

**OIO No:43/ADC/SRV/O&A/2025-26**  
**F. No: VIII/10-198/SVPIA-D/O&A/HQ/2024-25**



प्रधान आयुक्त का कार्यालय, सीमा शुल्क, अहमदाबाद

“सीमाशुल्कभवन”, पहलीमंजिल, पुरानेहाईकोर्टकेसामने, नवरंगपुरा, अहमदाबाद - 380009.

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**DIN: 20250671MN0000888B5F**

**PREAMBLE**

A	फाइलसंख्या / File No.	:	VIII/10-198/SVPIA-D/O&A/HQ/2024-25
B	कारणबताओनोटिससंख्या—तारीख / Show Cause Notice No. and Date	:	VIII/10-198/SVPIA-D/O&A/HQ/2024-25 dated 24.12.2024
C	मूलआदेशसंख्या / Order-In-Original No.	:	<b>43/ADC/SRV/O&amp;A/2025-26</b>
D	आदेशतिथि / Date of Order-In-Original	:	<b>04.06.2025</b>
E	जारीकरनेकीतारीख / Date of Issue	:	<b>04.06.2025</b>
F	द्वारापारित / Passed By	:	<b>Shree Ram Vishnoi,</b> Additional Commissioner, Customs, Ahmedabad
G	आयातककानामऔरपता / Name and Address of Importer / Passenger	:	<b>Shri Asif Nizam Baig,</b> Son of late Shri Mirza Nizam Baig, 67/169- Kashmiri Manzil, Room No. A-608, 6th Floor, J B Shah Marg, Khadak, Mumbai, Maharashtra- 400009
(1)	यह प्रति उन व्यक्तियों के उपयोग के लिए निःशुल्क प्रदान की जाती है जिन्हे यह जारी की गयी है।		
(2)	कोई भी व्यक्ति इस आदेश से स्वयं को असंतुष्ट पाता है तो वह इस आदेश के विरुद्ध अपील इस आदेश की प्राप्ति की तारीख के 60 दिनों के भीतर आयुक्त कार्यालय, सीमा शुल्क अपील)चौथी मंजिल, हुड्को भवन, ईश्वर भुवन मार्ग, नवरंगपुरा, अहमदाबाद में कर सकता है।		
(3)	अपील के साथ केवल पांच (5.00) रुपये का न्यायालय शुल्क टिकिट लगा होना चाहिए और इसके साथ होना चाहिए:		
(i)	अपील की एक प्रति और;		
(ii)	इस प्रति या इस आदेश की कोई प्रति के साथ केवल पांच (5.00) रुपये का न्यायालय शुल्क टिकिट लगा होना चाहिए।		
(4)	इस आदेश के विरुद्ध अपील करने इच्छुक व्यक्ति को 7.5 % (अधिकतम 10 करोड़) शुल्क अदा करना होगा जहां शुल्क या इयूटी और जुर्माना विवाद में है या जुर्माना जहां इस तरह की दंड विवाद में है और अपील के साथ इस तरह के भुगतान का प्रमाण पेश करने में असफल रहने पर सीमा शुल्क अधिनियम, 1962 की धारा 129 के प्रावधानों का अनुपालन नहीं करने के लिए अपील को खारिज कर दिया जायेगा।		

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**Brief facts of the case:**

On the basis of suspicious movement, the officers of Customs, Air Intelligence Unit (hereinafter referred to as "AIU"), Sardar Vallabhbhai Patel International Airport (SVPIA), Ahmedabad intercepted one Pax namely Shri Asif Nizam Baig (hereinafter referred to as the 'passenger'), Son of late Shri Mirza Nizam Baig, Age 44 years (D.O.B. 23/09/1980), resident of '167/169- Kashmiri Manzil, Room No. A-608, 6th Floor, J B Shah Marg, Khadak, Mumbai, Maharashtra-400009' for thorough search of all his baggage as well as his personal search as he was suspected to be carrying contraband/dutiable goods. The passenger Shri Asif Nizam Baig, holder of an Indian Passport No. Z6144550 arrived at Sardar Vallabhbhai Patel International Airport (SVPIA), Ahmedabad from Abu Dhabi (UAE) by Etihad Airways Flight No. EY-286 (Seat No. 15D) on 21/07/2024.

**2.** Whereas, the officers of Customs, Air Intelligence Unit (AIU), SVPIA, Ahmedabad had identified the said passenger from his passport and intercepted him along with his checked-in baggage when he was about to exit through the green channel for personal search and examination of his baggage under Panchnama proceedings dated 21/07/2024 in presence of two independent Panch witnesses. Shri Asif Nizam Baig was carrying one black colour trolley bag and a hand bag. The passenger was asked as to whether he was carrying any dutiable/ restricted/ prohibited goods and whether he wished to declare before Customs Authorities, in reply the passenger Shri Asif Nizam Baig denied. The officers also offered their search to the passenger, but the passenger denied, having full trust in AIU Officers. He was subject to be checked in the Door Frame Metal Detector (DFMD) Machine installed near the green channel in the Arrival Hall of Terminal 2 building, he was asked as to whether he wanted to be checked in front of executive magistrate or Superintendent of Customs, in reply the said passenger gave his consent to be searched in front of the Superintendent of Customs. Thereafter, the passenger Shri Asif Nizam Baig was asked to pass through the Door Frame Metal Detector (DFMD) Machine installed near the green channel in the Arrival Hall of Terminal 2 building of Airport, after removing all metallic objects from his body/clothes. The passenger readily removed all the metallic substances from his body such as mobile, purse etc. and kept in a tray and placed it

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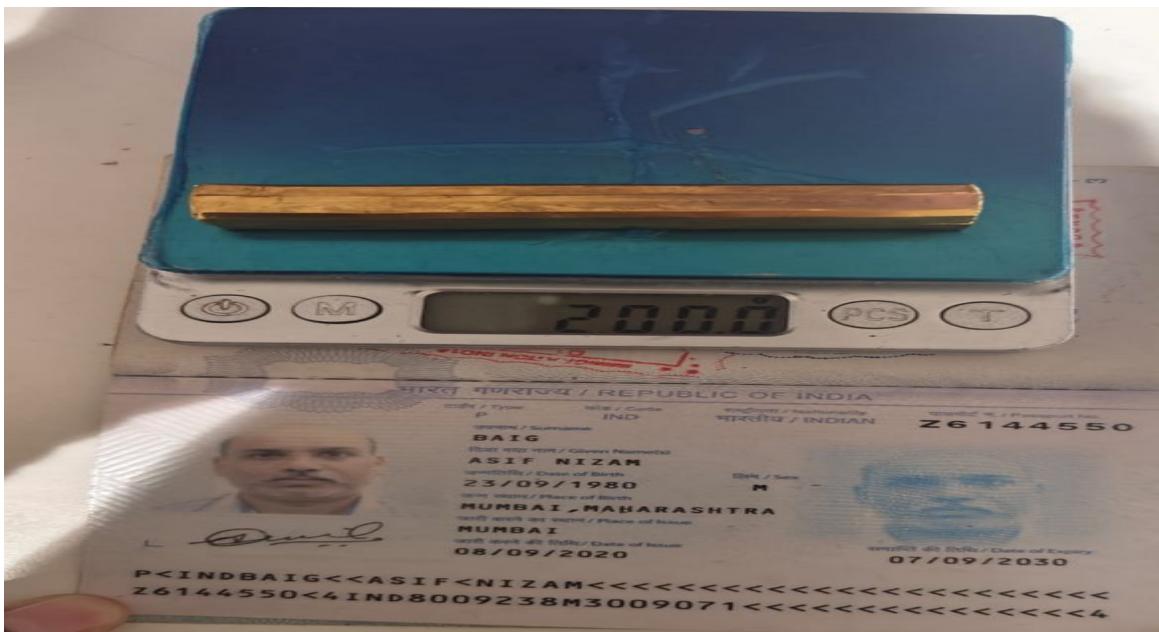
on the table. Thereafter, Shri Asif Nizam Baig was asked to pass through the Door Frame Metal Detector (DFMD). However, no beep sound was generated by the DFMD machine indicating nothing objectionable/metallic substance present on his body/cloths. Thereafter, the AIU officers instructed the passenger to put his entire luggage on the X-Ray Bag Scanning Machine for scanning in presence of the panchas witnesses. On examination of baggage, the AIU officers did not notice any unusual image indicating nothing objectionable was present in the baggage. Thereafter, the AIU officers once again asked the passenger if he is carrying any contraband/ Restricted/dutiable goods which he wanted to declare to the customs, but the passenger again replied in negative. Thereafter, the officers of AIU thoroughly checked the trolley, on which the passenger kept his checked-in baggage and hand bag. While checking the trolley a square shape metal rod wrapped in silver colour Aluminium foil was found stuck with self-adhesive double side tape in the bottom of the trolley. On questioning about the square metal rod, the passenger i.e. Shri Asif Nizam Baig accepted that the bar/rod is made of gold and he wanted to clear it illicitly without declare it to the Customs for the evasion of Customs Duty.

**2.1** Based on primary inference, the Government Approved Valuer, Shri Kartikey Soni was called upon for examining the authenticity and purity of the said square shape metal rod. After testing the said square shape metal rod, the Government Approved Valuer confirmed that same is made of pure gold and had weight of 200.000 grams. Pictures of square metal rod wrapped in silver colour Aluminium foil found stuck with self-adhesive double side tape at the bottom of the trolley vis-à-vis Square Gold rod found recovered are as under:

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Square metal rod wrapped in silver colour Aluminium foil found stuck with self-adhesive double side tape at the bottom of the trolley



(200.000 grams Gold of 24 karat/999.0 purity recovered in form of Square Gold Rod from possession of Shri Asif Nizam Baig)

**2.2** After completion of entire testing and purity process, Shri Kartikey Vasantrai Soni submitted Valuation Report Certification No. 419/2024-25 dated 21/07/2024 in respect of Square Gold Rod weighing 200.000 grams recovered from Shri Asif Nizam Baig concealed/hide below (at bottom of) the luggage carrying trolley. As per the valuation certificate, one Square Gold Rod having Net weight 200.000 grams of purity 999.0/24 karat was having Market Value of Rs. 15,14,600/- (Rupees Fifteen Lakh, Fourteen Thousand and Six Hundred Only) and Tariff Value of Rs. 13,06,650/- (Rupees Thirteen Lakh, Six Thousand, Six Hundred and Fifty Only). The value of the gold had been calculated as per the Notification No. 49/2024- Customs (N.T.) dated 15/07/2024 (Gold) and Notification No. 45/2024-

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Customs (N.T.) dated 20/06/2024 (Exchange Rate). The details of which are as under: -

<b>Certification No.</b>	<b>Details of Items</b>	<b>PCS</b>	<b>Net Weight (In Grams)</b>	<b>Purity</b>	<b>Market Value (In Rs.)</b>	<b>Tariff Value (In Rs.)</b>
419/2024-25 dated 21/07/2024	Square Gold Rod	01	200.000	999.0 24KT	15,14,600/-	13,06,650/-

**2.3** The method of testing and the valuation used by the Government Approved Valuer was done in a perfect manner in the presence of independent panchas and the passenger who were satisfied and agreed with the Testing and Valuation Report dated 21/07/2024 and in token of the same, the independent Panch witnesses and the passenger, had put their dated signature on the said valuation report of having seen, read and in agreement of the same.

**2.4** The passenger Shri Asif Nizam Baig produced the travelling documents like

- (1) *Copy of Passport No. Z6144550 issued at Mumbai 08/09/2020 valid up to 07/09/2030 and*
- (2) *Boarding pass dated 21/07/2024 of Etihad Airways Flight EY-286 from Abu Dhabi to Ahmedabad seat No. 15D SEQ No. 0131.*

**3.** Whereas, the Customs officer informed that the photocopies of travelling documents and identity proof documents mentioned above were taken into possession for further investigation and were signed by the panch witnesses and the passenger. The panch witnesses and the passenger also put their dated signatures on the passenger manifest, as a token of having seen and agreed to the same.

**4.** Whereas, the 01 square gold rod having purity 999.0/24 karat, totally weighing 200.000 Grams valued at Rs. 13,06,650/- (Rupees Thirteen Lakh, Six Thousand, Six Hundred and Fifty Only) [Tariff Value] and Rs. 15,14,600/- (Rupees Fifteen Lakh, Fourteen Thousand and Six Hundred Only) [Market Value] recovered from the passenger was an attempt to smuggle inside India with an intent to evade payment of Customs duty and this was the planned conspiracy by the said passenger which was clear violation of the provisions of Customs Act, 1962. Therefore, the AIU officers informed that they had reasonable belief that

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the said 01 square gold rod which was an attempt to be smuggled by Shri Asif Nizam Baig was liable for confiscation as per the provisions of Customs Act, 1962; hence, the said 01 square gold rod were placed under seizure under Section 110 of the Customs Act, 1962.

**5.** A statement of Shri Asif Nizam Baig Son of late Shri Mirza Nizam Baig was recorded on 22/07/2024 at SVPI Airport, Ahmedabad under Section 108 of the Customs Act, 1962, wherein he, inter-alia stated that

- His date of birth is 23/09/1980. He studied upto Eighth standard; that he can read, write and understand English and Hindi languages. His mobile No is +91-9762065569. His regularly email ID for his personal purposes was aasifbaig7771@gmail.com. He had saving account in Union Bank of India, Bhindi Bazar Bazar/Null Bazar, Mumbai - 400009, however at he was unable to recall the account no. he was residing with his family, his wife Mrs. Sabira Asif Baig, One daughter and one Son. His daughter was pursuing her B. Com course from Ruia College, Mumbai and his son was studying in seventh standard at Mumbai. His PAN No. was APLPB4131P, however he had never filed any Income Tax returns.
- He had travelled to UAE (Dubai, Sharjah, Abu Dhabi etc) in the past for exploring business. The trips were undertaken from his own personal savings. In the instant case he had travelled to Abu Dhabi (United Arab Emirates) on 20/07/2024 and returned to India on 21/07/2024 through Ahmedabad Airport in Etihad Airways Flight No. EY286. The tickets for the present trip were also purchased by him through the travel agent.
- In past he had visited Dubai, Sharjah, Abu Dhabi specifically for purchasing readymade Garments and cosmetics. he had found reasonable business opportunity in readymade Garments and cosmetics in past. In recent time his family was planning to fix engagement of his daughter and subsequently her marriage in the calendar year 2024, therefore, he thought to purchase gold for his daughter's marriage from UAE as Gold is cheaper in United Arab Emirates than in India. Accordingly, he had spoken to his friends working/ residing in Abu Dhabi to give some loan for marriage of his daughter, for some reasonable time. His friends in Abu Dhabi

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agreed to give him interest free loan and therefore, he planned to visit the Abu Dhabi and accordingly he booked the flight tickets for the journey to Abu Dhabi. After fund arrangement he had travelled to Abu Dhabi on 20/07/2024 to purchase gold and some cloths. As return ticket for Ahmedabad was cheaper, therefore he booked return ticket for Ahmedabad Airport. He had arranged some amount in Mumbai and flown to Abu Dhabi on 20/07/2024 and taken loans from his friends in Abu Dhabi as they agreed to give him loan for some time for his daughter's marriage. Thereafter, he purchased 200 Grams Gold in Abu Dhabi, UAE in form of Square Gold Rod. He carried the said one Square Gold Rod wrapped in Paper Napkin (inner Layer) and silver colour Aluminium Foil (Upper layer) in his pocket from Abu Dhabi to Ahmedabad and on arrival at Ahmedabad Airport after collecting his checked in luggage at Belt No. 3, he pasted/fixed double-sided adhesive tape on the Square Gold Rod (small parcel) and hide the same below (at bottom of) the luggage trolley provided by Ahmedabad airport to carry the luggage. He hides the Square Gold Rod by fixing/pasting double sided self-adhesive tape in such a manner that same can't be detected by the Customs officer even they examine his luggage and frisk personally. He specifically clarified that he came in contact with several Indian persons in Abu Dhabi, Dubai and Sharjah (UAE) during his earlier visits and some become his friends and out of those friends some had given him loan in Abu Dhabi for purchase of gold for his daughter's marriage.

- On being asked to narrate the events on 21/07/2024 at the time of arrival at Ahmedabad Airport, he confirmed the events narrated in the panchnama drawn on 21/07/2024 at Terminal-2, SVPI Airport, Ahmedabad by the Customs AIU officers. On arrival at SVPI Airport at Ahmedabad around 1930 Hrs to 1950 hrs, after immigration checks he picked up his checked in bag and walked towards the exit gates through the Green Channel after crossing the Customs counter at the red Channel. He confirmed that the Customs officers intercepted him when he was about to exit through the green channel for personal search and examination of his baggage in presence of two independent Panchas. The Customs officers asked him whether he was carrying any dutiable goods or any restricted goods or any prohibited goods or any other declarable items before

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Customs and he wished to declare before Customs Authorities, in reply he denied and informed that he had nothing to declare as he was not carrying any dutiable goods or any restricted goods with him. He also confirmed that during his personal search/frisking through the Door Frame Metal Detector (DFMD) nothing objectionable was recovered. Thereafter, the officers placed his baggage/luggage into the Baggage Screening Machine (BSM) and examined the baggage/luggage wherein the officers did not notice any unusual images indicating nothing objectionable was present in the bags. However, the officers had some doubt and they checked the trolley carried by him for carrying his luggage (Hand Bag and Checked-in bag) and officers found the Square Metal Rod wrapped in silver colour Aluminium Foil pasted/fixed below (at bottom of) the carriage trolley by double sided self-adhesive tape. Thereafter, the officers asked him about the said Square Metal Rod wrapped in silver colour Aluminium Foil pasted/fixed below (at bottom of) the luggage carrying trolley, he admitted that he had hide the said Square Metal Rod wrapped in silver colour Aluminium Foil below (at bottom of) the trolley by double sided adhesive tape to evade normal detection in Door Frame Metal Detector (DFMD) scanner or Baggage Screening Machine (BSM) before the Customs. He confirmed that when the officer asked him about the concealment/coverup, he admitted that he had purchased 200 Grams Gold in Square Rod shape from Abu Dhabi (UAE) and there he wrapped the said Square Gold Rod first with white paper napkin and then with silver colour Aluminium Foil. He also admitted that he carried the said One Square Gold Rod wrapped in Paper Napkin (inner Layer) and silver colour Aluminium Foil (Upper layer) in his pocket from Abu Dhabi to Ahmedabad and on arrival at Ahmedabad Airport after collecting his checked in luggage at Belt No. 3, he pasted double sided adhesive tape on the small parcel of Square Gold Rod and hide the same below (at bottom of) the luggage trolley provided by Ahmedabad airport to carry the luggage. He further admitted before the Customs officers in presence of independent panchas that he hidden the Square Gold Rod below (at bottom of) the luggage trolley by fixing/pasting double sided adhesive tape in such a manner that same can't be detected by the Customs officer even they examine his luggage and frisk personally. Thereafter, Customs Officers called the

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Government Approved Valuer for testing and valuation of the said Square Gold Rod. After completion of the testing and valuation procedure, the Government Approved Valuer informed that the Square Gold Rod is made of Pure Gold of purity 999.00 /24 Karat and having weight 200 grams. He admitted that 200.000 grams Gold, of purity 999.0/24 karat having Market Value of Rs. 15,14,600/- and Tariff Value of Rs. 13,06,650/- in form of one Square Gold Rod carried by him, was seized during Panchnama dated 21/07/2024 under the provision of Customs Act, 1962. During the said Panchnama proceedings 200.000 grams Gold of purity 999.0/24 karat in form of one Square Gold Rod was recovered from him, which was hide by him below (at bottom of) the luggage carrying trolley, the same was seized by the officers of Customs Air Intelligence Unit, Ahmedabad. The AIU Officer on the reasonable belief that 200.00 grams Square Gold Rod of purity 999.0/24 karat having Market Value of Rs. 15,14,600/- and Tariff Value of Rs. 13,06,650/- recovered from him had been attempted to smuggle inside India by way of concealment/hiding below (at bottom of) the luggage carrying trolley at airport, with an intent to evade payment of Customs duty which was a clear violation of the provisions of Customs Act, 1962 is liable for confiscation as per the provisions of Customs Act, 1962, and hence, the same was placed under seizure.

- On being asked to state specifically why he had opted for green channel without declaring the dutiable goods before the Customs Authority, he stated that he was aware that Gold in any form in commercial quantity is not allowed to be imported in passenger baggage and since he was carrying 200.00 Grams of Gold which was in commercial quantity and not his genuine baggage, he was sure that the same would be chargeable to Customs Duty by the Customs officers if declared by him before customs and therefore he opted for green channel with a view to evade payment of customs duty. He also knew that illegally imported gold is liable for seizure therefore, he had concealed/hidden the said Square Gold Rod below (at bottom of) the luggage trolley provided by Ahmedabad airport to carry the luggage after collecting the baggage from the belt, to evade normal detection in DFMD scanners and or Baggage Screening Machine (BSM).

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➤ On being asked whether he was aware about the provisions of the Customs for import of Gold in any form, He stated that he knew that smuggling of gold without payment of customs duty is an offence but as he had intention to evade customs duty, so he tried to smuggle the gold by carrying in Square Gold Rod form and concealed/hide the same by pasting /fixing with double sided Adhesive tape below (at bottom of) the luggage trolley provided by Ahmedabad airport to carry the luggage after collecting the baggage from the belt. He further stated that as he was having intention to evade payment of customs duty and smuggle the gold by concealing/ hiding the same, he did not declare the goods brought by him before the Customs officer. He was fully aware that clearing Gold in any form in excess of the eligible quantities for passenger without declaring before Customs, with an intent to evade payment of customs duty is an offence, under the provisions of Customs Act, 1962, Foreign Trade Policy 2023 and Rules and Regulations made thereunder. He also did not file any Declaration form for declaring dutiable goods (One 200.00 grams Square Gold Rod) to Customs, carried/imported by him on 21/07/2024 at SVPI Airport, Ahmedabad.

He again reiterated that he had intentionally not declared the said 200.000 grams one Square Gold Rod valued at Rs. 15,14,600/- as Market Value and Rs. 13,06,650/- as Tariff Value, before the Customs Authorities on his arrival at SVP International Airport Ahmedabad, as he wanted to clear it illicitly and evade payment of Customs duty. He was fully aware that clearing Gold in such large commercial quantities without declaring before Customs, with an intent to evade payment of customs duty is an offence, under the provisions of Customs Act, 1962, Foreign Trade Policy 2023 and Rules and Regulations made thereunder. He also did not file any Declaration form for declaring dutiable goods to Customs.

**6.** Whereas, it appears that Shri Asif Nizam Baig had brought gold in form of One Square Gold Rod, weighing 200.000 grams of purity 999.0 (24 Karat) valued at Rs. 15,14,600/- [Market Value] and Rs. 13,06,650/- [Tariff Value]. The above said One Square Gold Rod recovered from the said passenger was attempted to be smuggled into India with an intent to evade payment of Customs duty by way of concealment/hiding by

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pasting /fixing with double sided self-Adhesive tape below (at bottom of) the luggage trolley provided by Ahmedabad airport to carry the luggage, which was a clear violation of the provisions of Customs Act, 1962. Thus, on a reasonable belief that the said One Square Gold Rod weighing 200.000 Grams recovered from Shri Asif Nizam Baig, having purity 999.0 (24 Karat) and valued at Rs. 15,14,600/- [Market Value] and Rs. 13,06,650/- [Tariff Value], which was an attempt to smuggle by Shri Asif Nizam Baig, liable for confiscation as per the provisions of Customs Act, 1962; hence, the said One Square Gold Rod was placed under seizure under the provision of Section 110 of the Customs Act, 1962 vide Seizure memos/Order dated 21/07/2024.

**7. Legal provisions relevant to the case:**

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

- 7.1 In terms of Para 2.26 (a) of the Foreign Trade Policy 2015-20, as amended, only bona fide household goods and personal effects are allowed to be imported as part of passenger baggage as per limits, terms and conditions thereof in Baggage Rules notified by the Ministry of Finance. Gold can be imported by the banks (Authorized by the RBI) and agencies nominated for the said purpose under Para 4.41 of the Chapter 4 of the Foreign Trade Policy or any eligible passenger as per the provisions of Notification no. 50/2017-Customs dated 30.06.2017 (Sr. No. 356). As per the said notification "Eligible Passenger" means passenger of Indian Origin or a passenger holding valid passport issued under the Passport Act, 1967, who is coming to India after a period of not less than 6 months of stay abroad.
- 7.2 As per Section 3(2) of the Foreign Trade (Development and Regulation) Act, 1992 the Central Government may by Order make provision for prohibiting, restricting or otherwise regulating, in all cases or in specified classes of cases and subject to such exceptions, if any, as may be made by or under the Order, the import or export of goods or services or technology.
- 7.3 As per Section 3(3) of the Foreign Trade (Development and Regulation) Act, 1992 all goods to which any Order under sub-section (2) applies shall be deemed to be goods the import or export of which has been prohibited under section 11 of the Customs Act, 1962 (52 of 1962) and all the provisions of that Act shall have effect accordingly.
- 7.4 As per Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 no export or import shall be made by any person except in accordance with the provisions of this Act, the

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rules and orders made thereunder and the foreign trade policy for the time being in force.

**The Customs Act, 1962:**

- 7.5 As per Section 2(3) – “baggage includes unaccompanied baggage but does not include motor vehicles.
- 7.6 As per Section 2(22), of Customs Act, 1962 definition of 'goods' includes-
  - (a) vessels, aircrafts and vehicles;
  - (b) stores;
  - (c) baggage;
  - (d) currency and negotiable instruments; and
  - (e) any other kind of movable property;
- 7.7 As per Section 2(33) of Customs Act 1962, prohibited goods means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force.
- 7.8 As per Section 2(39) of the Customs Act 1962 'smuggling' in relation to any goods, means any act or omission, which will render such goods liable to confiscation under Section 111 or Section 113 of the Customs Act 1962.
- 7.9 As per Section 11(3) of the Customs Act, 1962 any prohibition or restriction or obligation relating to import or export of any goods or class of goods or clearance thereof provided in any other law for the time being in force, or any rule or regulation made or any order or notification issued thereunder, shall be executed under the provisions of that Act only if such prohibition or restriction or obligation is notified under the provisions of this Act, subject to such exceptions, modifications or adaptations as the Central Government deems fit.
- 7.10 As per Section 77 of the Customs Act 1962 the owner of baggage shall, for the purpose of clearing it, make a declaration of its contents to the proper officer.
- 7.11 As per Section 110 of Customs Act, 1962 if the proper officer has reason to believe that any goods are liable to confiscation under this Act, he may seize such goods.
- 7.12 Section 111. Confiscation of improperly imported goods, etc.:
 

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

  - (a) any goods imported by sea or air which are unloaded or attempted to be unloaded at any place other than a customs port or customs airport appointed under clause (a) of section 7 for the unloading of such goods;*
  - (b) any goods imported by land or inland water through any route other than a route specified in a notification issued under clause (c) of section 7 for the import of such goods;*
  - (c) any dutiable or prohibited goods brought into any bay, gulf, creek or tidal river for the purpose of being landed at a place other than a customs port;*
  - (d) any goods which are imported or attempted to be imported*

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or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;

(e) any dutiable or prohibited goods found concealed in any manner in any conveyance;

(f) any dutiable or prohibited goods required to be mentioned under the regulations in an import manifest or import report which are not so mentioned;

(g) any dutiable or prohibited goods which are unloaded from a conveyance in contravention of the provisions of section 32, other than goods inadvertently unloaded but included in the record kept under sub-section (2) of section 45;

(h) any dutiable or prohibited goods unloaded or attempted to be unloaded in contravention of the provisions of section 33 or section 34;

(i) any dutiable or prohibited goods found concealed in any manner in any package either before or after the unloading thereof;

(j) any dutiable or prohibited goods removed or attempted to be removed from a customs area or a warehouse without the permission of the proper officer or contrary to the terms of such permission;

(k) any dutiable or prohibited goods imported by land in respect of which the order permitting clearance of the goods required to be produced under section 109 is not produced or which do not correspond in any material particular with the specification contained therein;

(l) any dutiable or prohibited goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77;

(m) any goods which do not correspond in respect of value or in any other particular with the entry made under this Act or in the case of baggage with the declaration made under section 77 [in respect thereof, or in the case of goods under transhipment, with the declaration for transhipment referred to in the proviso to sub-section (1) of section 54];

(n) any dutiable or prohibited goods transited with or without transhipment or attempted to be so transited in contravention of the provisions of Chapter VIII;

(o) any goods exempted, subject to any condition, from duty or any prohibition in respect of the import thereof under this Act or any other law for the time being in force, in respect of which the condition is not observed unless the non-observance of the condition was sanctioned by the proper officer;

(p) any notified goods in relation to which any provisions of Chapter IV-A or of any rule made under this Act for carrying out the purposes of that Chapter have been contravened.

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7.13 Section 112. Penalty for improper importation of goods etc.:  
any person,  
(a) *who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under Section 111, or abets the doing or omission of such an act, or*  
(b) *who acquires possession of or is in any way concerned in carrying, removing, depositing, harboring, keeping, concealing, selling or purchasing or in any manner dealing with any goods which he knows or has reason to believe are liable to confiscation under Section 111, shall be liable to penalty.*

7.14 As per Section 123 of Customs Act 1962,

(1) *where any goods to which this section applies are seized under this Act in the reasonable belief that they are smuggled goods, the burden of proving that they are not smuggled goods shall be-*

(a) *in a case where such seizure is made from the possession of any person -*

(i) *on the person from whose possession the goods were seized; and*

(ii) *if any person, other than the person from whose possession the goods were seized, claims to be the owner thereof, also on such other person;*

(b) *in any other case, on the person, if any, who claims to be the owner of the goods so seized.*

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

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

**Customs Baggage Rules and Regulations:**

7.16 As per Customs Baggage Declaration (Amendment) Regulations, 2016 issued vide Notification no. 31/2016 (NT) dated 01.03.2016, all passengers who come to India and having anything to declare or are carrying dutiable or prohibited goods shall declare their accompanied baggage in the prescribed form under Section 77 of the Customs Act, 1962.

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

**Notifications under Foreign Trade Policy and The Customs Act, 1962:**

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7.18 As per Notification no. 49/2015-2020 dated 05.01.2022, gold in any form includes gold in any form above 22 carats under Chapter 71 of the ITC (HS), 2017, Schedule-1 (Import Policy) and import of the same is restricted.

7.19 Notification No. 50 /2017 –Customs New Delhi, the 30th June, 2017 G.S.R. (E).-  
 In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962) and sub-section (12) of section 3, of Customs Tariff Act, 1975 (51 of 1975), and in supersession of the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 12/2012 -Customs, dated the 17th March, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 185 (E) dated the 17th March, 2017, except as respects things done or omitted to be done before such supersession, the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts the goods of the description specified in column (3) of the Table below or column (3) of the said Table read with the relevant List appended hereto, as the case may be, and falling within the Chapter, heading, sub-heading or tariff item of the First Schedule to the said Customs Tariff Act, as are specified in the corresponding entry in column (2) of the said Table, when imported into India,- (a) from so much of the duty of customs leviable thereon under the said First Schedule as is in excess of the amount calculated at the standard rate specified in the corresponding entry in column (4) of the said Table; and (b) from so much of integrated tax leviable thereon under sub-section (7) of section 3 of said Customs Tariff Act, read with section 5 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) as is in excess of the amount calculated at the rate specified in the corresponding entry in column (5) of the said Table, subject to any of the conditions, specified in the Annexure to this notification, the condition number of which is mentioned in the corresponding entry in column (6) of the said Table:

	Chapter or Heading or sub-heading or tariff item	Description of goods	Standard rate	Condition No.
356.	71 or 98	(i) Gold bars, other than tola bars, bearing manufacturer's or refiner's engraved serial number and weight expressed in metric units, and gold coins having gold content not below 99.5%, imported by the eligible	10%	41

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		<p>passenger</p> <p>(ii) Gold in any form other than (i), including tola bars and ornaments, but excluding ornaments studded with stones or pearls</p>		
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**Condition no. 41 of the Notification:**

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.

7.20 From the above paras, it appears that during the period relevant to this case, import of gold in any form (gold having purity above 22 kt.) was restricted as per DGFT notification and import was permitted only by nominated agencies. Further, it appears that import of goods whereas it is allowed subject to certain conditions are to be treated as prohibited goods under section 2(33) of the Customs Act, 1962 in case such conditions are not fulfilled. As such import of gold is not permitted under Baggage and therefore the same is liable to be held as prohibited goods.

**Contravention and violation of law:**

**8.** It therefore appears that:

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**(a)** Shri Asif Nizam Baig has actively involved himself in the instant case of gold smuggling into India. Shri Asif Nizam Baig had improperly imported the One square gold rod weighing 200.000 grams of Gold of purity 999.0 (24 Karat) valued at Rs. 15,14,600/- [Market Value] and Rs. 13,06,650/- [Tariff Value] by concealing/hiding the same below (at bottom of) the luggage trolley by fixing/pasting double sided self-adhesive tape without declaring it to the Customs by opting for Green Channel to exit the Airport with a deliberate intention to evade the payment of customs duty and fraudulently circumventing the restrictions and prohibitions imposed under the Customs Act 1962 and other allied Acts, Rules and Regulations. The gold imported by him was given in commercial quantity and was imported without any declaration. Therefore, the gold imported in baggage by the passenger Shri Asif Nizam Baig which is in square gold rod form found concealed/hidden below (at bottom of) the luggage trolley by fixing/pasting with double sided self-adhesive tape and intentionally not declared to Customs on arrival in India cannot be treated as bona fide household goods or personal effects. Shri Asif Nizam Baig has thus contravened the Foreign Trade Policy 2023 (FTP-2023) and Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 read with Section 3(2) and 3(3) of the Foreign Trade (Development and Regulation) Act, 1992.

**(b)** Shri Asif Nizam Baig, by not declaring the contents of his baggage which included dutiable and restricted/prohibited goods to the proper officer of the Customs has contravened Section 77 of the Customs Act, 1962 read with Regulation 3 of Customs Baggage Declaration Regulations, 2013.

**(c)** The improperly imported gold by the passenger, Shri Asif Nizam Baig, found concealed/hidden below (at bottom of) the luggage trolley by fixing/pasting with double sided self-adhesive tape, without declaring it to the Customs is thus liable for confiscation under Section 111(d), 111(i), 111(j), 111(l) and 111(m) read with Section 2 (22), (33), (39) of the Customs Act, 1962 and further read in conjunction with Section 11(3) of Customs Act, 1962.

**(d)** Shri Asif Nizam Baig by his above-described acts of omission/

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commission and/or abetment has rendered himself liable to penalty under Section 112 (a) and 112(b) of Customs Act, 1962.

- (e) As per Section 123 of Customs Act 1962, the burden of proving that the said one square gold rod weighing 200.000 grams of Gold of purity 999.0 (24 Karat) valued at Rs. 15,14,600/- [Market Value] and Rs. 13,06,650/- [Tariff Value] concealed/hide below (at bottom of) the luggage trolley by fixing/pasting double sided self-adhesive tape and imported in the baggage without declaring it to the Customs, are not smuggled goods, is upon the passenger and Noticee, Shri Asif Nizam Baig.
- (f) Further, in terms of the Notification No 50/2017-Cus dated 30/06/2017 (Sr. No 356 read with condition no: 41) one kg of gold can also be imported by an eligible passenger. As per the Notification an 'eligible passenger' means a passenger of Indian origin or a passenger holding a valid passport, issued under the Passports Act, 1967, who is coming to India after a period of not less than six months of stay abroad; and short visits, if any, made by the eligible passenger during the aforesaid period of six months shall be ignored if the total duration of stay on such visits does not exceed thirty days and such passenger has not availed of the exemption under this notification or under the notification being superseded at any time of such short visits. In the instant case the passenger had carried the Gold and not declared before the Customs Authority at Ahmedabad Airport and in contrary he concealed/hide the said Gold below (at bottom of) the luggage trolley by fixing/pasting with double sided self-adhesive tape with an intent to evade payment of applicable Customs duty.

**09.** Accordingly, a Show Cause Notice vide F.No.- VIII/10-198/SVPIA-D/O&A/HQ/2024-25 dated 24.12.2024 was issued to Shri Asif Nizam Baig, Son of late Shri Mirza Nizam Baig, resident of '167/169- Kashmiri Manzil, Room No. A-608, 6th Floor, J B Shah Marg, Khadak, Mumbai, Maharashtra – 400009, as to why:

- (i) One Square Gold Rod of purity 999.0/24 Karat, weighing **200.000 Grams**, having total Tariff Value of **Rs. 13,06,650/- (Rupees Thirteen Lakh, Six Thousand, Six Hundred and Fifty**

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**only)** and Market Value of **Rs. 15,14,600/- (Rupees Fifteen Lakh, Fourteen Thousand and Six Hundred only)** wrapped in silver colour aluminium foil concealed in the bottom of trolley with self-adhesive double side tape and placed under seizure under panchnama dated 21/07/2024 and seizure Memo/Order dated 21/07/2024, should not be confiscated under Section 111(d), 111(f), 111(i), 111(j), 111(l) and 111(m) of the Customs Act, 1962;

(ii) Penalty should not be imposed upon **Shri Asif Nizam Baig**, under the provisions of Section 112 of the Customs Act, 1962, for the omissions and commissions mentioned hereinabove.

**Defense reply and record of personal hearing:**

**10.** The noticee through his advocate submitted his written submission vide letter dated 01.01.2025 wherein he submitted that the said gold was for his personal goods and not concealed in any manner. He submitted that the statement recorded on 21.07.2024 was not voluntary and the same was recorded forcefully. The facts stated in SCN are based on concocted and fabricated material of Panchnama and Statement of 21.07.2024. He denies all the allegations levelled against him in SCN. He submitted that he has no intention to mis declare the gold but he was apprehended before going to counter for declaration. He submitted that the seized gold belonged to him which was purchased by him from his own saving for his personal use. He submitted that on the issue of ownership in P.Hamza Vs. Commissioner of Customs [2014 (309) ELT 259 (Tri-Mumbai] it has been held by tribunal that "General principle is that person whose possession goods were found is the owner. Hence onus is on the adjudication authority to find out who is owner- if that decision is not arrived, in all probability the person from whom the goods are recovered is owner"

He further, submitted that the goods brought by him is not prohibited and thus redemption on payment of fine in lieu of confiscation is what the legislature in its collective wisdom has proposed vide sub section (1) of 125 of the Customs Act, 1962. He submitted that there are number of judgments of the Hon'ble Apex Court, Hon'ble High Courts and Hon'ble Tribunal and Revisionary Authority wherein it has been held that gold is not prohibited item and the same is restricted and therefore, it should not be confiscated absolutely and the option to redeem the same

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on redemption fine ought to be given to the person from whom it is recovered. The following are a few judgments in support of the contention:

- Jt. Secretary, Govt. of India Order No. 69/14 Cus dated 07.04.2014 under Revision Application filed under Section 129DD of Customs Act, 1962 in case of Badrul Muneer Ambidattil.
- 2009 (237) ELT 280 (Tri-Mum) Dhanak Madhusudan Ramji Vs. Commissioner of Customs (Airport), Mumbai
- 2011 (263) ELT 685 (Tri-Mum) Yakub Ibrahim Yusuf Vs. Customs, Mumbai
- 2008 (230) ELT 305 (Tri-Mum) Sapna Sanjeev Kohli Vs. Customs (Airport), Mumbai
- 1999 (106) ELT 485 (Tri-Mum) Mohini Bhatia Vs. Customs, Mumbai  
He requested that the proceedings initiated under SCN, may kindly be dropped and the seized gold to be released on payment of duty and redemption fine. He submitted that he wants to be heard in person and asked for personal hearing.

**11.** The noticee was given opportunity for personal hearing on 21.03.2025, 09.04.2025, 21.04.2025 & 29.05.2025. The letters for personal hearings were issued to the noticee on his mentioned address and also letter was mailed to the provided mail id. The letters have been shown delivered to the mentioned address as per the post except one letter. In response to PH letters, the noticee failed to appear and represent his case. In the instant case, the noticee has been granted sufficient opportunity of being heard in person for four times but he failed to appear. In view of above, it is obvious that the Noticee is not bothered about the ongoing adjudication proceedings and he do not have anything to say in his defense. 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.

#### **Discussion and Findings:**

**12.** Before, proceeding further, I would like to mention that the noticee through his advocate vide letter dated 01.01.2025 submitted his written reply, however, he failed to avail the opportunity of being heard in person or through video conferencing which were given to him on many occasions. I have carefully gone through the facts of the case. I, therefore, take up the case for adjudication, on the basis of evidences available on record.

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**13.** In the instant case, I find that the main issue to be decided is whether the **200.00** grams of Gold square rod, wrapped in silver colour Aluminium foil found stuck with self-adhesive double side tape at the bottom of the trolley having **tariff value of Rs.13,06,650/-** and Market Value of **Rs.15,14,600/-**, seized vide Seizure Memo/ Order under Panchnama proceedings both dated 21.07.2024, on a reasonable belief that the same is liable for confiscation under Section 111 of the Customs Act, 1962 (hereinafter referred to as 'the Act') or not; and whether the noticee is liable for penal action under the provisions of Section 112 of the Act.

**14.** I find that the panchnama dated 21.07.2024 clearly draws out the fact that the noticee, who arrived from Abu Dhabi in Etihad Airways Flight No. EY-286 was intercepted by the Air Intelligent Unit (AIU) officers, SVP International Airport, Customs, Ahmedabad on the basis of suspicious movement and trying to exit through green channel of the Arrival Hall of Terminal 2 of SVPI Airport, without making any declaration to the Customs. While the noticee passed through the Door Frame Metal Detector (DFMD) Machine no beep sound was heard which indicated there was no objectionable/dutiable substance on his body/clothes. Thereafter, the AIU officers instructed the passenger to put his entire luggage on the X-Ray Bag Scanning Machine for scanning in presence of the panch witnesses. On examination of baggage, the AIU officers did not notice any unusual image indicating nothing objectionable was present in the baggage. Thereafter, the AIU officers once again asked the passenger if he is carrying any contraband/ Restricted/dutiable goods which he wanted to declare to the customs, but the passenger again replied in negative. Thereafter, the officers of AIU thoroughly checked the trolley, on which the passenger kept his checked-in baggage and hand bag. While checking the trolley a square shape metal rod wrapped in silver colour Aluminium foil was found stuck with self-adhesive double side tape in the bottom of the trolley. On questioning about the square metal rod, the passenger i.e. Shri Asif Nizam Baig accepted that the rod is made of gold and he wanted to clear it illicitly without declare it to the Customs for the evasion of Customs Duty. It is also on record that Government approved Valuer had tested and certified that the gold rod is of 24 kt and 999.0 purity, weighing 200.00 Grams. The Tariff Value of said gold square rod

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having purity 999.0/24 Kt., was **Rs.13,06,650/-** and market Value of **Rs.15,14,600/-**, which was placed under seizure under Panchnama dated 21.07.2024, in the presence of the noticee and independent panch witnesses.

**15.** Under his submission, the noticee alleged that the statement recorded on 21.07.2024 was not voluntary and the same was recorded forcefully. In this regard, I find that the passenger/noticee had neither questioned the manner of the panchnama proceedings at the material time nor controverted the facts detailed in the panchnama during the course of recording of his statement. The offence committed was admitted by the noticee in his statement recorded on 21.07.2024 under Section 108 of the Customs Act, 1962. It is on the record the noticee had tendered his statement voluntarily under Section 108 of Customs Act, 1962 and Statement recorded under Section 108 of Customs Act, 1962 has evidentiary value under the provision of law. I find from the content of the statement dated 21.07.2024 that the Statement under Section 108 of Customs Act, 1962 was tendered voluntarily without any threat, coercion or duress and the noticee was at liberty to not endorse the typed statement if the same had been taken under threat/fear as alleged by the noticee. Therefore, I don't find any force in the contention of the noticee in this regard and an afterthought, as I also not find any retraction filed by the noticee. It is on the record the noticee has requested the officer to type the statement on his behalf on computer and same was recorded as per his say and put his signature on the Statement after understanding the same as explained by the officers to him. Further, I find from the content of statement that the statement was tendered by him voluntarily and willingly without any threat, coercion or duress and same was explained to him in Hindi. He clearly admitted that he did not make any declaration as he wanted to clearly the same without payment of Customs Duty. The offence committed is admitted by the noticee in his statement recorded on 21.07.2024 under Section 108 of the Customs Act, 1962. It is on the record the noticee had tendered their statement voluntarily under Section 108 of Customs Act, 1962 and Statement recorded under Section 108 of Customs Act, 1962 has evidentiary value under the provision of law. The judgments relied upon in this matter as follows:-

- Assistant Collector of Central Excise, Rajamundry Vs. Duncan Agro India Ltd reported in 2000 (120) E.L.T 280 (SC) wherein it was held

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that "Statement recorded by a Customs Officer under Section 108 is valid evidence"

- In 1996 (83) E.L.T 258 (SC) in case of Shri Naresh J Sukhwani V. Union of India wherein it was held that "It must be remembered that the statement before the Customs official is not a statement recorded under Section 161 of the Criminal Procedure Code 1973. Therefore, it is material piece of evidence collected by Customs Official under Section 108 of the Customs Act,1962"
- There is no law which forbids acceptance of voluntary and true admissible statement if the same is later retracted on bald assertion of threat and coercion as held by Hon'ble Supreme Court in case of K.I Pavunny Vs. Assistant Collector (HQ), Central Excise Cochin (1997) 3 SSC 721.
- Hon'ble High Court of Mumbai in FERA Appeal No. 44 of 2007 in case of Kantilal M Jhala Vs. Union of India, held that "Confessional Statement corroborated by the Seized documents admissible even if retracted."
- Hon'ble Supreme Court in case of Surjeet Singh Chhabra Vs. U.O.I [ Reported in 1997 (89) E.L.T 646 (S.C)] held that evidence confession statement made before Customs Officer, though retracted within six days, is an admission and binding, Since Customs officers are not Police Officers under Section 108 of Customs Act and FERA"

**16.** I find that the noticee has alleged in his submission that the facts stated in SCN are based on concocted and fabricated material of Panchnama and Statement of 21.07.2024 and denies all the allegations levelled against him in SCN. In this regard, I find that every procedure conducted during the panchnama by the Officers, was well documented and made in the presence of the panchas as well as the passenger/noticee. In fact, in his statement dated 21.07.2024, he has clearly admitted that he had travelled from Abu Dhabi to Ahmedabad by Flight No. EY-286 dated 21.07.2024 carrying gold square rod wrapped in silver colour Aluminium foil pasted with self-adhesive double side tape under the bottom of the trolley and also admitted that that he had intentionally not declared the substance containing foreign origin gold before the Customs authorities as he wanted to clear the same illicitly and evade payment of customs duty; that he was aware that smuggling of gold without payment of customs duty is an offence under the Customs law and thereby, violated provisions of Customs Act and the Baggage Rules,

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2016. Moreover, the allegation made in the SCN was not based merely on the basis of Statement and Panchnama, rather the noticee has not provided any documentary evidences which establishes that gold was belonged to him and purchased by him in a legitimate way. Therefore, the allegation of the noticee that the SCN is based on concocted and fabricated material of Panchnama and Statement is baseless and far from the truth.

**17.** I find that as per paragraph 2.20 of Foreign Trade Policy (FTP), *bona fide* household goods and personal effects may be imported as a part of passenger's baggage as per the limit, terms and conditions thereof in Baggage Rules, 2016 notified by Ministry of Finance. Further, in terms of EXIM Code 98030000 under ITC (HS) Classification of Export and Import items 2009-2014 as amended, import of all dutiable article by a passenger in his baggage is "Restricted" and subject to fulfilment of conditions imposed under the Customs Act, 1962 and the baggage rules, 2016.

Further, as per the Notification No. 12/2012-Cus dated 17.03.2012 (S.I-321) and Notification No. 50/2017-Cus dated 30.06.2017, Gold bars, other than tola bars, bearing manufacturer's or refiner's engraved serial number and weight expressed in metric units, and gold coins having gold content not below 99.5%, imported by the eligible passenger and gold in any form including tola bars and ornaments are allowed to be imported upon payment of applicable rate of duty as the case may be subject to conditions prescribed. As per the prescribed condition the duty is to be paid in convertible foreign currency, on the total quantity of gold so imported not exceeding 1 kg only when gold is carried by the "eligible passenger" at the time of his arrival in India or imported by him within 15 days of his arrival in India. It has also been explained for purpose of the notifications, "eligible passengers" means a passenger of India origin or a passenger holding a valid passport issued under Passport Act, 1967 who is coming to India after a period of not less than six months of stay abroad and short visits, if any made by the eligible passenger during the aforesaid period of 06 months shall be ignored, if the total duration of such stay does not exceeds 30 days and such passenger have not availed of the exemption under this notification.

**18.** Further, as per Notification no. 49/2015-2020 dated 05.01.2022 (FTP), gold in any form includes gold in any form above 22 carats under Chapter 71 of the ITC (HS), 2017, Schedule-1 (Import Policy) and import of

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the same is **restricted**. Further, I find that as per Rule 5 of the Baggage Rules, 2016, a passenger residing abroad for more than one year, on return to India, shall be allowed clearance free of duty in the bonafide baggage, jewellery upto weight, of twenty grams with a value cap of Rs. 50,000/- if brought by a gentlemen passenger and forty grams with a value cap of one lakh rupees, if brought by a lady passenger. Further, the Board has also issued instructions for compliance by "eligible passenger" and for avoiding such duty concession being misused by the unscrupulous elements vide Circular No. 06/2014-Cus dated 06.03.2014.

**19.** A combined reading of the above-mentioned legal provision under the Foreign Trade regulations, Customs Act, 1962 and the notification issued thereunder, clearly indicates that import of gold including gold jewellery through baggage is restricted and condition have been imposed on said import by a passenger such as he/she should be of Indian origin or an Indian passport holder with minimum six months stay abroad etc. only passengers who satisfy these mandatory conditions can import gold as a part of their bona fide personal baggage and the same has been declared to the Customs at their arrival and pay applicable duty in foreign currency/exchange. I find that these conditions are nothing but restrictions imposed on the import of the gold through passenger baggage. I find that noticee has brought the gold item having total weight 200.00 grams which is more than the prescribed limit. Further, the noticee has not declared the same before customs on his arrival which is also an integral condition to import the gold and same had been admitted in his voluntary statement that he wanted to clear the gold rod clandestinely without payment of eligible custom duty.

**20.** Further, he alleged that the gold is not fall under the "Prohibited goods". With respect to the prohibition of the goods, it is to submit that the Hon'ble Apex Court in case of M/s. Om Prakash Bhatia Vs. Commissioner of Customs Observed the following: -

"Further, Section 2(33) of the Act defines "Prohibited Goods" as under: -  
Prohibited goods means any goods import or export of which subject to any prohibition under this Act or any other law for time being in force but does not include any such goods in respect of which conditions subject to which the goods are to be permitted to be imported or exported have been complied with. "From the aforesaid definition, it can be stated that (a) if

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there is any prohibition of import or export of goods under the Act or any other law for time being in force, it would be considered to be prohibited goods; and (b) this would not include any such goods in respect of which the conditions, subject to which the goods are imported or exported, have been complied with. This would mean that if the conditions prescribed for import or export of the goods are not complied with, it would be considered to be prohibited goods. This would also be clear from the Section 11 of Customs Act, 1962 which empowers the Central Government to prohibit either 'absolutely' or 'subject to such conditions' to be fulfilled before or after clearance, as may be specified in the Notification, the import or export of the goods of any specified description. The notification can be issued for the purpose specified in sub section (2). Hence, prohibition of importation or exportation could be subject to certain prescribed conditions to be fulfilled before/after clearance of goods. If the conditions are not fulfilled, it may amount to prohibited goods. This is also made clear by this court in Sheikh Mohd. Omer vs. Collector of Customs, Calcutta and others [(1970) 2 SSC 728] wherein it was contended that the expression 'prohibited' used in Section 111 (d) of the Customs Act, 1962 must be considered as a total prohibition and the expression does not be within its fold the restriction imposed in clause (3) of import control order, 1955. The Court negatived the said contention and held thus: - "... what clause (d) of Section 111 says is that any goods which are imported or attempted to be imported contrary to" any prohibition imposed by any law for the time being in force in this country is liable to be confiscated. "Any prohibition" referred to in that section applies to every type of "prohibition". That prohibition may be complete or partial. Any restriction on import or export is to an extent a prohibition. The expression "any prohibition" in section 111(d) of the Customs Act, 1962 includes restriction. Merely because section 3 of import or export (control) act, 1947 uses three different expressions 'prohibiting', 'restricting' or 'otherwise controlling', we cannot cut down the amplitude of the word "any prohibition" in Section 111(d) of Customs Act, 1962. "Any prohibition" means every prohibition. In others words, all types of prohibition. Restriction is one type of prohibition. **From the said judgment of the Apex Court, it is amply clear that the goods are to be treated as 'prohibited' if there is failure to fulfil the conditions/restrictions imposed by the Government on such import or export. In this case, I find that the noticee had tried to remove the impugned good i.e. one square gold rod, by concealment and**

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**attempted to clear from the Customs authorities without declaration and without payment. Accordingly, the good brought by the noticee falls under the ambit of “Prohibited Goods” under the definition of Section 2(33) of the Customs Act, 1962.**

**21.** Further, it was alleged by the noticee that he had no intention to mis declare the gold but he was apprehended before going to counter for declaration. In this regard, I find that, the panchnama narrates the fact that the impugned gold rod was not declared by the noticee on his own and also not declared even after asking by the officers and it was recovered only after checking of the baggage and trolley bag of the noticee and after that the noticee admitted that the gold rod concealed the said gold by pasted in the bottom of trolley bag by double side tape with sole purpose to remove it illicitly without declaring it before customs officers. It is evident that the noticee smuggled the said gold rod and did not declare it at red channel counter with an intention to evade customs duty. Therefore, the alibi that he wanted to declare the gold and before declaration he was apprehended is baseless and merits no credence.

**22.** I find that the noticee has clearly accepted that he had not declared the gold in form of square gold rod concealed under bottom of trolley by pasted it with double side tape, to the Customs authorities. It is clear case of non-declaration with intent to smuggle the gold. Accordingly, there is sufficient evidence to conclude that the noticee had failed to declare the foreign origin gold before the Customs Authorities on his arrival at SVP International Airport, Ahmedabad. In the statement as well as in his submission, he mentioned that the gold was purchased by him from the money borrowed from his friends and purchased the gold from Abu Dhabi as the rate of gold was cheaper than India, however he also admitted that he had no purchase bill/invoice. In this regard, I would like to refer to the conditions prescribed in Para 3 of Circular 06/2014-Cus dated 06.03.2014 wherein it is explicitly mentioned that “in case of gold in any other form, including ornaments, the eligible passenger must be asked to declare item wise inventory of the ornaments being imported. This inventory, duly signed and duly certified by the eligible passenger and assessing officer, should be attached with the baggage receipt”. And “Wherever possible, the field officer, may, inter alia, ascertain the antecedents of such passengers, source for funding for gold as well as duty

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being paid in the foreign currency, person responsible for booking of tickets etc. so as to prevent the possibility of the misuse of the facility by unscrupulous elements who may hire such eligible passengers to carry gold for them". From the conditions it is crystal clear that all eligible passengers have to declare the item wise inventory of the ornaments and have to provide the source of money from which gold was purchased. Merely claiming that the gold was purchased by him without submission of any invoice/bill copy alongwith other documentary evidences viz, bank transactions details, which proves that the gold was purchased in legitimate way and as bona fide personal use, does not make him owner. Therefore, it is a case of smuggling of gold without declaring in the aforesaid manner with intent to evade payment of Customs duty is conclusively proved. Thus, it is proved that noticee violated Section 77, Section 79 of the Customs Act for import/smuggling of gold which was not for bonafide use and thereby violated Rule 11 of the Foreign Trade Regulation Rules 1993, and para 2.26 of the Foreign Trade Policy 2015-20. As gold is a notified item and when goods notified thereunder are seized under the Customs Act, 1962, on the reasonable belief that they are smuggled goods, the burden to prove that they are not smuggled, shall be on the person from whose possession the goods have been seized in terms of Section 123 of Customs Act, 1962. In the instant case, the noticee has failed to submit any documentary evidence in his written submission and failed to appear before adjudicating authority to prove the ownership on the gold. Therefore, I hold that the noticee has nothing to submit in his defense and claim of the noticee that the gold was purchased by him is not tenable on basis of no documentary evidence.

**23.** From the facts discussed above, it is evident that the passenger/noticing had brought gold of 24 kt having 999.0 purity weighing 200.00 gms., in form of square gold rod concealed by the noticee under bottom of trolley by pasted it with double side adhesive tape, while arriving from Abu Dhabi to Ahmedabad, with an intention to smuggle and remove the same without payment of Customs duty, thereby rendering the gold weighing 200.00 gms, seized under panchnama dated 21.07.2024 liable for confiscation, under the provisions of Sections 111(d), 111(f), 111(i), 111(j), 111(l) and 111(m) of the Customs Act, 1962. By secreting the gold in form of gold rod concealed under bottom of trolley by pasted it with double side adhesive tape and not declaring the same before the

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Customs, it is established that the passenger/noticee had a clear intention to smuggle the gold clandestinely with the deliberate intention to evade payment of customs duty. The commission of above act made the impugned goods fall within the ambit of 'smuggling' as defined under Section 2(39) of the Act.

**24.** It is seen that for the purpose of customs clearance of arriving passengers, a two-channel system is adopted i.e Green Channel for passengers not having dutiable goods and Red Channel for passengers having dutiable goods and all passengers have to ensure to file correct declaration of their baggage. *I find that the Noticee had not filed the baggage declaration form and had not declared the said gold which was in his possession, as envisaged under Section 77 of the Act read with the Baggage Rules and Regulation 3 of Customs Baggage Declaration Regulations, 2013 as amended* and he was tried to exit through Green Channel which shows that the noticee was trying to evade the payment of eligible customs duty. I also find that the definition of "eligible passenger" is provided under Notification No. 50/2017- Customs New Delhi, the 30th June, 2017 wherein it is mentioned as - *"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.* I find that the noticee has not declared the gold before customs authority. It is also observed that the imports were also for non-bonafide purposes. Further, the noticee has not fulfilled the conditions prescribed for the eligible passenger to carry the gold in terms of Notification No. 50/2017-Customs, dated 30.06.2017. Therefore, the said improperly imported gold weighing 200.00 grams concealed by him, without declaring to the Customs on arrival in India cannot be treated as bonafide household goods or personal effects. The noticee has thus contravened the Foreign Trade Policy 2015-20 and Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 read with Section 3(2) and 3(3) of the Foreign Trade (Development and Regulation) Act, 1992.

**25.** It, is therefore, proved that by the above acts of contravention, the passenger/noticee has rendered the gold of 24 kt having 999.0 purity

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weighing 200.00 gms., in form of square gold rod concealed under bottom of trolley bag pasted it with the double side adhesive tape, having total Tariff Value of Rs.13,06,650/- and market Value of Rs.15,14,600/-, seized vide Seizure Memo/Order under the Panchnama proceedings both dated 21.07.2024 liable to confiscation under the provisions of Sections 111(d), 111(f), 111(i), 111(j), 111(l) and 111(m) of the Customs Act, 1962. By using the modus of concealing the gold under bottom of trolley bag pasted it with the double side adhesive tape and without declaring to the Customs on arrival in India, it is observed that the passenger/noticee was fully aware that the import of said goods is offending in nature. It is therefore very clear that he has knowingly carried the gold and failed to declare the same to the Customs on his arrival at the Airport. It is seen that he has involved himself in carrying, keeping, concealing and dealing with the impugned goods in a manner which he knew or had reasons to believe that the same were liable to confiscation under the Act. It, is therefore, proved beyond doubt that the passenger has committed an offence of the nature described in Section 112 of Customs Act, 1962 making him liable for penalty under Section 112 of the Customs Act, 1962.

**26.** It is quite clear from the above discussions that the gold was concealed and not declared to the Customs with the sole intention to evade payment of Customs duty. The records before me shows that the passenger/noticee did not choose to declare the prohibited goods and opted for green channel customs clearance after arriving from foreign destination with the willful intention to smuggle the impugned goods. The square gold rod weighing 200.00 grams of 24Kt./ 999.0 purity, having total Market Value of Rs.15,14,600/- and Tariff Value Rs.13,06,650/- concealed under bottom of trolley bag pasted it with the double side adhesive tape, were placed under seizure vide panchnama dated 21.07.2024. The passenger/noticee has clearly admitted that despite having knowledge that the goods had to be declared and such import is an offence under the Act and Rules and Regulations made thereunder, he attempted to remove the gold by way of concealing and by deliberately not declaring the same on his arrival at airport with the willful intention to smuggle the impugned gold into India. I therefore, find that the passenger/noticee has committed an offence of the nature described in

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Section 112(a) of Customs Act, 1962 making him liable for penalty under provisions of Section 112 of the Customs Act, 1962.

**27.** Further, I find that the Noticee has quoted and relied on various case laws/judgments as mentioned above regarding allowing release of gold on payment of the redemption fine/penalty, alongwith defense submission. I am of the view that conclusions in those cases may be correct, but they cannot be applied universally without considering the hard realities and specific facts of each case. Those decisions were made in different contexts, with different facts and circumstances and the ratio cannot apply here directly. Therefore, I find that while applying the ratio of one case to that of the other, the decisions of the Hon'ble Supreme Court are always required to be borne in mind. The Hon'ble Supreme Court in the case of *CCE, Calcutta Vs Alnoori Tobacco Products [2004 (170) ELT 135(SC)]* has stressed the need to discuss, how the facts of decision relied upon fit factual situation of a given case and to exercise caution while applying the ratio of one case to another. This has been reiterated by the Hon'ble Supreme Court in its judgement in the case of *Escorts Ltd. Vs CCE, Delhi [2004(173) ELT 113(SC)]* wherein it has been observed that one additional or different fact may make huge difference between conclusion in two cases, and so, disposal of cases by blindly placing reliance on a decision is not proper. Again in the case of *CC(Port), Chennai Vs Toyota Kirloskar [2007(2013) ELT4(SC)]*, it has been observed by the Hon'ble Supreme Court that, the ratio of a decision has to be understood in factual matrix involved therein and that the ratio of a decision has to be culled from facts of given case, further, the decision is an authority for what it decides and not what can be logically deduced there from. Hence, *I find that judgments relied upon by the noticee, is not squarely applicable in the instant case.* In view of the above discussions, I find that the manner of concealment, in this case clearly shows that the noticee had attempted to smuggle the seized gold to avoid detection by the Customs Authorities. Further, no evidence has been produced to prove licit import of the seized gold at the time of interception. Merely claiming the ownership without any documentary backing, is not proved that the goods purchased in legitimate way and belonged to the noticee. Thus, the noticee has failed to discharge the burden placed on him in terms of Section 123. Further, from the SCN, Panchnama and Statement, I find that the noticee was not want to declare the said gold rod and tried to remove it clandestinely, to

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evade payment of customs duty. I find that it is settled by the judgment of Hon'ble Supreme Court in the case of Garg Wollen Mills (P) Ltd Vs. Additional Collector Customs, New Delhi [1998 (104) ELT 306(S.C)] that the option to release 'Prohibited goods' on redemption fine is discretionary. In the case of Raj Grow Impex (Supra), the Hon'ble Supreme Court has held that "that when it comes to discretion, the exercise thereof has to be guided by law; has to be according to the rules of reason and justice; has to be based on relevant consideration." Hon'ble Delhi High Court has, in case of Raju Sharma [2020(372) ELT 249 (Del.)] held that "Exercise of discretion by judicial, or quasi-judicial authorities, merits interferences only where the exercise is perverse or tainted by the patent illegality, or is tainted by oblique motive." Now in the latest judgment the Hon'ble Delhi High Court in its order dated 21.08.23 in W.P (C) Nos. 8902/2021, 9561/2021, 13131/2022, 531/2022 & 8083/2023 held that "---- an infraction of a condition for import of goods would also fall within the ambit of Section 2(33) of the Act and thus their redemption and release would become subject to the discretionary power of Adjudicating Officer." Therefore, keeping in view the judicial pronouncement above and nature of concealment alongwith the facts of the case, ***I am therefore, not inclined to use my discretion to give an option to redeem the gold on payment of redemption fine, as envisaged under Section 125 of the Act.*** Further, to support my view, I also relied upon the following judgment which are as :-

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

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

*The case has been maintained by the Hon'ble Supreme Court in Abdul Razak Vs. Union of India 2017 (350) E.L.T. A173 (S.C.) [04-05-2012]*

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**27.2.** 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 Samynathan 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.

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

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

**27.4** 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 -*

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*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.*

**27.5.** In 2019 (370) E.L.T. 1743 (G.O.I.), before the Government of India, Ministry of Finance, [Department of Revenue - Revisionary Authority]; Ms. Mallika Arya, Additional Secretary in Abdul Kalam Ammangod Kunhamu vide Order No. 17/2019-Cus., dated 07.10.2019 in F. No. 375/06/B/2017-RA stated that it is observed that C.B.I. & C. had issued instruction vide Letter F. No. 495/5/92-Cus. VI, dated 10.05.1993 wherein it has been instructed that “in respect of gold seized for non-declaration, no option to redeem the same on redemption fine under Section 125 of the Customs Act, 1962 should be given except in very trivial cases where the adjudicating authority is satisfied that there was no concealment of the gold in question”.

**27.6.** The Hon'ble High Court of Delhi in the matter of Rameshwar Tiwari Vs. Union of India (2024) 17 Centax 261 (Del.) has held-

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

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

**28.** Given the facts of the present case before me and the judgements and rulings cited above, I find that the manner of concealment, in this case clearly shows that the noticee had attempted to smuggle the seized gold to avoid detection by the Customs Authorities. Further, no evidence has been produced to prove licit import of the seized gold rod. Thus, the noticee has failed to discharge the burden placed on him in terms of Section 123. Further, from the SCN, Panchnama and Statement, I find

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that the manner of concealment of the gold is **ingenious** in nature, as the noticee concealed the gold under bottom of trolley by pasted it with double side tape with intention to smuggle the same into India and evade payment of customs duty. Therefore, the gold weighing 200.00 grams of 24Kt./999.0 purity in form of gold rod, concealed under bottom of trolley bag pasted it with the double side adhesive tape is therefore, liable to be **confiscated absolutely. I therefore hold in unequivocal terms that the gold weighing 200.00 grams of 24Kt./999.0 purity, placed under seizure would be liable to absolute confiscation under Section 111(d), 111(f), 111(i), 111(j), 111(l) & 111(m) of the Act.**

**29.** I further find that the noticee had involved himself in the act of smuggling of gold weighing 200.00 grams of 24Kt./999.0 purity, retrieved in form of square gold rod concealed under bottom of trolley bag pasted it with the double side adhesive tape. Further, it is fact that the passenger/noticee has travelled with gold weighing 200.00 grams of 24Kt./999.0 purity, concealed in under bottom of trolley by pasted it with double side tape from Abu Dhabi to Ahmedabad despite his knowledge and belief that the gold carried by him is an offence under the provisions of the Customs Act, 1962 and the Regulations made thereunder. Accordingly, on deciding the penalty in the instant case, I also take into consideration the observations of Hon'ble Apex Court laid down in the judgment of M/s. Hindustan Steel Ltd Vs. State of Orissa; wherein the Hon'ble Apex Court observed that *The discretion to impose a penalty must be exercised judicially. A penalty will ordinarily be imposed in case where the party acts deliberately in defiance of law, or is guilty of contumacious or dishonest conduct or act in conscious disregard of its obligation; but not in cases where there is technical or venial breach of the provisions of Act or where the breach flows from a bona fide belief that the offender is not liable to act in the manner prescribed by the Statute* . Despite his knowledge and belief that the gold carried by him is an offence under the provisions of the Customs Act, 1962 and the Regulations made under it, the noticee attempted to smuggle the said gold weighing 200.00 grams, having purity 999.0/24Kt by concealment. Thus, it is clear that the noticee has concerned himself with carrying, removing, keeping, concealing and dealing with the smuggled gold which he knows very well and has reason to believe that the same is liable for confiscation under Section 111 of the Customs Act, 1962. Bringing into India goods which contravene the

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provisions of Customs Act and omitting to declare the same under Section 77 of the Customs Act, 1962 are clearly covered under “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” and covered under Section 112(a) of the Customs Act, 1962 and Carrying/smuggling goods in an ingeniously concealed manner is clearly covered under Section 112(b) of the Customs Act, 1962. Therefore, I find that the noticee is liable for the penalty under Section 112(a) & 112(b) of the Customs Act, 1962 and I hold accordingly.

**30.** Accordingly, I pass the following Order:

**O R D E R**

- i.) I order **absolute confiscation** of the Gold square rod weighing **200.00 grams** having Market Value at **Rs.15,14,600/- (Rupees Fifteen Lakh, Fourteen Thousand and Six Hundred only)** and Tariff Value is **Rs.13,06,650/- (Rupees Thirteen Lakh, Six Thousand, Six Hundred and Fifty only)** concealed under bottom of trolley bag pasted it with the double side adhesive tape by the passenger/noticee Shri Asif Nizam Baig and placed under seizure under panchnama dated 21.07.2024 and seizure memo order dated 21.07.2024 under Section 111(d), 111(f), 111(i), 111(j), 111(l) & 111(m) of the Customs Act, 1962;
- ii.) I impose a penalty of **Rs. 3,50,000/- (Rupees Three Lakh Fifty Thousand Only)** on Shri Asif Nizam Baig under the provisions of Section 112(a)(i) and Section 112(b)(i) of the Customs Act 1962.

**31.** Accordingly, the Show Cause Notice No. VIII/10-198/SVPIA-D/O&A/HQ/2024-25 dated 24.12.2024 stands disposed of.

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

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Date:04.06.2025

DIN: 20250671MN0000888B5F

By SPEED POST A.D.

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To,  
**Shri Asif Nizam Baig,**  
Son of late Shri Mirza Nizam Baig,  
67/169- Kashmiri Manzil, Room No. A-608,  
6th Floor, J B Shah Marg, Khadak,  
Mumbai, Maharashtra-400009  
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Copy to :-

1. The Principal Commissioner of Customs, Ahmedabad (Kind Attn: RRA Section)
2. The Deputy Commissioner of Customs (AIU), SVPIA, Ahmedabad.
3. The Deputy Commissioner of Customs, SVPIA, Ahmedabad.
4. The Deputy Commissioner of Customs (Task Force), Ahmedabad.
5. The System In-Charge, Customs, HQ., Ahmedabad for uploading on the official web-site i.e. <http://www.ahmedabadcustoms.gov.in>.
6. Guard File.