eight Thousand Two Hundred only) **and 150.540 Grams of Gold** having purity 999.9/24Kt having Market Value **₹13,41,311/-** (Rupees Thirteen Lakhs Forty One Thousand Three Hundred and Eleven only), attempted to be imported in India by the **Mr. Jay Hiteshkumar Bambharolia**, contrary to the provisions of the Customs Act 1962 and subsequently seized vide Seizure Memo dated 07.03.2025 under Panchnama Proceedings dated 06-07.03.2025, under the provisions of Sections 111(d), 111(i), 111(l) and (m) of the Customs Act, 1962;
- (ii) I order absolute confiscation of remnants of the packing material used for concealment** of the seized Natural Diamonds i.e. underwear seized vide Seizure Memo dated 07.03.2025 under Panchnama Proceedings dated 06-07.03.2025, under the provisions of the Section 119 of the Customs Act, 1962;
- (iii) I impose a penalty of Rs.15,00,000/-** (Rupees Fifteen Lakhs Only) on Mr. Jay Hiteshkumar Bambharolia under the provisions of the Section 112(a)(i) and Section 112(b)(i) of the Customs Act 1962;
- (iv) I impose a penalty of Rs.15,00,000/-** (Rupees Fifteen Lakhs Only) on Mr. Jay Hiteshkumar Bambharolia under the provisions of the Section 114AA of the Customs Act, 1962;
- (v) I impose a penalty of Rs.15,00,000/-** (Rupees Fifteen Lakhs Only) on Mr. Piyush Parsotambhai Barvaliya under the provisions of the Section 112(a)(i) and Section 112(b)(i) of the Customs Act 1962;
- (vi) I impose a penalty of Rs.15,00,000/-** (Rupees Fifteen Lakhs Only) on Mr. Piyush Parsotambhai Barvaliya under the provisions of the Section 114AA of the Customs Act, 1962;

**(vii) I impose a penalty of Rs.15,00,000/-** (Rupees Fifteen Lakhs Only) on Mr. Bipinbhai Baravaliya under the provisions of the Section 112(a)(i) and Section 112(b)(i) of the Customs Act 1962;

**(viii) I impose a penalty of Rs.15,00,000/-** (Rupees Fifteen Lakhs Only) on Mr. Bipinbhai Baravaliya under the provisions of the Section 114AA of the Customs Act, 1962;

**25. Accordingly, the Show Cause Notice No. DRI/AZU/GI-02/ENQ-24/2025 dated 03.09.2025 stands disposed of.**

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

**DIN:20260271MN000000DD89**

**F. No. VIII/10-42/DRI/SVPIA/O&A/HQ/2025-26**

**Date:03.02.2026**

By Speed Post A.D./E-mail /Hand Delivery/Through Notice Board

To,

- 1) Mr. Jay Hiteshkumar Bambharoliya,  
S/o Hiteshkumar Kantibhai Bambharoliya,  
Plot Vistar, Rafala, Amreli-365440, Gujarat  
(E-Mail: [jaybambhroliya4@gmail.com](mailto:jaybambhroliya4@gmail.com))
- 2) Mr. Piyush Parsotambhai Barvaliya,  
Shobhavadla lashkar, Taluka-Visavadar,  
Dist.-Junagadh-362020, Gujarat.  
(E-Mail: [bluegems99@gmail.com](mailto:bluegems99@gmail.com))
- 3) Mr. Bipinbhai Mansukhbhai Baravaliya,  
48, Ashirvad Park Society, Behind Swastik Tower,  
Sarhana Jakatnaka, Surat City-395006, Gujarat.  
(E-mail: [baravaliyabipin00@gmail.com](mailto:baravaliyabipin00@gmail.com))

Copy to-

1. The Principal Commissioner of Customs, Ahmedabad. (Kind Attn: RRA Section)
2. The Deputy Commissioner of Customs (AIU), SVPIA, Ahmedabad.
3. The Additional Director, DRI, AZU, Ahmedabad.
4. The Deputy Commissioner of Customs (TRC), Ahmedabad.
5. The Deputy Commissioner of Customs (Prosecution), Ahmedabad.
6. The System In-Charge, Customs, HQ., Ahmedabad for uploading on the web-site.
7. Guard File.