



प्रधान आयुक्तका कार्यालय, सीमाशुल्क, अहमदाबाद

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SHOW CAUSE NOTICE (Issued under Section 124 of the Customs Act, 1962)

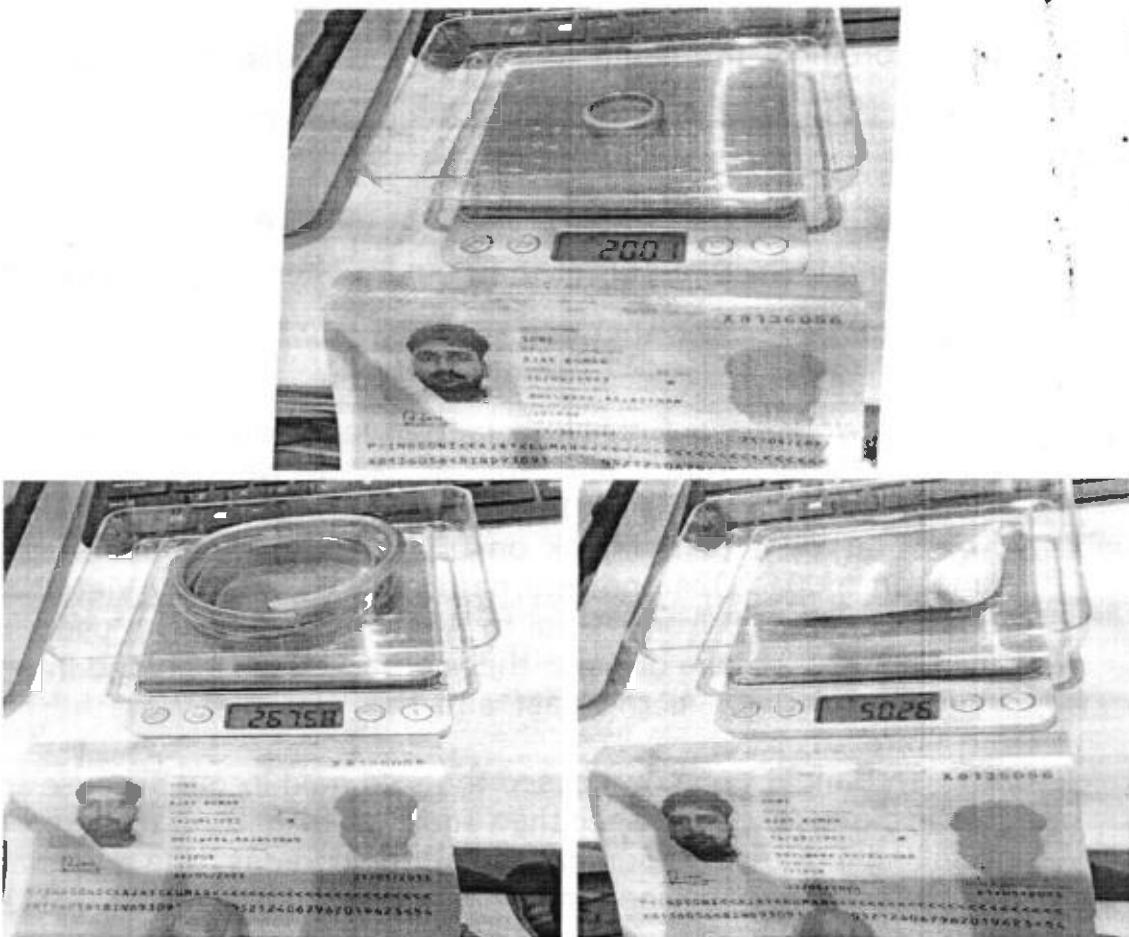
Shri Ajay Kumar Soni, (D.O.B: 14.09.1993) (hereinafter referred to as the said "passenger/Noticee"), residential address as per passport is GF-3, New Bapu Nagar, Bhilwara, Rajasthan-311001, India, holding Indian Passport No. X8136056, arrived by Vietjet Air Flight No. VJ 1925 from Hanoi to Ahmedabad on 13.01.2024 (Seat No: 09 A) at Sardar Vallabhbhai Patel International Airport (SVPIA), Terminal-2, Ahmedabad. On the basis of suspicious movement, the passenger was intercepted by the Air Intelligence Unit (AIU) officers, SVPIA, Customs, Ahmedabad while the passenger was attempting to exit through green channel without making any declaration to Customs, under Panchnama proceedings dated 13.01.2024 (**RUD – 01**) in presence of two independent witnesses for passenger's personal search and examination of his baggage. The passenger was carrying a one green coloured trolley bag & One black coloured hand bag.

2. The officers asked the passenger whether he had anything to declare to the Customs, in reply to which he denied. The officers informed the passenger that he would be conducting his personal search and detailed examination of his baggage. The officers offered their personal search to the passenger, but the passenger denied the same politely. Then the officers asked the passenger whether he wanted to be checked in presence of the Executive Magistrate or the Superintendent (Gazetted officer) of Customs, in reply to which the passenger, in presence of two independent witnesses, gave his consent to be searched in presence of the Superintendent of Customs. Now, in presence of the Panchas, the AIU officers asked the passenger to walk through the Door Frame Metal Detector (DFMD) machine after removing all the metallic objects he is wearing on his body/ clothes. The passenger now removed the metallic substances from his body/

clothes such as mobile, wallet etc., and keep it in the tray placed on the table and passed through the Door Frame Metal Detector (DFMD) machine and while he passed through the DFMD Machine, a beep sound/ alert was generated, indicating that there is some objectionable item on his body/ clothes. Now, the AIU officers again asked the passenger whether he had anything dutiable to declare to the customs authorities, he revealed that, he had hidden 04 gold kada, 01 gold ring and 01 gold plate weighing of 337.850 grams in pocket of jeans pant worn by him, further he showed it and handed over the said 04 gold kada, 01 gold ring and 01 gold plate (hereinafter referred to as "the said gold items/ articles" for short) total weighing of 337.850 grams to the Customs Officer.

2.1 The AIU officers informed that the said gold items are to be confirmed and its purity and weight needs to be ascertained. Now, the Government Approved Valuer was called by the AIU officers to the Terminal No. 2, SVPI Airport, Ahmedabad. Thereafter, at around 12:10 hours on 13.01.2024, the Government Approved Valuer reached the Airport premises. Thereafter, the AIU officers introduce the Panchas as well as the passenger to one person viz. Shri Kartikey Vasantrai Soni, the Government Approved Valuer. Now, the Government Approved Valuer, in presence of Panchas, the passenger and the AIU Officers started testing and valuation of the said gold items. After testing and valuation, the Govt. Approved Valuer confirms that it is 24 Kt. gold having purity 999.0. Now, the Govt. Approved Valuer summarizes that these gold items are made up of 24 Kt. gold having purity 999.0 total weighing **337.850** Grams. Further, the Govt. Approved Valuer informed that the total Market Value of the said recovered gold items is **Rs.21,82,511/-** (Twenty-one lakhs eighty-two thousand five hundred eleven only) and Tariff Value is **Rs.19,04,232/-** (Rupees Nineteen lakhs four thousand two hundred thirty-two only), which has been calculated as per the Notification No. 95/2023-Customs (N.T.) dated 29-12-2023 (gold) and Notification No. 01/2024-Customs (N.T.) dated 05-02-2024 (exchange rate). He submits his valuation report to the AIU Officers which is annexed as Annexure-A to this Panchnama.

The photograph of the same is as under :



2.2 The method of testing and valuation used by Shri Kartikey Vasantrai Soni is done in a perfect manner in presence of the independent Panchas, the passenger and the AIU officers, all are satisfied and agreed with this testing and Valuation Report No. 1122/2023-24 Dtd. 13.01.2024 given by Shri Kartikey Vasantrai Soni and in token of the same, independent Panchas and the passenger put dated signature on the said valuation report.

3. The following documents produced by the passenger – Shri Ajay Kumar Soni were withdrawn under the Panchnama dated 13.01.2024.

- (i) Boarding pass of Vetjet Airlines Flight No. VJ 1925 from Hanoi to Ahmedabad showing Seat No. 09-A allotted to him.
- (ii) Copy of Passport No. X8136056 issued at Jaipur on 22.05.2023 valid up to 21.05.2033.
- (iii) Copy of Aadhar Card having No. 971028909344.

4. Accordingly, 4 Gold Kada, 01 Gold ring and 01 Gold plate consisting of 337.850 grams of 24Kt. having purity 999.0 recovered from Shri Ajay Kumar Soni was seized vide Panchnama dated

13.01.2024, under the provisions of the Customs Act, 1962, on the reasonable belief that the said gold items was smuggled into India by the said passenger with an intention to evade payment of Customs duty and accordingly the same was liable for confiscation under the Customs Act, 1962 read with Rules and Regulation made thereunder.

5. A statement of Shri Ajay Kumar Soni was recorded on 13.01.2024, under Section 108 of the Customs Act, 1962 (**RUD-03**), wherein he *inter alia* stated that -

- (i) he work as a Goldsmith in Bhilwara and lives with his mother, father, wife and son at GF-3, New Bapu Nagar, Bhilwara, Rajasthan-311001.
- (ii) he went to Bangkok on 08.01.2024, then travelled to Hanoi on 12.01.2024 and returned on 13.01.2024 by Vietjet Air Flight No. VJ1925 from Hanoi to Ahmedabad; that he used his savings for purchase of gold; that he had never indulged in any smuggling activity in the past and this was first time he had carried gold;
- (iii) In Bangkok, he purchased the said gold items because the gold in Bangkok is cheaper than India so to getting more profit by selling in India. He purchased Four gold kadas, one gold plate & one gold ring seized under Panchnama dated 13.01.2024 weighed 337.850 gms;
- (iv) he had been present during the entire course of the Panchnama dated 13.01.2024 and he confirmed the events narrated in the said Panchnama drawn on 13.01.2024 at Terminal-2, SVPI Airport, Ahmedabad;
- (v) he was aware that smuggling of gold without payment of Customs duty is an offence; he was aware of the gold concealed in the pocket of jeans pant but he did not make any declarations in this regard with an intention to smuggle the same without payment of Customs duty. He confirmed the recovery of Gold totally weighing 337.850 grams having purity 999.0/24 KT valued at Rs.19,04,232/- (Tariff value) and Market value of Rs.21,82,511/- from him under the Panchnama dated 13.01.2024; he had opted for green channel to attempt to smuggle the gold hidden in the pocket of jeans pant without paying Customs duty.

6. The above said gold items weighing 337.850 Grams, having tariff value of Rs.19,04,232/- (Rupees Nineteen Lakh Four thousand Two Hundred Thirty Two only) and market value of Rs.21,82,511/- (Rupees Twenty One Lakh Eighty Two Thousand Five Hundred Eleven only), recovered from Shri Ajay Kumar Soni, was attempted to be smuggled into India with an intent to evade payment of Customs duty by way of concealing the same in pocket of jeans pant, which was clear

violation of the provisions of the Customs Act, 1962. Thus, on a reasonable belief that the Gold items weighing 337.850 grams which was attempted to be smuggled by Shri Ajay Kumar Soni, liable for confiscation as per the provisions of Section 111 of the Customs Act, 1962; hence, the above said gold items weighing 337.850 grams derived from pocket of jeans pant, was placed under seizure under the provision of Section 110 of the Customs Act, 1962 vide Seizure memo Order dated 13.01.2024 (**RUD - 04**).

7. RELEVANT LEGAL PROVISIONS:

A. THE CUSTOMS ACT, 1962:

I) Section 2 - Definitions.—*In this Act, unless the context otherwise requires,—*

(22) "goods" includes—

- (a) vessels, aircrafts and vehicles;
- (b) stores;
- (c) baggage;
- (d) currency and negotiable instruments; and
- (d) any other kind of movable property;

(3) "baggage" includes unaccompanied baggage but does not include motor vehicles;

(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;

(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;"

II) Section 11A – Definitions -*In this Chapter, unless the context otherwise requires,*

(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;"

III) "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."*

IV) "Section 110 – Seizure of goods, documents and things.—*(1) If the proper officer has reason to believe that any goods are liable to confiscation under this Act, he may seize such goods:"*

V) "Section 111 – Confiscation of improperly imported goods, etc.—*The following goods brought from a place outside India shall be liable to confiscation:-*

(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;

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

(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;

(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;"

VI) "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 know or has reason to believe are liable to confiscation under Section 111,
shall be liable to penalty.

B. THE FOREIGN TRADE (DEVELOPMENT AND REGULATION) ACT, 1992;

I) "Section 3(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 or technology."

II) "Section 3(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 (52 of 1962) and all the provisions of that Act shall have effect accordingly."

III) "Section 11(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 foreign trade policy for

the time being in force."

C. THE CUSTOMS BAGGAGE DECLARATIONS REGULATIONS, 2013:

I) Regulation 3 (as amended) - *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.*

Contravention and violation of law:

8. It therefore appears that:

- (a) The passenger Shri Ajay Kumar Soni, had dealt with and actively indulged himself in the instant case of smuggling of gold into India. The passenger had improperly imported gold weighing 337.850 Grams, purity 999.0/24kt, having tariff value of Rs.19,04,232/- (Rupees Nineteen Lakh Four Thousand Two Hundred Thirty-Two only) and market value of Rs.21,82,511/- (Rupees Twenty-One Lakh Eighty-Two Thousand Five Hundred Eleven only). The said gold items were concealed in the pocket of jeans pant by the passenger. The passenger opted green channel to exit the Airport with 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. Therefore, the improperly imported gold items weighing 337.850 grams of purity 999.0/24 Kt. by Shri Ajay Kumar Soni by way of concealment and without declaring it to the Customs on arrival in India cannot be treated as bonafide household goods or personal effects. The passenger 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.
- (b) By not declaring the value, quantity and description of the goods imported by him, the said passenger violated

the provision of Baggage Rules, 2016, read with the 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 Ajay Kumar Soni found concealed in the pocket of jeans pant by the passenger, without declaring it to the Customs is thus liable for confiscation under Section 111(d), 111(f), 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 the Customs Act, 1962.
- (d) Shri Ajay Kumar Soni by his above-described acts of omission and commission on his part has rendered himself liable to penalty under Section 112 of the Customs Act, 1962.
- (e) As per Section 123 of the Customs Act, 1962, the burden of proving that the gold items weighing 337.850 Grams, purity 999.0/24kt, tariff value of Rs.19,04,232/- (Rupees Nineteen Lakh Four thousand Two Hundred Thirty Two only) and market value of Rs.21,82,511/- (Rupees Twenty One Lakh Eighty Two Thousand Five Hundred Eleven only), concealed in the pocket of jeans pant by the passenger without declaring it to the Customs, is not smuggled goods, is upon the passenger Shri Ajay Kumar Soni.

9. Now, therefore, **Shri Ajay Kumar Soni**, residing at GF-3, New Bapu Nagar, Bhilwara, Rajasthan-311001, India, holding Indian Passport No. X8136056, is hereby called upon to show cause in writing to the Additional Commissioner of Customs, Ahmedabad having her office at 2nd Floor, Customs House, Opp. Old High Court, Navrangpura, Ahmedabad-380009, as to why:

- (i) The said gold items, i.e. 4 Gold Kada, 01 Gold ring and 01 Gold plate, totally weighing **337.850** Grams, purity 999.0/24kt, having tariff value of **Rs.19,04,232/-** (Rupees

Nineteen Lakh Four Thousand Two Hundred Thirty-Two only) and market value of **Rs.21,82,511/-** (Rupees Twenty One Lakh Eighty Two Thousand Five Hundred Eleven only), concealed in the pocket of jeans pant worn by the passenger and placed under seizure under Panchnama proceedings dated 13.01.2024 and Seizure Memo Order dated 13.01.2024, should not be confiscated under the provision of 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 the passenger, under Section 112 of the Customs Act, 1962, for the omissions and commissions mentioned hereinabove.

10. Shri Ajay Kumar Soni is further required to state specifically in the written reply as to whether he wishes to be heard in person before the case is adjudicated. If no specific mention is made about this in the written reply, it shall be presumed that he does not wish to be heard in person. He should produce at the time of showing cause, all the evidences which he intends to rely upon in defense.

11. Shri Ajay Kumar Soni is further required to note that the reply should reach within **30 (thirty) days** or within such extended period as may be allowed by the adjudicating authority. If no cause is shown against the action proposed above within 30 days from the receipt of this show cause notice or if anyone does not appear before the adjudicating authority as and when the case is posted for hearing, the case is liable to be decided ex-parte on the basis of facts and evidences available on record.

12. This show cause notice is issued without prejudice to any other action that may be taken against him, under this Act or any other law for the time being in force, or against any other company, person(s), goods and conveyances whether named in this notice or not.

13. Department reserves its right to amend, modify or supplement this notice at any time prior to the adjudication of the case.

14. The relied upon documents for the purpose of this notice are listed in Annexure 'A' and copies thereof are enclosed with this notice.

VML
29/5/24
(Vishal Malani)
Additional Commissioner
Customs, Ahmedabad.

DIN : 20240571MN00002.0999
F. No. VIII/10-27/SVPIA-C/O&A/HQ/2024-25 DATE : 29.05.2024

BY SPEED POST:

To,
Shri Ajay Kumar Soni,
GF-3, New Bapu Nagar,
Bhilwara, Rajasthan-311001.

Copy to:

- (i) The Deputy/Assistant Commissioner of Customs, AIU SVPI Airport, Ahmedabad.
- (ii) The System In-Charge, Customs, HQ., Ahmedabad for uploading on the official web-site i.e. <http://www.ahmedabadcustoms.gov.in>
- (iii) Guard File.

Annexure 'A'

List of documents relied upon in the notice to show cause issued to Shri Ajay Kumar Soni, GF-3, New Bapu Nagar, Bhilwara, Rajasthan-327022, India, India, for attempting to smuggle One Gold Items weighing 337.850 grams:

Sr. No	Document	Remarks
1	Panchnama drawn on 13.01.2024 at SVP International Airport, Ahmedabad	Copy enclosed
2.	Valuation certificate No. 1122/2023-24 dated 13.01.2024 issued by Shri Karitkey Soni, Government Approved Valuer.	Copy enclosed
3.	Statement dated 13.01.2024 of Shri Ajay Kumar Soni	Copy enclosed
4.	Seizure memo Order dated 13.01.2024 issued under Section 110(1) & (3) of the Customs Act, 1962 in respect of the gold items weighing 337.850 grams along with its packing material.	Copy enclosed