



प्रधान आयुक्त का कार्यालय, सीमा शुल्क, अहमदाबाद
सीमा शुल्क भवन", पहली मंजिल, पुराने हाईकोर्ट के सामने, नवरंगपुरा, अहमदाबाद – 380 009.
दूरभाष: (079) 27544630 E-mail: cus-ahmd-adj@gov.in फैक्स: (079) 27542343

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PREAMBLE

A	फ़ाइल संख्या/ File No.	:	GEN/ADJ/ADC/1644/2025-AIRPT-SRT-CUS-COMMRTE-AHMEDABAD
B	कारण बताओ नोटिस संख्या-तारीख / Show Cause Notice No. and Date	:	DRI/35/2025-O/o DD/AD-DRI-RU-SURAT dated 06.07.2025
C	मूल आदेश संख्या/ Order-In-Original No.	:	28/ADC/SRV/SRT-AIRPT/2025-26
D	आदेश तिथि/ Date of Order-In-Original	:	27.03.2026
E	जारी करने की तारीख/ Date of Issue	:	27.03.2026
F	द्वारा पारित/ Passed By	:	Shree Ram Vishnoi, Additional Commissioner
G	आयातक/यात्री का नाम और पता / Name and Address of Importer / Passenger	:	(1) Shri SalmanRafiqbhai Penwala, Flat No. 401, 7 Star Avenue, Near Sai Baba Mandir, Sodagarwad, Near Bank Of Baroda, Surat ((E mail - penwalamohdazim@gmail.com ; salmanking1279@gmail.com) (2) Shri Mahmed Rizvanbhai Aiyubbhai Limbada, 429, Vahorawad Faliyu, At-Po- Kondh, Bharuch. (E mail- naushu1999@gmail.com) (3) Mohammed Tousique Siddique, Zahida Mansion, Shaheen Street, Magdoom Colony, Bhatkal, Uttara Kannada – 581320, Karnataka (E mail- tousiquesiddqud@gmail.com) (4) Shri Firozkhan Ahmedkhan

		<p>Pathan, 1/2114, Barahajari Mohallo Jafarshah Dargah Ni Gali, Nanpura, Surat-395001(Email: munaf.khan5577@gmail.com)</p> <p>(5) Shri Mohsinkhan Ahmedkhan Pathan, 365, Masjid Mohallo, Near Gujarat Gas Company, Adajan Gam, Surat-395009 (Email:mohsinnn1984@gmail.com)</p> <p>(6) Shri Tufel Haji Umar Surya B-19, Rabbani Complex, B/H DHNMORA, Gorat, Adajan Patiya Road, Surat-395009</p> <p>(7) Shri Samar Bishwanath Samanta 403, Shree Sankalap CHS, Mahatma Phule Road, Maharashtra Nagar, Dombivili, Thane-421202</p>
(1)	यह प्रति उन व्यक्तियों के उपयोग के लिए निःशुल्क प्रदान की जाती है जिन्हे यह जारी की गयी है।	
(2)	कोई भी व्यक्ति इस आदेश से स्वयं को असंतुष्ट पाता है तो वह इस आदेश के विरुद्ध अपील इस आदेश की प्राप्ति की तारीख के 60 दिनों के भीतर आयुक्त कार्यालय, सीमा शुल्क अपील)चौथी मंज़िल, हुडको भवन, ईश्वर भुवन मार्ग, नवरंगपुरा, अहमदाबाद में कर सकता है।	
(3)	अपील के साथ केवल पांच (5.00) रुपये का न्यायालय शुल्क टिकिट लगा होना चाहिए और इसके साथ होना चाहिए:	
(i)	अपील की एक प्रति और;	
(ii)	इस प्रति या इस आदेश की कोई प्रति के साथ केवल पांच (5.00) रुपये का न्यायालय शुल्क टिकिट लगा होना चाहिए।	
(4)	इस आदेश के विरुद्ध अपील करने इच्छुक व्यक्ति को 7.5 % (अधिकतम 10 करोड़) शुल्क अदा करना होगा जहां शुल्क या ड्यूटी और जुर्माना विवाद में है या जुर्माना जहां इस तरह की दंड विवाद में है और अपील के साथ इस तरह के भुगतान का प्रमाण पेश करने में असफल रहने पर सीमा शुल्क अधिनियम, 1962 की धारा 129 के प्रावधानों का अनुपालन नहीं करने के लिए अपील को खारिज कर दिया जायेगा।	

BRIEF FACTS OF THE CASE:

Specific information was received by DRI, Surat that 4 (four) Indian nationals travelling from Sharjah to Surat in Air India Express Flight IX-172 on 07.07.2023 were likely to smuggle gold in solid/paste form through Surat International Airport. Intelligence further indicated that the passengers would smuggle the gold in collusion with a person working at Surat International Airport by handing over the smuggled gold in the washroom located at the arrival wing of the airport to the person working at Surat International Airport.

2. Acting on the above information, officers of Directorate of Revenue Intelligence ('DRI' in short), Ahmedabad Zonal Unit and Surat Regional Unit intercepted four passengers arriving from Sharjah via Air India Flight No. IX-172 at Surat International Airport on 08.07.2023 in the presence of independent panchas and drew a running panchnama dated 07/08.07.2023 (**RUD-1**) which further led to the seizure of 9723 Grams of pure gold recovered from gold paste attempted to be smuggled by passenger Shri Mohamed Sakib Bustak Ahmad Atashbajiwala, 28432 Grams of pure gold recovered from gold paste attempted to be smuggled by other passenger Shri Uvesh Imtiyaz Shaikh and 3882 Grams of pure gold extracted from gold paste found abandoned in the men's washroom at the immigration area subsequent to the aforesaid action by the DRI Officers. A total quantity of 42037 grams of Gold having aggregate market value of Rs. 25,26,54,562/- were attempted to be smuggled by the passengers and had been placed under seizure under Section 110 of Customs Act, 1962 under reasonable belief that the same were liable for confiscation under the provisions of Customs Act, 1962. The goods were seized by the Senior Intelligence Officer, DRI, Surat, vide seizure memo DRI/AZU/SRU/B/INV-11/2023 dated 08.07.2023 (**RUD-2**) and seizure memo F.No. DRI/AZU/SRU/B/INV-11/2023 dated 08.07.2023 (**RUD-3**) under the provisions of Customs Act, 1962. In respect of the seizure of smuggled gold as mentioned above, a Show Cause Notice in F. No. VIII/26-11/AIU/CUS/2023-24 dated 28.08.2023 (**RUD-4**) was issued by the Additional Commissioner of Customs, Surat under Section 124 of the Customs Act, 1962 to the following persons:

- i. Shri Salman Rafiqbhai Penwala,
- ii. Shri Mahmed Rizvanbhai Aiyubbhai Limbada,
- iii. Mohammed Tousique Siddique
- iv. Shri Farhan Patel,
- v. Mohd. Sattar,
- vi. Shri Uvesh Imtiyaz Shaikh,
- vii. Shri Mohamed Sakib Mustak Ahmad Atashbajiwala,
- viii. Shri Yasir Shaikh,
- ix. Shri Paragkumar Dhirajlal Dave,
- x. Shri Mohsin Shaikh,
- xi. Shri Shabbir Ahmed Ismail Hatiya,
- xii. Any Person/ Persons who claims ownership of seized goods found abandoned in immigration area.

3. The aforesaid Show Cause Notice was issued, restricted to the seizure of smuggled gold on 07.07.2023 and subsequently, the case was adjudicated vide Order-in-Original No. 17/AB/ADC/SRT-AIRPT/2024-25 dated 04.02.2025 in F.No. VIII/26-11/AIU/CUS/2023-24 passed by the Additional Commissioner, Surat International Airport, holding absolute confiscation of 42,037 Grams of the

seized gold. The adjudicating authority also imposed penalty on each noticee under the provisions of Section 112 of the Customs Act, 1962 for their act of omission and commission which rendered the goods liable to confiscation and for abetting, acquiring possession and found concerned in carrying, removing and dealing with the smuggled gold.

4. Investigation has revealed that the same syndicate was regularly involved in the organized activity of gold smuggling in the past also. It appears from various incriminating documents/diaries/notepads recovered during search at the residence of Shri Salman Penwala, CCTV Footage of Airport Area pertaining to earlier dates of arrival of passengers/carriers employed by the syndicate members, forensics analysis of digital records and voluntary statements recorded under Section 108 of the Customs Act, 1962, that the syndicate had set up an organized network with specific roles assigned to the persons involved, in order to bypass the checks and scrutiny by the Customs during arrival and clearance of international passengers. From the investigation into the past instances of smuggling by the same syndicate of persons led by Shri Salman Rafiqbhai Penwala, Shri Mahmed Rizvanbhai Aiyubbhai Limbada, and Mohammed Tousique Siddique, it appears that they are the key persons and masterminds of the entire smuggling network set up for bringing large quantity of foreign origin gold into India by contravening the import regulations. Further, the same syndicate appears to be simultaneously involved in illegally exporting foreign currency out of India in contravention of the provisions of the Customs Act, 1962 read with FEMA Act, 1999. The relevant findings with respect to the investigation into the past instances of smuggling of gold and foreign currency is discussed in subsequent paragraphs:

SEARCHES CONDUCTED UNDER SECTION 105 OF CUSTOMS ACT, 1962

4.1 A search was conducted at the known residential premises of Shri Salman Rafiqbhai Penwala situated at Flat No. 401, 7 Star Avenue, Near Sai Baba Mandir, Sodagarwad, Near Bank of Baroda, Surat and a Panchnama dated 12.07.2023 was drawn in the presence of independent Panchas and Smt. Aaliya Penwala, wife of Shri Salman Rafiqbhai Penwala. During the search, some diaries and loose papers and a copy of Passport of Shri Salman Penwala bearing No. S4232153, as detailed below, were recovered and resumed for further investigation. The panchnama dated 12.07.2023 and documents resumed therein are enclosed as (RUD-5).

Sr. No.	Description of Documents resumed	Page No.
1	Diary of Paperline brand	1 to 183
2	Diary having marking Home Town in the Early Morning	1 to 221
3	Small Notebook of Jeevraj brand	1 to 27
4	Notepad of Sonilex brand	1 to 33
5	File containing Loose Papers	1 to 57

4.2 A search was conducted at the known residential premises of Shri Mahmed Rizvan Limbada at 429, Vohrawad Faliyu, At-Po- Kondh, Valia, Bharuch and panchnama dated 21.07.2023 (**RUD-6**) was drawn in the presence of independent panchas and Smt. Rajiya Rizvan Limbada (w/o Shri Mahmed Rizvan Limbada).

4.3 A search was conducted at the known residential premises of Shri Shabbir Ahmed Ismail Hatiya (a key aid and associate of Shri Mahmed Rizvan Limbada involved in the smuggling of gold paste) residing at Masdid Faliyu, At Po-Panoli, Ankleshwar, Bharuch and panchnama dated 21.07.2023 (**RUD- 7**) was drawn in the presence of independent panchas and Shri Shahid Ismail Hatiya, brother of Shri Shabbir Ahmed Ismail Hatiya and Smt. Zainab Shabbir Hatiya, wife of Shri Shabbir Ahmed Ismail Hatiya.

4.4 A search was conducted by the officers of DRI, Karwar Sub-Regional Unit (under Regional Unit, Manglore) at the residential premises of Shri Tousique Siddique situated at Village- Zahida Mansion, Shaheen Street, Magdoom Colony, Bhatkal, Uttara Kannada – 581320, Karnataka and a panchnama dated 02.08.2023 (**RUD-8**) was drawn in the presence of independent panchas and Shri Abdul Baqi Siddique, brother of Mohammed Tousique Siddique. During the panchnama no incriminating documents related to smuggling of gold/gold paste were found.

STATEMENTS UNDER SECTION 108 OF CUSTOMS ACT, 1962:

5. The Statement of **Shri Mohamed Sakib Mustak Ahmad Atashbajiwala**, (passenger/carrier) was recorded on 09.07.2023 (**RUD-9**) u/s 108 of Customs Act, 1962, wherein he has, interalia, stated that:

- (i) His friend Shri Yasir Shaikh had informed him that there was one person by the name Shri Salman Rafiqbhai Penwala, based in Dubai and that if he wanted to travel to Dubai then he (Shri Salman Rafiqbhai Penwala) could arrange tickets, Visa and his stay for 2-3 days in Dubai on the condition that at the time of return journey to India, he will have to smuggle gold in paste form into India by way of concealment of the same in black coloured belts kept in hand baggage;
- (ii) That he met Yasir Shaikh through his employer Shri Mohsin Shaikh who was the owner of **4ever Nutrition** shop in Adajan; that Shri Yasir Shaikh was the younger brother of Shri Mohsin Shaikh.
- (iii) Shri Salman Rafiqbhai Penwala gave one belt containing 04 pouches of gold paste and one more packet of gold paste to him and as per instructions of Shri Salman Penwala he had concealed the said belts having pouches of gold paste which he carried during his return journey from Sharjah to Surat on 07.07.2023.

5.1 The statement of **Shri Uvesh Imtiyaz Shaikh** (passenger/carrier), was recorded on 09.07.2023 (**RUD- 10**) u/s 108 of the Customs Act, 1962, wherein he interalia stated that -

- (i) His cousin, Shri Nawaz Shaikh informed him in June-2023 that his friend Shri Yasir Shaikh knew a person named Salman Rafiqbhai Penwala in Dubai and if he wanted to travel to Dubai then Shri Salman Rafiqbhai Penwala could arrange tickets, Visa and his stay for 2-3 days in Dubai on the condition that at the time of return to India he had to carry gold/gold paste concealed in a belt for smuggling the same into India.

(ii) that in the afternoon of 07.07.2023, Shri Salman Rafiqbhai Penwala had given one belt containing 04 pouches of gold paste and 02 more pouches of gold paste to him in Dubai for carrying it during return travel to Surat Interantional Airport and that Salman Rafiqbhai Penwala had shown on his mobile the photo of the immigration officer who would receive the Gold from him at toilet in the Men's Washroom which is located before the immigration counter.

5.2 The statement of **Shri Yasir Shaikh** (passenger/carrier and brother of Shri Mohsin Shaikh), was recorded on 09.07.2023 (**RUD-11**) and 11.07.2023 (**RUD-12**) u/s 108 of Customs Act, 1962, wherein he interalia stated that –

(i) Shri Salman Rafiqbhai Penwala had handed over to him 09 white coloured pouches containing Gold in paste form in 3 black belts on the afternoon of 07.07.2023 in Dubai;

(ii) That the bag containing the said pouches was carried by him during the check-in procedure at Sharjah airport while boarding flight to Surat on 07.07.2023 and further there was an understanding between Shri Salman Rafiqbhai Penwala and the immigration officer at Surat Airport for the exchange of the smuggled gold paste from passengers in washroom area; that Salman Penwala had shown in his mobile the picture of the person who will receive smuggled gold at Surat Airport who was later identified as Shri Paragkumar D Dave, an officer of immigration department.

(iii) He had booked his ticket for travel from India to UAE from **M/s Royal Travels**, Surat; that he had received ticket for travel from UAE to India from Shri Salman Penwala on whatsapp;

(iv) He came in contact with Salman Penwala through Shri Mohsin Shaikh and he came to know that Shri Salman Penwala is engaged in smuggling of gold paste through Airport and has smuggled gold through different persons successfully on earlier occasions also;

(iv) He was informed by Shri Mohsin Shaikh that on **5th July 2023**, Shri Salman Penwala had travelled along with one person named Sattar and handed over the smuggled gold paste to the immigration officer in washroom area adjacent to the immigration area.

(v) On being asked about the past journeys, he stated that in past, before this journey, he had travelled 6 times with his wife to Dubai, UAE; that on all the occassions, his departure airport from India was CSMI Mumbai International Airport, details as below:

Table D: Travel History of Shri Yasir Shaikh as stated by him

Sr. No.	Date of Departure	Departure Airport	Date of Arrival	Arrival Airport
1	22.10.2020	CSMI	28.10.2020	CSMI
2	21.12.2020	CSMI	27.12.2020	CSMI
3	17.03.2021	CSMI	22.03.2021	CSMI
4	04.10.2021	CSMI	09.10.2021	Ahmedabad
5	19.01.2022	CSMI	24.01.2022	CSMI
6	04.03.2023	CSMI	09.03.2023	CSMI

7	04.07.2023	CSMI	08.07.2023	Surat
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5.3 Subsequent statement of passenger **Shri Yasir Shaikh**, was recorded on 15.03.2025 (**RUD-13**) u/s 108 of Customs Act, 1962, wherein he *interalia* stated that :

(i) he has seen his earlier statements recorded on 09.07.2023 and 11.07.2023 and on perusal of the same, stated that the contents mentioned therein are true and correct.

(ii) he was shown the Diary of **Paperline brand** entry at page no. 157 recovered from house of Shri Salman Penwala under the Panchnama dated 12.07.2023. At page no. 157 there is heading written as "Yasir/Family" with date 21.01.2022, on being asked about his past travel details as mentioned by Salman Penwala in his diary and regarding carrying of smuggled gold, he stated that he had visited Dubai during 19.01.2022 to 24.01.2022 with his wife and during that trip as instructed by Salman Penwala, he had carried Foreign Currency from India to Dubai and brought 180 Grams of gold to India while his return journey to India;

(iii) that before that trip, the foreign currency of USD 50000 was handed over to him in Surat by one of the person sent by Salman Penwala and then the said Foreign Currency was carried by concealment in his Check-in luggage when he took the flight to Dubai; on reaching a hotel in Dubai, Salman Penwala came to collect the USD amount carried by him from India to Dubai; that Salman Penwala again met him at Dubai on the day of his return to India and handed over solid gold weighing approx. 180 gm for carrying to India by concealing in his luggage; the smuggled gold so brought was collected from his home at Surat by some known person of Salman Penwala.

(iv) that similarly, other carrier persons used to work for Salman Penwala and Salman used to arrange foreign currency locally in India which was carried by passengers during their journey to Dubai and converted to Dirham in Dubai; Salman used to collect the foreign currency carried by passengers and further arranged gold for passengers in Dubai who would conceal and carry the smuggled gold into India during their return through Airport;

(v) that Salman Penwala used to realize some profit by conversion of the smuggled foreign currency from US Dollar to Dirham at Dubai and sometimes carriers were only instructed to carry foreign currency from India to Dubai and not carry smuggled gold while returning to India;

(vi) On being asked about the pattern of smuggling of gold during 2020-2022 as shown in Diary entries found in four diaries resumed from the residence of Salman Penwala, he stated that Salman Penwala used to arrange passengers by offering them free tickets, hotel stay, visa etc. in Dubai and used to handover foreign currency ranging from 10000-50000 USD procured locally in India during their departure mostly from Mumbai Airport as the tickets from Mumbai to Dubai were cheaper; and during their return journey from Dubai they were handed over solid gold for concealing and smuggling into India.

(vii) that he has gone through various handwritten entries of Diaries/Notebooks with title "Sonilex", "Jivraj", "Paperline" and "Hometown in the early morning" belonging to Salman Penwala, and stated that the amount calculation written with the name of carrier or passenger on the top refers to the above said modus of smuggling of gold into India and smuggling of foreign currency out of India through the hired passengers/carriers by Shri Salman

penwala;

(viii) that the travel tickets for himself and his wife for travel to Dubai on 03.07.2023 and past trip in January 2022 to Dubai were booked by Salman Penwala;

(ix) that he also works as courier of various trading items like Burkha, dry fruits, perfumes, chocolates etc. and travelled to Dubai on various occasions for carrying trading goods from Dubai to India;

(x) that having seen the data retrieved from his mobile phone showing whatsapp chat with Shri Salman Rafiqbhai Penwala between 18.05.2023 to 29.05.2023, he stated that two carrier /passengers namely, Mohsin Masalawala and one other person, Ejaz Masalwala were arranged by him for travelling to Dubai on the instructions of Salman Penwala for carrying smuggled gold paste on their return journey; that he had requested for Hotel and ticket booking to Salman Penwala, thereafter, he (Salman) sent him pdf copies of tickets for those two passengers who travelled to Dubai from Mumbai Airport and they returned via Surat Airport; on being asked as to how much quantity of gold was carried by those passengers, he stated that Salman used to handover gold paste only a few hours before boarding at Sharjah Airport and some carriers used to wear Belt containing gold paste only during check-in time and later they would pass- on the belts to handbag luggage of some other passengers as instructed by Salman Penwala; he stated that those two carrier/ passengers stated above had worn Belts containing gold paste weighing approx. 5-6 Kg. while Check-in at Sharjah Airport on 28.05.2023 on return journey to India, however later they passed-on the belt containing gold paste to some other carrier /passengers as instructed by Salman Penwala; on being further asked he stated that he does not have exact details of those passengers who travelled along with passengers arranged by him during the return trip to India on 28.05.2023;

(xi) that Salman Penwala had asked through whatsapp message whether those two passengers arranged by him, will be travelling again to Dubai; later he had replied that it would not be possible for them to travel again;

(xii) that for the two passengers arranged by him, Salman Penwala had given him Rs. 20,000/- as carrying fees and also arranged for the tickets, visa, hotel stay and local tour in Dubai in-lieu of their travel for carrying gold paste during their return journey to India; also Salman Penwala had told him that he had good contact with immigration officer at Surat International Airport for exchange of smuggled gold paste in washroom area before the immigration counter from the above mentioned two passengers who had carried gold paste during their return journey from Sharjah Airport to Surat Airport.

(xiii) that Salman Penwala was looking for two more passengers to travel to India on 07.07.2023 and Salman Penwala requested him and his wife to travel along with passengers Mohamed Sakib and Uvesh Imtiyaz Shaikh and also persuaded him by saying that he did not have to carry the gold paste throughout the journey and that he can pass-on the belt with gold paste to another passenger Uvesh after check-in procedure at Sharjah Airport.

(xiv) Having seen and gone through the statement of Shri Farhan Patel dated 26.02.2025 wherein he (Farhan) stated that on various occasions i.e. on 24.06.2023, 26.06.2023, 01.07.2023 and 03.07.2023 he had collected the smuggled gold paste carried by various passengers through Surat Airport for further delivery to Mumbai, he stated that Farhan Patel used to work for Salman Penwala and since Salman Penwala had arrangement for taking delivery of gold paste through immigration officer P.D. Dave, PSI in the washroom before the immigration counter at Surat International Airport, it would have facilitated the frequent smuggling of gold paste in that particular period as mentioned above.

However, he is not exactly sure how Farhan Patel used to receive smuggled gold paste from the immigration officer P.D. Dave, PSI after he removed the smuggled gold paste through the Surat Airport Area.

5.4 Statement of **Shri Mohsin Shaikh**, was recorded under Section 108 of the Customs Act, 1962 on 11.07.2023 (**RUD-14**), 17.07.2023 (**RUD- 15**) and 20.07.2023 (**RUD-16**) wherein he inter-alia stated the following:

(i) that he started his nutrition business in the name of 4ever Nutrition; he met Salman bhai (full name Shri Salman Rafiqbhai Penwala) in 2013 ; that from last 1 year, he used to talk with Salman Rafiqbhai Penwala on his mobile Nos 544315007 (Dubai), 7990237339 (India) to provide some job in Dubai as **his business was not in good financial condition** but Salman Rafiqbhai Penwala had informed him that he could provide free tour of Dubai and pay Rs.20,000/25,000 approx. for each passenger who could act as a carrier to smuggle gold from Dubai to India.

(i) that Shri Mohamed Sakib Mustak Ahmad Atashbajiwala was working in his shop 4ever Nutrition on commission cum salary basis; that he offered him that he could get free tour of Dubai and Rs.20000-25000 approx. for working as a carrier to smuggle gold from Dubai to India; that Shri Mohamed Sakib agreed and accordingly he forwarded the passport details of Shri Mohamed Sakib to Shri Salman Rafiqbhai Penwala on whatapp.

(ii) He had been confronted with Shri P.D. Dave who was on remand and present in DRI Surat office and stated that he (Shri P.D. Dave) was the same person to whom gold was supposed to be delivered in the toilet area of the immigration checkpoint; that one day in Dubai, he met with Salman Rafiqbhai Penwala and Tousique Siddique along with other different carriers who were supposed to smuggle Gold/gold paste into India from Dubai and Tousique Siddique had shown the photo of Shri P.D. Dave to the other carriers/passengers who would be smuggling gold/gold paste into India, in front of him and also informed the other carriers/involved passengers that Shri P.D. Dave would take gold from them in washroom area of the immigration check point.

(iii) that he used to visit Dubai for searching for a job and there he met with Salman Rafiqbhai Penwala along with Shri Tousique Siddique (971554958340 Dubai Phone Number); that as per his understanding, Shri Tousique Siddique was involved in that network as well and was a resident of Karnataka state ; that Shri Tousique Siddique had been allotted the work of purchasing the gold in Dubai and preparation of gold paste; that the same gold paste was handed over by Shri Tousique Siddique to Shri Salman Rafiqbhai Penwala in Dubai; that he was sure that Shri Tousique Siddique knew the actual financier or had a lead towards the actual financier, as only Shri Tousique Siddique knew the person who was sending money through hawala from India.

(iv) That Shri P.D. Dave also knew the actual financier or had a lead towards the actual financier as Shri P.D. Dave used to take the gold from the washroom area of immigration check point and was supposed to deliver the same in India to either the actual beneficiary/ financier or the main key person of the actual beneficiary/ financier. On being further asked about the person to whom gold was supposed to be handed over further by Shri P.D. Dave after clearance from the Airport, he stated that as per his understanding, Shri Farhan Patel might be that person as Shri Farhan Patel used to be in continuous touch with Shri Salman Rafiqbhai Penwala as seen by him in Dubai and Shri Farhan Patel used to handle his work of settlement of money, other personal works;

(v) On being asked about the past journeys, he stated that in past, he had travelled 8 times to Dubai, UAE in 2022 & 2023, the details of the same are as under:

Sr. No.	Date of Departure	Departure Airport	Date of Arrival	Arrival Airport
	25.06.2022	CSMI	30.06.2022	CSMI
	28.09.2022	CSMI	02.10.2022	Surat
	28.10.2022	CSMI	02.11.2022	CSMI
	22.01.2023	CSMI	05.02.2023	CSMI
	14.02.2023	CSMI	04.03.2023	Surat
	17.03.2023	Surat	17.04.2023	CSMI
	05.05.2023	Surat	22.05.2023	Surat
	31.05.2023	Surat	26.06.2023	Surat

(vi) On being specifically asked about purpose of visit of past journeys to Dubai, he stated that he visited Dubai on those occasions for searching a job, meeting relatives and for business purposes; **that his financial condition was not so bad that he had to do that kind of work**; that Salman Rafiqbhai Penwala had offered the same deal of gold smuggling to him as well but he had declined the same; that most of the time, he had stayed for a long time in Dubai, which had shown the purpose of his visit; he produced his employer identity card as well to corroborate his claim; **that he had helped Salman Rafiqbhai Penwala to get carriers.**

(vii) On being asked regarding the business relationship between him and Shri Salman Rafiqbhai Penwala, he stated that they had not entered into any business activity; that he had only arranged carrier passengers for carrying gold from Dubai to Surat in good faith for Salman Rafiqbhai Penwala as he was his friend;

(viii) On being specifically asked to peruse page 7 of the black colour Sonilex Notepad, resumed during the panchnama dated 12.07.2023 from the residence of Salman Penwala, he stated that there were a few names and amounts were written on the said page and his name along with an amount of Rs.212500/- was also written on the said page; that similarly at page no. 19 there were a few names and amount were written and his name along with an amount of Rs.14000/- was mentioned; that he did not have any business relations with Salman Rafiqbhai Penwala, so he did not know anything about the mention of his name and amount against his name in Salman Rafiqbhai Penwala's diary.

(ix) On being specifically asked to peruse the pages mentioned in table below, of the "HOME TOWN IN THE EARLY MORNING" diary, running from page no. 1 to 221, resumed from 401, 7 Star Avenue, Near Sai Baba Mandir, Sodagarwad, Near Bank of Baroda, Surat during the panchnama dated 12.07.2023, he stated that he had perused the said pages and in token of its perusal, he put his dated signature on the said pages.

S. No.	Page no. of "HOME TOWN IN THE EARLY MORNING" diary	Amount written against his name
1	53	10000
2	55	102500
3	57	170856
		10000
4	59	170856
		10000
5	63	100000
6	69	113000
7	85	55000

(x) On being asked regarding his name written on above said pages and amount mentioned against it, he stated that he did not have any business relations with Shri Salman Rafiqbhai Penwala, so he did not know anything about the mention of his name and amount against his name in Salman Rafiqbhai Penwala's diary.

(xi) On being specifically asked to peruse the pages running from 1 to 183, of blue colour "PAPERLINE" diary, resumed from 401, 7 Star Avenue, Near Sai Baba Mandir, Sodagarwad, Near Bank of Baroda, Surat during the panchnama dated 12.07.2023, he stated that he had perused the said diary and stated that he had no idea about the calculations written in the said diary.

(xii) On being asked regarding benefit earned for arranging the carrier/passenger- to carry gold in paste form from Dubai to Surat, he stated that neither had he been offered any benefit for the above said activity by Salman Rafiqbhai Penwala nor had he earned it from any carrier/involved passenger.

(xiii) On being asked regarding Maulana, he stated that he did not know any Maulana but around 1-1.5 month ago when he met Salman Rafiqbhai Penwala and Tousique Siddique in Dubai, they were talking to each other and stated that "*Maulana ko hisab dena hai*"; that apart from that line they said nothing about Maulana in front of him and he did not know the real name of Maulana.

(xiv) On being asked regarding Tousique Siddique, he stated that he met him in Dubai 5-6 months ago and he was from Karnataka and he was using Dubai Phone Number 971554958340 and that he was a close associate of Salman Rafiqbhai Penwala in the smuggling of gold/gold paste from Dubai to India.

(xv) that around on 20.06.2023, Salman Rafiqbhai Penwala had asked him if he could arrange any passenger for carrying Gold from Dubai to Surat; that he arranged one Shri Tufail Surya for smuggling of Gold for Shri Salman Rafiqbhai Penwala; that he forwarded passport of Shri Tufail Surya to Shri Salman Rafiqbhai Penwala for Dubai Visa; that Shri Salman Rafiqbhai Penwala then forwarded the Visa of Tufail Surya which he forwarded to him (Tufail Surya);

(xvi) that he did not know whether he (Tufail Surya) had smuggled gold/gold paste from Dubai to Surat; that he (Tufail Surya) came back from Dubai to Surat on 23.06.2023;

(xvii) He was made to listen one voice clip, available in working copy of data extracted from his mobile and after hearing the said clip which contained the recording "*passenger kahan se jaa rahe hai, sham ko samaan bhejna hai patte bhejne ka hai bolo le le - kya bhejne ka hai Farhan kya bhejne ka hai samajh nahi aaya - patte patte jo pehen ke ate hai*"; he stated that the clip was in reference to his phone call with Shri Farhan Patel on 03.07.2023 for taking of patte (black belt) with space for keeping pouches as passengers arranged by him for smuggling were going to Dubai on 04.07.2023 and he (Farhan) was asking him (Mohsin) to ask them to carry those black belts with them; that those black belts were used to conceal gold paste and were required to be worn on the body by the carriers/passengers; that he didn't take the said black belt and neither talked about the said topic later on.

(xviii) He was made to listen to one voice clip, available in working copy of data extracted from his mobile wherein it was said that "*isko tees hazar ki*

ghadi dilayi, iske 1500 kardo to mere zero zero ho jave, iske 1500 kardo mene 1500 ki ginti mari, vanda nhi, haan wo mien smjh gya apne ko 50 hazar dene ka hai, thk hai isko 1500 kardo aur iske alawa ek bag dilaya tha tousiquebhai ke kehne par mien pura likh ke bhejta hun tumhare ko". After hearing that voice clip, he stated that he had arranged a watch and a bag for a passenger arranged by Tousique Siddique; that he told Salmanbhai to give him 1500 AED in lieu of Watch and Bag costing Rs.30,000/-, so that his account gets cleared.

5.5 Statement of **Smt. Aaliya Penwala**, wife of Shri Salman Rafiqbhai Penwala was recorded on 12.07.2023 (**RUD- 17**) u/s 108 of Customs Act, 1962 wherein she interalia stated that:

- (i) Her husband Shri Salman Rafiqbhai Penwala has settled in Dubai from past 02-03 Years and was engaged in trading of Fruits and Vegetables; that Shri Salman Rafiqbhai Penwala rarely comes to India once in two-three months for approx. 4-6 days.
- (ii) Mobile nos. of her husband were 7990237339 & 971544315007; that she contacted her husband Shri Salman Rafiqbhai Penwala through normal call and whatsapp; Her husband came from Dubai on 05.07.2023 and returned to Dubai on 06.07.2023 ;
- (iii) She had been shown Panchnama dated 12.07.2023 drawn at her residential premises viz Flat No. 401, 7 Star Avenue, Near Sai Baba Mandir, Sodagarwad, Near Bank Of Baroda, Surat; that she had been shown a Diary of Brand "Paperline", resumed under panchnama dated 12.07.2023 drawn at her residential premises viz Flat No. 401, 7 Star Avenue, Near Sai Baba Mandir, Sodagarwad, Near Bank of Baroda, Surat, and she appended her dated signature on first and last page in token of having seen and perused. On being specifically asked, she stated that she identified the handwriting and confirmed that descriptions in that Diary were written by her husband, Shri Salman Rafiqbhai Penwala. She had been shown the page no 5 to 7 of that diary wherein some calculation were written in the date "10/1/22", "11/1/22(1155061) Bal", 12/1/22(116728) BAL", 13/1/22 (113115) BAL", "14/1/22 (350415) BAL" & "15/1/22 (455046)" and on been asked, she stated that she had no idea about those calculations as she had never enquired with her husband about his business dealing.
- (iv) She had been shown a Diary having marking as "HOME TOWN IN THE EARLY MORNING", resumed under panchnama dated 12.07.2023 drawn at her residential premises viz Flat No. 401, 7 Star Avenue, Near Sai Baba Mandir, Sodagarwad, Near Bank of Baroda, Surat, and she appended her dated signature on first and last page (221) of it in token of having seen and perused. On being specifically asked, she stated that she identified the handwriting and confirmed that descriptions in that Diary were written by her husband Shri Salman Rafiqbhai Penwala; that she had been shown the page no 13 of that diary wherein some calculation were written in the name of "TOUSIQ BHAI" (FRIEND) and in the last total profit was calculated as "121530" and on being asked, she stated that she had no idea about those calculations as she had never enquired with her husband about his business dealing; that she did not know any friend of her husband in the name of

Tousiq bhai; that on being asked regarding "MOULANA", she stated that she did not know any person in the name of Moulana.

- (v) She had been shown a small note book of Brand "Jivraj", resumed under panchnama dated 12.07.2023 drawn at her residential premises viz Flat No. 401, 7 Star Avenue, Near Sai Baba Mandir, Sodagarwad, Near Bank of Baroda, Surat, and on being specifically asked, she stated that she identified the handwriting and confirmed that descriptions in that note book were written by her husband Shri Salman Rafiqbhai Penwala; that she had been shown page no 13 of that note book wherein a calculation in the name of "ARAMEX 02/8/21 (1000)" was written and on been asked, she stated that she had no idea about that calculation; that on being asked regarding business partner of Shri Salman Rafiqbhai Penwala, her husband, she stated that she had no idea about business partner of her husband.
- (vi) She was shown a Notepad of Brand "Sonilex", resumed under panchnama dated 12.07.2023 drawn at her residential premises viz Flat No. 401, 7 Star Avenue, Near Sai Baba Mandir, odagarwad, Near Bank of Baroda, Surat, and on being specifically asked, she stated that she identified the handwriting and confirmed that descriptions in that notepad were written by her husband Shri Salman Rafiqbhai Penwala; that she had been shown the page no 17 of that notepad wherein a calculation in the name of "JITU" was written and on being asked, she stated that she had no idea about that calculation; that on being asked regarding Jitu, Bhavin, Girish, Jitesh and Snezab, she stated that she had no idea about those persons.

5.6 Statements of **Shri Farhan Patel**, an aide and accomplice of Shri Salman Rafiqbhai Penwala, were recorded on 18.07.2023 (**RUD-18**), 19.07.2023(**RUD- 19**) and 20.07.2023 (**RUD-20**) u/s 108 of the Customs Act 1962, wherein he inter-alia stated that –

- i. for the last one year he was working with Shri Salman Rafiqbhai Penwala; that Shri Salman Rafiqbhai Penwala gave him 10000-12000 a month in cash; that Shri Salman Rafiqbhai Penwala lived mostly in Dubai and according to his information, Shri Salman Rafiqbhai Penwala had also been smuggling gold from Dubai to India for the last 2-3 months through Airport.
- ii. He had gone to Surat International Airport 4 times in June-2023 at the behest of Shri Salman Rafiqbhai Penwala; that he (Salman) used to send him a photo and used to say that someone he knew was coming from Sharjah to Surat and as soon as that person came out of Surat International Airport, he would receive him and drop him wherever the person sought to be dropped; that he used to recognize that person as his photo would be shared with him by Shri Salman Rafiqbhai Penwala.
- iii. On 23.06.2023, Shri Salman Rafiqbhai Penwala called him and said that a person named Shabbir (+27-849068403) would call him and give him the gold paste which was smuggled from Dubai to Surat and he had to take that gold paste to Mumbai; that on 24.06.2023 around 5 am he got a call from Shabbir Bhai (+27-849068403) asking him to meet outside McDonald's in Adajan area and around 6 o'clock on that day he met Shabbir who gave him a bag; that when he opened it, there were 4-5 pouches of gold paste inside a

white paper; that after taking the bag, he got a call from Shri Tousique Siddique who told him that he had to take the bag to Mumbai and give it to a person on Mohammed Ali Road; that he did not remember the name and mobile number of that person and now he did not have it because he had factory reset his mobile phone after getting to know about the case made by DRI officers out of fear; that the person to whom he had given gold paste in Mumbai, also looked like a labor and the gold paste was delivered to him after confirming his identity on phone (Botim voice call) from Shri Tousique Siddique.

- iv. Once again Shabbir Bhai gave him gold paste on the mornings of 26.06.2023, 01.07.2023, and 03.07.2023 which he delivered in Mumbai on the advice of Shri Tousique Siddique; that he did not have that person's number because he had factory reset his mobile phone due to fear.
- v. On being asked the reason for factory reset of his mobile phone, he stated that he got scared after getting to know that the name of Salman Rafiqbhai Penwala had come up in the case registered by DRI on 07.07.2023 in the gold smuggling case; that he had factory reset his mobile phone and broken his SIM card number 9998554661 and thrown it in the garbage of Sangrampura on 08.07.2023.
- vi. that Shri Tousique Siddique was a friend of Shri Salman Rafiqbhai Penwala and he lived in Dubai; that both of them were engaged in gold smuggling in India; that whenever he went to Dubai and met Salman Rafiqbhai Penwala, mostly Tousique Siddique was present with Salman Rafiqbhai Penwala; that beyond that he did not know anything about Tousique Siddique; that Tousique Siddique was connected to him on Instagram with Instagram ID tousique siddique.
- vii. He had been shown the statement dated 11.07.2023 of Shri Mohsin Shaikh and after perusing the same, he stated that when he used to work at Royal Travels, Mohsin Bhai used to come there many times to get some tickets done; that in that statement dated 17.07.2023 of Mohsin Shaikh, he has rightly said that he (Farhan) was in contact with Salman Rafiqbhai Penwala but he did not settle his money; that he did not maintain any accounts of his money.
- viii. He had visited Dubai 10-12 times thus far and had visited Dubai almost 4 times in the last 1 year; that he had last traveled from Mumbai to Dubai on 18th May 2023; that his ticket was booked by Shri Salman Rafiqbhai Penwala and the arrangements to stay there were also made by Shri Salman Rafiqbhai Penwala.
- ix. that He came back to Surat on 31.05.2023 by Air India Flight No. IX 172; that Shri Salman Rafiqbhai Penwala gave him 02 pouches filled with gold paste; that according to his estimate, the weight of 1 pouch of gold paste would be around 500-600 grams; that Shri Salman Rafiqbhai Penwala came to drop him at Sharjah airport, then Shri Salman Rafiqbhai Penwala introduced him to 2 more people and in front of him both of them were given 1-1 sachets weighing about 500-600 grams; that Shri Salman Rafiqbhai Penwala told

them at Sharjah that this gold paste was to be given to an immigration officer at Surat International airport in the washroom next to the immigration office; that when all three of them landed at Surat International airport and went to the washroom, he saw that an immigration officer also followed them in the washroom and one of the three passengers, to whom they had handed over all the gold paste in the flight , was in the toilet cabin; that the immigration officer went to the toilet cabin with him; that he bent down and saw that the passenger who had all the gold paste, was handing over pouches of gold paste to the immigration officer sitting in the other toilet cabin; that for smuggling this gold paste, Shri Salman Rafiqbhai Penwala had given him Rs 20,000/- when he came to India from Dubai in June.

- x. He had been shown a page attached to the Panchnama dated 07/08/07.2023, which was the photo identity card of Mr. P. D. Dave, and on being asked, he told that they had handed over the pouches of gold paste to the same immigration officer whose photo was in the identity card whose copy was shown to him; that the same immigration officer was helping to get the gold paste smuggled from Surat International Airport at the behest of Shri Salman Rafiqbhai Penwala.
- xi. Shri Salman Rafiqbhai Penwala's number 7990237339 was saved in his mobile as "Anas M"; that he had taken a second-hand Hyundai Creta car bearing number GJ05RG4590 on 06.07.2023 for Rs.11,83,000/- in cash; that Shri Salman Rafiqbhai Penwala gave him the money to buy this car.
- xii. He voluntarily gave his apple mobile phone (Model Name iphone X, Model No. MQAC2B/A, Serial no. DNPVTE0TJCLH) which had 1 SIM for its inspection; that after inspection, some printout of his BOTIM CHAT was taken which was marked page no.1; that he made a voice call to Shri Salman Rafiqbhai Penwala through botim application on this phone. On being asked, he stated that Shri Tousique Bhai had an Instagram ID by the name of Tousique Siddique was connected to him on Instagram;
- xiii. He was shown the CCTV footage of 23.06.2023 of Camera No. 34 at the time "23:54:14" to "23:54:20" and of Camera No. 31 at the time "23:54:14" to "23:54:26" received from the Airports Authority of India in which a passenger was shown wearing a white kurta pyjama, wearing a white cap and carrying a green backpack; that the person was moving towards the toilet; that on being asked, he stated that that person was Moulana and he lived in Ankleshwar; that 3 screenshots of that video clip were taken in front of him and print out were marked page numbers 6 to 8; that to the best of his knowledge that person was Moulana, he put his dated signature on page no.6 to 8 of that print out.
- xiv. He was shown the CCTV footage of Camera No. 34 from "23:57:37" to "23:57:54" by the Airport Authority of India dated 05.07.2023, in which three passengers i.e. 1st passenger in white shirt, light blue Jeans and white shoes (carrying trolley bag and laptop bag) and second passenger wearing straight lining shirt, light brown jeans, glasses on head and crocs (packing heavy weight backpack and laptop bag) and third Passenger in purple tracksuit (with red backpack) seen walking towards toilet; that 3

screenshots of that video clip were taken in front of him and print out marked page numbers 9 to 11; that he did not recognize the 1st and 2nd passenger and the 3rd passenger was Shri Salman Rafiqbhai Penwala Penwala and he appended his dated signature on that print out from page No. 9 to 11.

- xv. On 05.07.2023, when Shri Salman Rafiqbhai Penwala came to Surat from Dubai, he went to Surat airport to pick him up and dropped him at his home.
- xvi. He admitted that he smuggled gold paste through Surat International Airport when he came to Surat from Dubai on 31.05.2023 and he was aware that smuggling of gold paste was an offence under the provisions of the Customs Act, 1962.
- xvii. He had seen Moulana alias Mohd. Rizwan Limbada at Shri Salman Rafiqbhai Penwala's house in Dubai about 9-10 months ago; that he did not talk much with Maulana.
- xviii. On being asked, he stated that 2 pouches of gold paste brought by him and 02 pouches of gold paste which were brought by 02 other passengers from Dubai to Surat on 31.05.2023 by Air India Flight No. IX 172 were handed over to Shri P.D. Dave, Immigration Officer at Surat airport; that the same 04 pouches of gold paste were given to him by Shabbir Bhai on the morning of 01.06.2023, which he delivered to a person on Mohammad Ali Road in Mumbai on the directions of Tousique Siddique; that when he asked Shabbir how the 04 pouches of gold paste which had been handed over to Shri P.D. Dave, Immigration Officer, the previous night/early morning of that day, had come to be in his possession, Shabbir informed him that they have a setting at Surat airport and told him not to enquire much about it.
- xix. He had been shown the blue color diary "PAPERLINE") resumed under the Panchanama dated 12.07.2023 drawn at Salman Rafiqbhai Penwala's house at 401, 7 Star Avenue, Near Sai Baba Mandir, Sodagarwad, Near Bank of Baroda, Surat and after going through the entry of accounting in the name of Rizvan and Maulana in the said diary, he stated that according to his knowledge money involved in smuggled gold related to Mohd. Rizvan Limbada, whom he also addressed as Maulana.
- xx. He had gone to Dubai on 15.01.2022 on the advice of Salman Rafiqbhai Penwala and while he was coming back to Mumbai on 22.01.2022, Tousique Siddique gave him 150 gram gold at Landmark Plaza Hotel, Baniyas, Dubai; that he came to Mumbai with that 150 gram; that after reaching Surat, he met Salman Rafiqbhai Penwala at his house and handed over that 150 gram to Salman Rafiqbhai Penwala; that for that work, Salman Rafiq Penwala had given him Rs.10000/- and had borne the expenses of Dubai VISA, to and fro tickets, stay in the hotel at Dubai.
- xxi. He was made to listen to a voice clip, extracted from the mobile of Shri Mohsin Shaikh under Panchanama dated 13/14/15/16/17.07.2023,

which he had shared which Shri Mohsin Shaikh on 03.07.2023 and after listening to it, he stated that in that voice clip he was telling Mohsin Shaikh to take the belt; that Salman Rafiqbhai Penwala called him on 03.07.2023 and asked to give that belt to Mohsin Shaikh; that it was the same belt in which passengers used to conceal the pouches of gold paste smuggled from Dubai to Surat; that he had 3 such black color belts which were given to him by Shabbir on 01.07.2023 in the morning ; that Mohsin Bhai did not collect that belt from him.

5.7 Subsequent statement of Shri **Farhan Patel**, an aide of Shri Salman Rafiqbhai Penwala, was recorded on 26.02.2025 **(RUD-21)** u/s 108 of the Customs Act 1962, wherein he inter-alia stated the following:-

- i. That 2 pouches of gold paste carried by him and 02 pouches of gold paste which were carried brought by 02 other passengers travelling with him from Dubai to Surat on 31.05.2023 by Air India Express Flight No. IX 172 were handed over to Shri P.D. Dave, Immigration Officer at Surat airport; that the same pouches of gold paste were given to him by Shabbir Hatiya on the morning of 01.06.2023, which he delivered to a person on Mohammad Ali Road in Mumbai on the directions of Tousique Siddique.
- ii. Further he was shown CDR call details **(RUD-22)** between his number +919998554661 and +918320727472 belonging to Shri Shabbir Hatiya. On being shown his call records with Shri Shabbir Hatiya and BTS cell tower location, he agreed that there were multiple calls between him and Shabbir Hatiya as tabulated below.

First Party Telephone Number	party Name	Second Party Telephone Number	party name	In or Out call	Call Date	Call Time	Call Duration (in Sec.)
919998554661	Farhan Patel	+918320727472	Shabbir Hatiya	In	01.06.2023	01:42:12 am	61
				Out	01.06.2023	01:43:44 am	22
				Out	01.06.2023	02:46:01 am	27

- iii. In the above shown call details, Shri Shabbir Hatiya had spoken to him for asking whether he had come out safely from airport and then they met early morning near Mac Donald Adajan where he (Shabbir Hatiya) came by his KIA car and he gave a Bag approx. weighing 5 Kgs. containing gold paste

smuggled on flight dated 31.05.2023; Shri Shabbir Hatiya instructed him to deliver the gold to a person in Mumbai as per details shared by Shri Tousique. Around 10:30 to 11:00 AM on 01.06.2023, he (Farhan) reached Mumbai and called the number given by Shri Taushiq and met a person at a pre-decided location and handed over the Bag containing Gold Paste.

- iv. On being asked about other trips to Mumbai for delivery of gold paste, he stated that on 23.06.2023 he was instructed by Shri Salman Penwala to collect gold paste from Shri Shabbir Hatiya;
- v. he was shown his call records with Shabbir Hatiya on the midnight of 23.06.2023; he stated that he had spoken to Shabbir Hatiya who informed him that Moulana was coming from Dubai and he (Shabbir) had come to pick him from Airport that night; thereafter, he met Shabbir Hatiya on the morning of 24.06.2025 and collected a duffle bag containing gold paste approx. 6 Kgs. weight; he delivered the Bag containing the gold paste on 24.06.2025 to the same person whom he had delivered earlier on 01.06.2023 at the same location in Mumbai.
- vi. On being further asked about next delivery of smuggled gold paste at Mumbai in month of June and July 2023, he stated that Shri Shabbir Hatiya was the person who handled the further carriage and delivery of smuggled gold paste after it was taken out from airport with the help of immigration officer Shri P.D. Dave; he further stated that he collected smuggled gold paste and travelled to Mumbai from Surat on 26.06.2023, 01.07.2023 and 03.07.2023 for delivery of smuggled gold paste at same location as communicated by Toushiq Siddiqui; he did not remember contact number or name of persons who used to receive gold paste at Mumbai; After delivery of gold paste he used to travel back to Surat; the expenses for fuel and travelling was given to him in cash by Shri Salman Penwala and he used to collect the amount from his house. On being further asked he stated that on all of the above three occasions a bag containing smuggled gold paste approx. weighing 5 to 6 Kgs. were handed over either by Shabbir Hatiya or sometime through one of his known persons on instructions of Shabbir Hatiya near Adajan Patiya near Mc Donald which is near to his house; thereafter he travelled to Mumbai by Creta Model Car bearing registration No. GJ 05RJ 4590 for delivering the smuggled gold paste.
- vii. On being further asked about his travel to Mumbai from Surat on 15.06.2023 and 19.06.2023, he stated that he had travelled to Mumbai on those dates also, however he did not remember having carried smuggled gold paste at that time.
- viii. On being asked about his involvement in gold smuggling with Salman penwala in the year 2020-2022, he stated that he had travelled on 15.01.2022 to Dubai as already stated in his previous statement and he had also carried smuggled gold on returning from Dubai on instructions of Salman Penwala; he did not have much information about other

passengers/carriers who brought smuggled gold for on instructions of Salman Penwala.

5.8 Statement of **Shri Shabbir Ahmed Ismail Hatiya** (mobile no.+027-849068403, 9898775502,8320727472), son of Shri Ismail, aged-48 years residing at, panoli bharuch gujarat, was recorded on 02.12.2024 (**RUD-23**) u/s 108 of the Customs Act 1962, wherein he inter-alia stated that –

(i) that he was mostly residing in South Africa and Dubai during last three years ; that he mainly worked in Dubai and South Africa and was engaged in sale and purchase of Vegetables for firm belonging to Rizvan Aiyub Limbada; he knew Shri Rizvan Aiyub Limbada since 2017 and associated with his company named Habat Albarakh Foodstuff Trading at Dubai; that he was his employer and he was a well know person in Kondh, Bharuch and that he requested him for some work in Dubai as his vegetable related business was not doing well in South Africa; and he produced his ID No. 784-1977-1922992-0 issued in Dubai.

(ii) that he knew Farhan Patel for past 2-3 years and he met him in Dubai. He is resident of Surat and he met in Surat during his stay in India. He (Farhan) wanted to go to South Africa for setting up shop of mobile; that he is not much aware about his work/profession in Surat.

(iii) Last year he was using whatsapp on Mobile No. +027-849068403 from which he used to contact Farhan Patel; he was not using that number any more and sold the mobile on which that number was logged in on whatsapp application; he left from India on 17.07.2024 via flight to Dubai; after leaving India he stopped using his other mobile Numbers 9898775502 and 8320727472 also.

(iv) On being asked about his stay and foreign travels during the year 2022-2023 and the purpose of travel, he stated that he had been working with the company of Shri Rizvan Aiyub Limbada at Dubai in this period and travelled to India from Dubai several times in 2022 and in February, March and May 2023; he used to travel for his work related to the company of Shri Rizvan Aiyub Limbada; he came to know from Rizvan Aiyub Limbada that Shri Salman Mohammed Rafiq Penwala who lives in Dubai, is involved in the Gold smuggling case booked by DRI; that some diaries and documents are recovered by DRI officers from the house of Salman Penwala.

(v) On being asked regarding call details between Shri Parag Dave and his number 8320727472 on 23.06.2024 at 15:14 Hrs and 15:24 Hrs. and his acquaintances with Shri Parag Dave, he stated that he called Shri Parag Dave on 23.06.2024 to ask about timings landing of flight IX-172 on which Shri Rizvan Aiyub Limbada was arriving in Surat that day; he had gone to receive Rizvan Aiyub Limbada at Surat Airport that day; that Shri Parag Dave, PSI was posted in Kosamba earlier, which is near to his house in Panoli; that he met him at Airport Immigration during his previous travel from Dubai to India and thus became known to him.

(vi) On being shown the statement of Shri Farhan Patel dated 18.07.2023 wherein he has stated that on 24.06.2023 around 5 am he got a call from Shabbir Bhai (+27-849068403) asking him to meet outside McDonald's in Adajan area and around 6 o'clock on that day he met Shabbir who gave him a bag containing gold paste for delivery in Mumbai and once again Shabbir Bhai gave him gold paste on the mornings of 26.06.2023, 01.07.2023, and 03.07.2023 which he delivered in Mumbai on the advice of Shri Tousique Siddique, he stated that he had received

Shri Rizvan Aiyub Limbada from Airport in the night of 23.06.2023 when he landed at Surat from Dubai and travelled with Rizwan Limbada to his village in Bharuch; that Farhan has given incorrect information about him and his meeting with Farhan; that he has only spoken to him on call from his mobile 8320727472 on some occasions during last week of June and First week of July 2023.

(vii) On being asked as how he booked tickets including name of Travel agents from where he booked frequent tickets for travel to Dubai from India, he stated that he used to book tickets through agents namely Southall Travel and AK Travel in Bharuch and paid the ticket price in cash.

5.9 Statement of **Shri Mohammed Vasim Kapadia** Proprietor of M/s. Royal Travels, Bhaga Talao, Near Lalgate Police Station, Surat was recorded on 02.08.2023 (**RUD-24**) under Section 108 of the Customs Act, 1962 wherein he inter-alia stated that:

- i. M/s. Royal Travels (GSTIN: 24 ARBPK2390P1ZJ) was proprietorship firm and he was the proprietor of the said firm, engaged in the business of ticket booking, hotel booking, Haj booking and Umrah booking etc.
- ii. On being asked regarding Shri Salman Rafiqbhai Penwala, he stated that he knew Shri Salman Rafiqbhai Penwala (+91-7990237339, +97-1544315007, +91-9228181206) as in 2018 Shri Salman Penwala visited his office of Royal Travels for flight ticket booking and he used to call him/whatsapp him for flight ticket booking; that sometimes he used to book tickets for himself and sometimes he used to call him to book tickets for other persons also.
- iii. He maintained separate ledger in the name of each person; that whenever any person visited his office for booking with the reference of their known person and the payment had to be done by that known person, then he made entry of the concerned flight booking in the ledger of that known person.
- iv. He produced the copy/details of ticket pages running from page no. 1 to 15 booked either in the name of Shri Salman Rafiqbhai Penwala or through his reference; that Shri Salman Rafiqbhai Penwala had made online payment i.r.o. of the above said flight tickets and he produced the print out pages running from page 16 to 24 as a proof of payment received from Shri Rafiqbhai Salman Penwala.
- v. On being asked regarding Shri Farhan Patel, he stated that in 2022, Shri Farhan Patel left the job from his office and to the best of his knowledge, he started working for Shri Salman Penwala.
- vi. On being specifically asked regarding any flight ticket booked in the name of Shri Farhan Patel, he stated that in the month of May 2023, Shri Farhan Patel visited his office and asked to book flight ticket from Mumbai to Dubai and Dubai to Surat; that he would submit the details such as ledger, ticket and payment proof in respect of the said flight tickets booked for him; that Shri Farhan Patel had made payment of the above said tickets booked for him.
- vii. On being specifically asked regarding the flight ticket booked in the name of Mohammed Rizwan Limbada (+91-9898443095), he stated that the said contact no. was saved in his phone in the name of Maulana Bharuch however he did not remember exactly when he saved that contact number; that Shri Salman Rafiqbhai Penwala might have given that contact no. to him for some ticket booking; he would check his accounts and would provide the relevant document (if any) in the name of Mohammed Rizwan Limbada.
- viii. On being specifically asked regarding the flight ticket booked in the name

of Shri Shabbir Ismail Hatiya and Shri Tousique Siddique, he stated that he did not remember but would check his account and provide the relevant document (if any) in the name of Shri Shabbir Ismail Hatiya and Shri Tousique Siddique.

- ix. On being asked regarding the tickets booked in the name of Shri Yasir Shaikh, Marufabanu, Mohammed Sakib Atasbajiwala and Uvesh Shaikh, he stated that on 03.07.2023, Shri Salman Rafiqbhai Penwala called him to book flight tickets of Yasir Shaikh, Marufabanu, Mohammed Sakib Atasbajiwala and Uvesh Shaikh from Mumbai to Abu Dhabi for 04.07.2023 and had further said that he would make payment of the above said tickets; that as the booking of the above said passengers came through his reference and he (Shri Salman Rafiqbhai Penwala) was about to make payment, he made ledger entry of the above said payment in the ledger maintained in the name of Shri Salman Rafiqbhai Penwala; that he produced the copy of the ledger maintained in the name of Penwala Salman Mohammed rafiq which is the ledger of Shri Salman Rafiqbhai Penwala.
- x. Out of the above said passengers i.e. Yasir Shaikh, Marufabanu, Mohammed Sakib Atasbajiwala and Uvesh Shaikh, Shri Salman Rafiqbhai Penwala asked him to book ticket from Sharjah to Surat for Mohammed Sakib Atasbajiwala.

Shri Mohammed Vasim Kapadia Proprietor of M/s Royal Travels, vide letter dated 07.08.2023 (RUD-25) submitted the copy of ledger and tickets in respect of (i) Shri Penwala Salman Mohammedrafiq, (ii) Shri Limbada Mahmed Rizvan, and (iii) Shri Farhan Zakirhushen Patel.

5.10 Summons under section 108 of Customs Act, 1962 were issued to Shri Salman Rafiqbhai Penwala, Mahmed Rizvan Aiyubhai Limbada, Mohammed Tousique Siddique for recording their statement but neither they appeared nor responded against any of Summons issued to him.

ENQUIRY WITH THE PASSENGERS/CARRIERS WHO TRAVELLED PRIOR TO 07.07.2023 FROM SHARJAH TO SURAT

6. It appears that 03 passengers/carriers accompanied Shri **Mahmed Rizvan Aiyubhai Limbada** on 23.06.2023 and two passengers accompanied Shri Salman Penwala on 05.07.2023 when they arrived via flight No. IX 172 from Sharjah to Surat. The details of PNR, E-mail id and contact details of passengers as extracted from the manifest and ticket details of passengers are as tabulated below:

S. No	PNR	Date of arrival of Flight from Sharjah to Surat	Other Phone	Email Address	Flight Number	Seat Number	Passenger Name
1	AU5NR Y	23-06-2023	91-92281812 06	penwalamohdazim@gmail.com	IX 172	2A	TUFEL HAJI UMAR SURYA
2	F3BGW M	23-06-2023	91-99742356	salman.bhai21@yahoo.co.in	IX 172	2B	FIROZKHAN AHMEDKHA

			75				N PATHAN
3	OYFL2R	23-06-2023	91-9979711172	penwalamohdazim@gmail.com	IX 172	2C	MOHSINKHAN AHMEDKHAN PATHAN
4	T4LJTJ	05-07-2023	971-544315007	salman.bhai21@yahoo.co.in	IX 172	3C	SAMAR BISHWANATH
5	U24WXS	05-07-2023	971-585156007	salscool@yahoo.co.in	IX 172	3B	MD SATTAR
6	Q35UHM	14-06-2023	971-544315007	salman.bhai21@yahoo.co.in	IX 172	3C	MD SATTAR

6.1 From the details available on copies of tickets booked by aforesaid passengers (RUD-26), analysis of CCTV Footage and statements of their accomplices namely, Yasir Shaikh, Farhan Patel and Mohsin Shaikh recorded under Section 108 of Customs Act, 1962, it appears that all of the above passengers were deployed/hired by the key persons of the syndicate namely, Shri Salman Penwala and Shri Mahmed Rizvan Aiyubbhai Limbada for smuggling of gold in paste form through Surat Airport. On 05.07.2023 and 23.06.2023 respectively, Shri Salman Penwala and Shri Mahmed Rizvan Aiyubbhai Limbada have themselves along with their co-passengers mentioned above smuggled large quantity of gold from Sharjah, U.A.E. to Surat Airport. From the email id and mobile contact number used for booking the tickets, it is seen that the email IDs belonged to Shri Salman Penwala and his brother Shri Mohammed Azim Mohammed Rafiq Penwala and the contact nos. +971- 585156007, +971-544315007, +91-9228181206 belonged to Shri Salman Penwala as per Statement of Shri Mohammed Vasim Kapadia, Proprietor of M/s. Royal Travels and extracted WhatsApp Chat communication from Mobile phone of Shri Yasir Shaikh. Further, it appears that on 05.07.2023 and 23.06.2023 Shri Salman Penwala and Shri Mahmed Rizvan Aiyubbhai Limbada along with other co-passengers/carriers brought smuggled gold in paste form and as per their plan and modus, handed over smuggled Gold Paste carried by them to Shri Parag Dave, P.S.I. in the Men's washroom near the immigration counter at Surat International Airport for evading Customs Check and Scrutiny before the exit. It appears that Shri Salman Penwala had arranged booking of tickets, Visa and stay of these passengers at Dubai and successfully smuggled gold in connivance with Shri Parag Dave, P.S.I. who was posted at Immigration Department Surat Airport. From the statements of Shri Farhan Patel, it appears that the gold smuggled in the night of 23.06.2023 was handed over to him by Shri Shabbir Ismail Hatiya and he further carried and delivered the smuggled gold at Mumbai as per instructions of Tousique Siddique on 24.06.2023.

6.2 In spite of issuance of repeated Summons, the co-passenger and an accomplice of Salman Penwala, **Shri Mohd. Sattar** did not join the investigation and his statement under Section 108 could not be recorded during investigation.

6.3 **Shri Mohd. Sattar**, was made a co-noticee in the Show Cause Notice No VIII/10-34-O&A/ADC/CRV/2022-23 dated 14.10.2022 issued by the Additional Commissioner of Customs, Surat, and upon adjudication penalty has been imposed by the Adjudicating Authority under Section 112 of the Customs Act, 1962 in view of his active involvement and abetting the key syndicate members in smuggling the foreign origin gold through Surat International Airport.

6.4 Summons were issued to other four passengers who had been identified by as co-passengers and accomplices of Shri Salman Penwala and Shri Mahmed Rizvan Aiyubhai Limbada as below:

Name of Passengers (Shri)	Date of Summon	Response
Firozkhan Ahmedkhan Pathan	09.04.2024	Statement recorded on 15.04.2024
Mohsinkhan Ahmedkhan Pathan	09.04.2024	Statement recorded on 16.04.2024
Samar Bishwanath Samanta	27.12.2023	Summon returned with remark address left (RUD-26)
Tufel Haji Umar Surya	27.12.2023, 09.04.2024	Summon returned with remark address left (RUD-27)

6.5 Statement of passenger **Shri Firozkhan Ahmedkhan Pathan** (mobile no. 9824391029), son of shri Ahmedkhan M Pathan, **(RUD-28)** was recorded under section 108 of the customs act, 1962, on 15.04.2024, wherein he interalia stated the following:

(i) He is engaged in the business of construction related work and earn around Rs.40,000/- and Rs.50,000/- per month. He went to Dubai on 19.06.2023 from Surat via IX171 Flight and returned Surat on 23.06.2023 via IX172 flight.

(ii) He visited Dubai for the purpose of vacation and since almost 9 months has been passed, he does not remember the area where he stayed but he remembered that he stayed in Hafiz hotel during the above said period.

(iii) On being asked regarding the booking of ticket, he stated that one of his friend Shri Mohsinkahn Ahmedkhan Pathan (+91-9879517886) and he planned to visit Dubai for vacation so he asked him (Mohsinkahn Ahmedkhan Pathan) to do all formalities i.e. booking of tickets, visa application, hotel booking in Dubai, booking of city tour in Dubai etc.

(iv) Shri Mohsinkhan Ahmedkhan Pathan asked his friend Shri Jitubhai (+91-9979711172) to apply for visa, booking of tickets, hotel booking in Dubai, booking of city tour in Dubai as he (Jitubhai) had visit Dubai several time. On 18.06.2023, Jitubhai and Mohsinkahn Ahmedkhan Pathan, both forwarded the above said ticket to him on whatsapp.

(v) The contact no. used for the flight ticket boeing is +91-9974235675 and the e-mail id used for the flight ticket boeing is salmanbhai21@yahoo.co.in. On being asked regarding the above said contact no and e-mail used for the booking of flight ticket, he stated that Shri Mohsinkahn Ahmedkhan Pathan or Jitubhai would be in better position to explain the same as he asked Mohsinkahn Ahmedkhan Pathan to book the flight ticket and Jitubhai booked the same.

(vi) On 23.06.2023, he de-boarded at Surat International Airport at around 11:30PM and went to the men's washroom situated near the immigration area of the Surat International Airport and after immigration formalities, they took their luggage from the belt and he left the Surat International Airport alone as Customs has stopped Shri Mohsinkahn Ahmedkhan Pathan who was being checked by Customs.

(vii) He was shown a photo and I have been informed that the said photo is of Shri Parag Dhirajlal Dave, Sub Inspector of Gujarat Police, then posted at the immigration department of Surat International Airport, he stated that he does not know the said person.

(viii) He was asked to watch the video footage recording dated 23.06.2023 of Camera-34, installed at First floor covering Immigration counter area of Surat International Airport installed at First floor covering Immigration counter area of Surat International Airport and he identified himself as he appeared on screen at 23:54:24 in Blue jeans and grey shirt with sling bag (hanging cross the shoulder) walking just behind a person with trolley bag.

(ix) He further stated that in the same video footage recording, a person wearing red t-shirt and blue jeans having a sling bag (hanging cross the shoulder) walking just behind a person in white Kurta-Payjama with white cap and having a bag pack, at 23:54:16 on 23.06.2023 of Camera-34, is Shri Mohsinkhan Ahmedkhan Pathan.

(x) On being asked regarding the above said person wearing white Kurta-Payjama with white cap and having a bag pack, he stated that he does not know the above said person wearing white Kurta-Payjama with white cap and having a bag pack.

(xi) He was shown a photo and informed that the said photo is of Shri Salman Rafiq Penwala, to which he stated that he does not know the said person.

(xii) He was shown the video footage recording dated 23/24.06.2023 of Camera-31, installed at First floor covering Immigration counter area of Surat International Airport and his observation on the relevant point of time was recorded as below:

Sr No	Date	Time	Mohsinkahn Ahmedkhan Pathan statement on the occurrence in Footage
1	23.06.2023	23:54:15 to 23:54:35	Shri MohsinKhan Ahmedkhan Pathan in red t-shirt carrying one black sling bag hanging around shoulder and he is carrying grey bag hanging on his shoulder entered the men's washroom. The grey bag seems to be heavy. One more passenger in white kurta pyjama with green black bag on his shoulder entered the men's washroom.
2	23.06.2023	23:56:34	Shri MohsinKhan Ahmedkhan Pathan came out of the men's washroom without the sling bag carried by him. He is calling someone and roaming near line.
3	23.06.2023	23:57:33	Shri MohsinKhan Ahmedkhan Pathan re-enters the men's washroom.
4	23.06.2023	23:57:57	Shri MohsinKhan Ahmedkhan Pathan came out of the men's washroom.
5	24.06.2023	00:07:29 to 00:08:07	Shri MohsinKhan Ahmedkhan Pathan crossed immigration area without the sling bag earlier carried by him.
6	24.06.2023	00:08:23	Person wearing white kurta pyjama came out from the men's washroom

7	24.06.2023	00:19:00	He crossed the immigration counter with black sling bag around his shoulder and without his grey bag which he took inside the men's washroom. The said black sling bag was earlier with Shri MoshinKhan Ahmedkhan Pathan.
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(xiii) He stated that in men's washroom, initially he handed over his sling bag to Shri Mohsinkhan Ahmedkhan Pathan and went to the toilet cabin, then later when he came out, Shri Mohsinkhan Ahmedkhan Pathan handed over both bags to him and went inside toilet cabin. At that time he found that the bag of Shri Mohsinkhan Ahmedkhan Pathan was almost empty then he kept his bag into the bag of Shri Mohsinkhann Ahmedkhan Pathan and stayed in the washroom for a while and came out of men's washroom after few minutes.

(xiv) He stated that as he did not know the person wearing white Kurta-Pyjama with white cap and having a bag pack, he did not interact with him.

6.6 Statement of passenger **Shri Mohsinkhan Ahmedkhan Pathan** (Mobile No. 9879517886, 9898415604), Son of Shri Ahmedkhan M Pathan, Age-39 Years (D.O.B 24.08.1984), (**RUD-29**) was recorded under Section 108 of the Customs Act, 1962, on 16.04.2024, wherein he interalia stated the following:

(i) He visited Dubai for a vacation for the first time on June 19, 2023, from Surat via IX171 Flight and returned on June 23, 2023, via IX172 Flight. His friend Firozkhan Ahmedkhan Pathan planned the trip, but as he was unfamiliar with the booking process, he asked Jitubhai (contact: +91-9979711172) to handle the visa, flight tickets, hotel, and city tour bookings.

(ii) On 18.06.2023, Jitubhai forwarded the tickets for him and Shri Firozkahn Ahmedkhan Pathan to his whatsapp number and he forwarded the ticket of Shri Firozkahn Ahmedkhan Pathan to his number.

(iii) On being specifically asked, he stated that the contact no. used for the flight ticket booring is +91-9979711172 and the e-mail id used for the flight ticket booring is penwalamohdazim@gmail.com. On being asked regarding the above said contact no. and e-mail used for the booking of flight ticket, he stated that Jitubhai would be in better position to explain the same as he booked the same. On 19.06.2023, they (Shri Firozkahn Ahmedkhan Pathan and him) went to Dubai and came back to Surat on 23.06.2023; Jitubhai met them on 20.06.2023 in hotel where they stayed in Dubai.

(iii) On 23.06.2023, they de-boarded the flight at Surat International Airport at around 11:30PM and went to the men's washroom situated near the immigration area of the Surat International Airport and after immigration formalities, they took luggage from the belt and then Shri Firozkahn Ahmedkhan Pathan left the Surat International Airport alone as he himself was stopped and was being checked by Customs.

(iv) On being shown the photo of Shri Parag Dhirajlal Dave, Sub Inspector of Gujarat Police, then posted at the immigration department of Surat International Airport, he stated that he did not know the said person.

(v) He was asked to watch the video footage recording dated 23.06.2023 of Camera-34, installed at First floor covering Immigration counter area of Surat International Airport he identified himself wearing red T-shirt and blue jeans having a sling bag (hanging cross the shoulder) walking just behind a person in white Kurta-Payjama with white cap and having a bag pack, at 23:54:16 on 23.06.2023 of Camera-34.

(vi) On being asked regarding the above said person wearing white Kurta-Pyjama with white cap and having a bag pack, he stated that he does not know the above said person wearing white Kurta-Pyjama with white cap and having a bag pack.

(vii) On being shown a photo of Shri Salman Rafiq Penwala, he stated that he did not know the said person.

(viii) He was shown the video footage recording dated 23/24.06.2023 of Camera-31, installed at First floor covering Immigration counter area of Surat International Airport and observation on the relevant point of time was asked to be made, he watched the said video footage and recorded observation as below:

Sr No	Date	Time	My Observations
1	23.06.2023	23:54:26 to 23:54:35	He is in red T-shirt carrying one black sling bag (hanging around shoulder) and his friend Shri Firozkhan Ahmedkhan Pathan was carrying grey bag hanging on shoulder, both of them entered the men's washroom. The grey bag seems to be heavy. One more passenger in white kurta pyjama with green black bag on his shoulder entered the men's washroom.
2	23.06.2023	23:56:34	He came out of the men's washroom without the sling bag (earlier carried by him). He was calling his cousin who came to airport for pick him.
3	23.06.2023	23:57:33	He re-entered the men's washroom. He forgot his sling bag in bathroom so he went to collect the same but then he saw Shri Firozkhan Ahmedkhan Pathan who was in washroom, so he asked him to come outside with his sling bag which contained his friend's sling bag also inside it.
4	23.06.2023	23:57:57	He came out of the men's washroom.
5	24.06.2023	00:07:29 to 00:08:07	He crossed immigration area without the sling bag (earlier carried by him).
6	24.06.2023	00:08:26	Person wearing white kurta pyjama came out from the men's washroom
7	24.06.2023	00:20:07 to 00:20:38	Firozkhan Ahmedkhan Pathan crossed the immigration counter with black sling bag hanging across his shoulder which was earlier with him(Mosinkhan).

(ix) He stated that in men's washroom, initially Shri Firozkhan Ahmedkhan Pathan handed over his sling bag to him(Mohsinkhan) and went to the toilet cabin, then

later when Firozkhan came out, he (Mohsinkhan) handed over his bag to him (Shri Firozkhan Ahmedkhan Pathan) and went to the toilet cabin. Then he found that Shri Firozkhan Ahmedkhan Pathan had put his sling bag into his(Mohsinkhan) sling bag; on coming out of the toilet cabin he saw that Shri Firozkhan Ahmedkhan Pathan was spending time in washing his face/hands etc so he left the men's washroom before Shri Firozkhan Ahmedkhan Pathan.

(x) On being asked whether he interacted with the person wearing white Kurta-Pyjama with white cap and having a bag pack, in the men's washroom situated adjacent the immigration area of Surat International Airport, he stated that he did not know the person wearing white Kurta-Pyjama with white cap and having a bag pack, he did not interact with him.

ANALYSIS OF DIARIES AND NOTEPADS RESUMED DURING SEARCH AT THE RESIDENCE OF SALMAN PENWALA

7. Following details were found in handwritten Notes/Diaries (**RUD-5**) belonging to Shri Salman Penwala where he has recorded the instances and volume of gold and foreign currencies smuggled during the **period 2020-22** by various passengers/carriers. The various entries of amounts, expenses incurred on foreign travel and stay and foreign currencies carried by the passengers were found mentioned against the names of passengers/carriers. From the analysis of entries, it is revealed that the foreign origin gold was either smuggled through passengers on their return journey from Dubai/Sharjah or through courier parcels at Airport Courier Terminals. Also, it is noticed that in some instances the passengers hired by Shri Salman Penwala and other syndicate members, were only engaged for illegal export of foreign currencies from India and in return the ticket and expenses of trip to Dubai were sponsored from the fund sourced by the syndicate members for the smuggling activity.

TABLE-A

Notepad Cover with Title - SONILEX			
Notepad Page no.	Carriers/Pax details	USD smuggled (Value converted into INR)	Value of smuggled Gold in INR (sale proceeds)
13	Jenul and Family	2302020	1186228
15	Yusuf Cha and Family	2298240	609600
17	Jitu	1149750	295211
19			1055733
21	Bhavin	1149750	304800
23	Girish + Jitesh + Snezab	2291995	885633
27	Anis Sis	1147012	--

31	Akasir Family	3817900	1758640
33	Yasir Family	1465000	--
Total		15621667	6095845

TABLE-B

Note Book cover with Title- JIVRAJ				
Page no.	Date	Carriers/Persons details	Gold Qty in Grams	Value of smuggled Gold in INR (sale proceeds)
13	02.08.21	Through Aramex Courier	1000 Gms	4920000

TABLE-C

Diary cover with Title- <i>Paperline</i>					
Page no.	Date	Carriers/ Persons details	USD smuggled (Realised value converted into INR)	Smuggled Gold Qty in Grams	Value of smuggled Gold in INR (sale proceeds)
155	16.01.22	Farhan	1565802	150	745500
156	17.01.22	Imran	1565802	150	745500
157	21.01.22	Yasir Shaikh/ Family	3910850	180	885600
Total			7042454	480 Gms	2376600

TABLE-D

DIARY cover with Title- <i>HOME TOWN IN THE EARLY MORNING</i>					
Page no.	Date	Carriers/ Persons details	USD smuggled (Value converted into INR)	Smuggled Gold Qty in Grams	Value of smuggled Gold in INR (sale proceeds)
4		Dhrv	18000	124.6	50,000
4		Babu (2 Pax)	43000	--	115000
5		asif and Shoeb (2 Pax)	33000	--	74573
13		Tousiqbhai (Frind)	35500	--	2035000
25		Dad and Babu	61000	--	1289232
47		--	744000	--	525000
49		--	3529000	--	--
51		--		--	1180844
53		--	3702500	--	--
55		--	221000	--	--
59		--	221000	--	--

93	15.06.21	Through DHL		1000	4850000
95	15.06.21	Through DHL		1000	4880000
99	17.06.21	Through DHL		1000	4820000
103		Through FEDEX		1000	4835000
113	24.06.2021	Through FEDEX		1000	4840000
115		Through FEDEX		1000	4840000
117	28.06.21	Through Aramex		1348.69	6557330
121	28.06.21	Through Aramex		1348.69	6557330
123	28.06.21	Through Aramex		1348.69	6557330
125		Through Aramex		1350	6561000
127	24.06.21	Through FEDEX		1000	4860000
129	24.06.21	Through FEDEX		1000	4850000
131		Salimbhai (AC)		1900	--
133	09.07.21	Through FEDEX		1300	6370000
137	12.07.21	Through FEDEX		1350	6615000
165			3780000		490000
Total				2,45,85,500	8,37,52,639

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7.1 From TABLE-A,B,C and D shown above, the sum total of Foreign Currency USD smuggled out of India and total Value of smuggled Gold in INR (sale proceeds) during the period **2020-2022** (calender year) is tabulated as below:

Sl No.	Particulars of Diaries/Notebook	Foreign Currency USD smuggled out of India (Converted to INR)	Value of smuggled Gold in INR (sale proceeds)**
1		1,56,21,667	60,95,845
2		--	49,20,000
3		70,42,454	23,76,600
4		2,45,85,500	8,37,52,639
Sum Total (in Rs.)		4,72,49,621	9,71,45,084

*** As per details available in the aforesaid notes/diaries, the entries related to the value of gold smuggled do not specifically mention quantity carried by the relevant passengers against such value(sale proceeds) except in a few entries, further, the smuggling have been effected over multiple occasions spanning across three years period of time, therefore, the value of gold smuggled are not one to one relatable to the quantity smuggled and the various entries showing value of smuggled goods (realised on sale) as mentioned in the diaries are considered for arriving at total value of the smuggled gold during the period*

2020-22 as shown at **Para 7.1** above.

From the accounted details and records found in the handwritten diaries/notebooks of Shri Salman Penwala, he appears to be a key mastermind of the well-organized syndicate involved in smuggling and disposal of foreign gold brought illegally into India. It is apparent that Shri Salman Penwala habitually and fraudulently carried out the smuggling of foreign origin gold and foreign currencies at Airports for the past 3-4 years before the seizure of huge quantity of smuggled gold in paste form on 07.08.2023, without making any legal declaration before the Customs Authorities by hiring passengers/carriers on offering them all expenses paid trip to Dubai. The smuggling of gold was for the purpose of illegal profiteering on sale of the smuggled gold domestically in India. Shri Salman Penwala along with other syndicate members devised several ways and means to smuggle foreign gold into India which was done through a well-organized smuggling network and an established mechanism was operated not only through passengers at Airport but also through Courier parcel.

DETAILS OF PAST INSTANCES OF SMUGGLING BY THE SYNDICATE DURING THE YEAR 2023

7.1 From the statements recorded under Section 108 of Customs Act, 1962, CCTV Footage of Airport collected during investigation and details of travel records of passengers, it appears that the same syndicate was involved in smuggling of gold in the past on several occasions at Surat Airport prior to the seizure of 42,037 Grams of Gold on 07/08.07.2023 as tabulated below:

Sl No.	Date of Arrival of passengers at Surat Airport with smuggled Gold	Name of Passengers/ Carriers Involved	Quantity of gold smuggled (Approx.)	Remarks
1	05.07.2023	Salman Penwala, Md. Sattar and Samar Bishwanath Samanta	Quantity could not be ascertained	None of the carriers/passengers joined the investigation
2	02.07.2023	Passengers Hired by Salman Penwala	5-6 Kgs.	Farhan admitted to have collected the smuggled gold paste on the morning of 24.06.23, 26.06.23, 01.07.23 and 03.07.23 and delivered at Mumbai
3	30.06.2023	Passengers Hired by Salman Penwala	5-6 Kgs.	
4	25.06.2023	Passengers Hired by Salman Penwala	5-6 Kgs.	
5	23.06.2023	Mahmed Rizvanbhai Aiyubhai Limbada, Mohsinkhan Ahmedkhan Pathan, Firozkhan Ahmedkhan Pathan, Tufel Haji Umer Surya	6 Kgs.	
6	14.06.2023	Md. Sattar and others	Could not be ascertained	Farhan has travelled to Mumbai on the next morning i.e. 15.06.2023 and 19.06.2023
7	18.06.2023	Passengers Hired by Salman Penwala	Could not be ascertained	

8	31.05.2023	Passengers Hired by Salman Penwala	5 Kgs.	Farhan admitted to have collected gold paste on the morning of 01.06.23 and delivered at Mumbai.
9	28.05.2023	Passengers Hired by Salman Penwala	5-6 Kgs	Yasir Shaikh admitted that he arranged two passengers on instructions of Salman Penwala for carrying smuggled gold in paste form from Sharjah to Surat as per Statement and whatsapp Chat details
Total quantity of gold paste Smuggled			35 Kgs (Approx)	

7.2 VALUATION OF SMUGGLED GOLD IN 2023 TABULATED ABOVE:

Date of smuggling of Gold Paste	Recovered gold percentage from paste	Qty of Gold Extracted from paste (Gm)	Tariff Value / Exchange rate Notification. (Notif No.)	Assessable Value (Rs.)
28.05.2023, 31.05.2023	From 48207 Grams of the smuggled gold paste seized on 07.07.2023, 42037	11000x87.2%	34/2023-Cus (NT) dated 15.05.2023,	5,19,35,884/- (1100 x 0.872x650 x 83.3)
23.06.2023, 25.06.2023, 30.06.2023	Gms of gold was recovered. Therefore, recovered gold % is arrived at 87.2% from the gold paste.	18000x87.2%	45/2023-Cus (NT) dated 15.06.2023	8,21,23,826/- (1800x0.872x 630x83.05)
02.07.2023		6000x87.2%	47/2023-Cus (NT) dated 30.06.2023	2,65,92,477/- (600x0.872x 612x83.05)
TOTAL		30,520 Gms		16,06,52,187/-

ANALYSIS OF FINANCIAL TRANSACTIONS AND PROFIT SHARING AMONG MEMBERS OF SYNDICATE AS RECORDED IN HANDWRITTEN DIARIES AND NOTEBOOKS:

Brief narration of handwritten notes at following pages of Diary with cover page title: "Hometown in the early morning" are as given below:

Marked Page No. of Diary	Contents /Narration	Remarks
Page 19	The page contains accounting of various amounts written against names/categories as <i>Rizwanbhai - 3715875/-, Salman-7,50,000 /-, Royal-24000/-, Profit - 347000/-</i> and sum total as <i>48,36,875/-</i>	In this page the short name <i>Rizvanbhai</i> refers to Shri Mahmed Rizvanbhai Aiyubbhai Limbada, <i>Salman</i> refers to Shri Salman Penwala and <i>Royal</i> refers to Royal Travels agency through which tickets of

		passengers/carriers were booked by the syndicate members
Page 85:	The page contains accounting of various amounts written against names/categories as <i>Cash - 48,00,000/-, Tousiq-11,00,000 /-, 55000-Mohsin, DAD-1,00,000/-, and Profit 400000/- and sum total as 81,11,805/-</i>	The various entries against the names/categories indicate financial dealings of Shri Salman Penwala with his Tousique Siddique, Mohsin Shaikh and his father referred as DAD. He has also mentioned profit generated from the the illicit activities carried out by the syndicate
Page 93:	The various entries start with title " <i>Moulana (1Kg Hisab)</i> " with date 15.06.2021 and total profit of Rs. 8124 was calculated at the end with remarks Rs. 2031/- (25% <i>Salman</i>).	In this page the short name <i>Moulana</i> refers to Shri Mahmed Rizvanbhai Aiyubbbhai Limbada and the profit gained from gold thus smuggled, has been shared between him and Salman Penwala
Page 219:	The various entries start with title " <i>Profit</i> " with dates between 23.08.2020 to 26.09.2020, various amounts written against names/categories as <i>Salman-45000/-, Babu and family-80,000/-, Asif-31000/-, Rubina-50000/-, Mumtaz-46000/-, Mubin-50000/-, Babu-58000/-and Total Profit-455000/-</i> . Further, the total profit was shown divided by 2 and written as below: <i>SALMAN- 227500/-</i> <i>RIZWANBHAI- 227500/-</i>	The entries written on this page clearly reveals the profit sharing between Shri Salman Penwala and Shri Mahmed Rizvanbhai Aiyubbbhai Limbada, establishing their prime role as partners and accomplice in the illicit activities of gold smuggling and channelling of funds for the same.

Brief narration of handwritten notes at following pages of Diary with cover page title: "JIVRAJ":

Marked Page No. of Diary	Contents /Narration	Remarks
Page 13	The various entries start with title " <i>Aramex</i> " with date 02.08.2021 and amounts written against names/categories as <i>Gold purchase-216500/-, and Profit-12368/-</i> . Further, the total profit was shown divided and written as below: <i>SALMAN- 2473/-</i> <i>MOULANA BAL-9894/-</i>	M/s. Aramex India Pvt Ltd is a nominated Authorised Courier for Customs for handling international parcels imported through Courier mode. It appears that Shri Salman Penwala has illegally imported gold concealed in parcel in contravention of import regulations on Courier and realised profit by evading Customs Duty thereon.
Page 21	The various entries start with the title " <i>MOULANA CAPITAL</i> "	It appears that MOULANA referred in the entry is Shri Mohammed

<p>with date 02.08.2021 and amounts written against names/categories as Total Cash Recv-2216790/-, and PAID 19/07/21= 67800/-, PAID 16/07/21 =48426, LOSS 17/06/21(DHL) =33904, HOLD 24/07/21(FEDX)=440093/-, BAL-1384437</p>	<p>Rizwan Limbada and Salman Penwala has accounted various expenses and balance left over from the funds provided/routed by Mohammed Rizwan Limbada for the activity of gold smuggling.</p>
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FORENSIC ANALYSIS OF SEIZED ELECTRONIC DEVICES:

8. ANALYSIS OF EXTRACTED DATA AND CDRs DATA.

CDR analysis of mobile No. 9998554661 of Farhan Patel and Mobile No. 8320727472 of Shri Shabbir Hatiya:

i. During analysis of CDR data from 01.05.2023 to 05.07.2023 **(RUD-22)**, it is observed that there is specific meeting point location of Farhan Patel and Shabbir Hatiya on crucial dates which corroborates the statement furnished by Shri Farhan patel regarding handover of smuggled gold from Shri Shabbir Hatiya near McDonald's in Adajan area, Surat as tabulated below:

Sr No.	Meeting Point Location	Mobile No	Total Calls	From Date	From Time	To Date	To Time
1	21.20475333333333/72.80616 (Tower location is few meters away from McDonald's in Adajan area, Surat, Gujarat)	8320727472	1	01/Jun/2023 00:00:00	03:30:25	01/Jun/2023 00:00:00	03:30:25
		9998554661	1	01/Jun/2023 00:00:00	03:32:07	01/Jun/2023 00:00:00	03:32:07
		8320727472	1	01/Jun/2023 00:00:00	03:32:26	01/Jun/2023 00:00:00	03:32:26
2	21.18409/72.83224 (Tower location is few meters away from McDonald's in Adajan area, Surat, Gujarat)	8320727472	3	21/Jun/2023 00:00:00	17:18:39	21/Jun/2023 00:00:00	17:58:11
		9998554661	2	21/Jun/2023 00:00:00	17:13:33	21/Jun/2023 00:00:00	18:13:33

3	21.20449/72.80743 (Tower location is few meters away from McDonald's in Adajan area, Surat, Gujarat)	8320 7274 72	6	21/Jun/ 2023 00: 00:00	18:5 3:14	21/Jun/ 2023 00: 00:00	19: 56: 05
		9998 5546 61	6	21/Jun/ 2023 00: 00:00	19:0 5:14	21/Jun/ 2023 00: 00:00	20: 00: 11
4	21.200532/72.8028 (Tower location is few meters away from McDonald's in Adajan area, Surat, Gujarat)	9998 5546 61	3	22/Jun/ 2023 00: 00:00	06:3 0:20	22/Jun/ 2023 00: 00:00	06: 39: 49
		8320 7274 72	1	22/Jun/ 2023 00: 00:00	06:4 2:44	22/Jun/ 2023 00: 00:00	06: 42: 44
		8320 7274 72	1	22/Jun/ 2023 00: 00:00	06:4 3:26	22/Jun/ 2023 00: 00:00	06: 43: 26
5	21.12117/72.73752 (Tower location is few meters away from McDonald's in Adajan area, Surat, Gujarat)	9998 5546 61	9	24/Jun/ 2023 00: 00:00	00:3 2:42	24/Jun/ 2023 00: 00:00	01: 09: 09
		8320 7274 72	3	24/Jun/ 2023 00: 00:00	00:3 5:51	24/Jun/ 2023 00: 00:00	01: 03: 16
6	21.18428666666667/72.833126666 6667 (Tower location is few meters away from McDonald's in Adajan area, Surat, Gujarat)	9998 5546 61	1	05/Jul/2 023 00:0 0:00	14:5 8:59	05/Jul/2 023 00:0 0:00	14: 58: 59
		8320 7274 72	1	05/Jul/2 023 00:0 0:00	15:0 1:52	05/Jul/2 023 00:0 0:00	15: 01: 52
		8320 7274 72	4	05/Jul/2 023 00:0 0:00	15:0 2:49	05/Jul/2 023 00:0 0:00	15: 04: 14

21.18407/72.83093333333333 (Tower location is few meters away from McDonald's in Adajan area, S	9998554661	1	05/Jul/2023 00:00:00	15:07:38	05/Jul/2023 00:00:00	15:07:38
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- ii. During analysis of CDR data from 01.05.2023 to 05.07.2023, it is further observed that Shri Farhan Patel has travelled from Surat to Mumbai on crucial dates i.e. next day of arrival of Flights from Sharjah to Surat and frequent journey to Mumbai on specific dates (01.06.2023, 24.06.2023, 26.06.2023, 01.07.2023, 03.07.2023) further substantiates his statement regarding delivery of smuggled gold at Mohammed Ali Road in Mumbai on the instructions of Shri Salman Penwala and Shri Tousique Siddique. A summary of movements of Farhan Patel with smuggled gold for delivery to Mumbai is as tabulated below:

mobile phones	Name of person using mobile phones	Last known location	Date	Time	Address of TSP's Tower
9998554661	Farhan Patel	TP-11 (Adajan), BRTS Chennelizer, Opp Dhanmora Complex, Adajan Patiya Gujarat	01-06-2023	03:37:24	TP-11 (Adajan), BRTS Chennelizer, Opp Dhanmora Complex, Adajan Patiya Gujarat (LAST CELL ID-4058570160323)
9998554661	Farhan Patel	SAIFEE SCHOOL EBRAHIM RAHIM TULLA ROAD MANDVI MASJID Pin Code - 400003 Mumbai	01-06-2023	11:00:26	SAIFEE SCHOOL EBRAHIM RAHIM TULLA ROAD MANDVI MASJID Pin Code - 400003 Mumbai (LAST CELL ID-405874009bf25)
9998554661	Farhan Patel	"GAURAVBHAI (9825119237),1 Floor, Venus House, Hira Modi Street,	24-06-2023	11:00:07	NATHUBHAI TOWER, OPP. MARUTI SUZUKI SHOWROOM, JIVAN JYOT, UDHNA MAINRO Gujarat

		Sagrampura Gujarat"			(LAST CELL ID-40585700e3730)
9998554661	Farhan Patel	Rajesh Rayon Bhavan, 307309, Kalbadevi Rd, Kalbadevi, Mumbai, Maharashtra 400002 Mumbai	24-06-2023	17:25:16	Rajesh Rayon Bhavan, 307309, Kalbadevi Rd, Kalbadevi, Mumbai, Maharashtra 400002 Mumbai (LAST CELL ID-40587430a9a02)
9998554661	Farhan Patel	RS No. 315/3/Plot No. 1 and 315/3/Plot No. 2, Moje Village-Balitha, Ta Gujarat	26-06-2023	12:05:01	HRNT TRANSPORT BULDG SILVAR HOTEL NEAR BRAHM DEV MANDIR OPP BOMBAY HOT Gujarat (LAST CELL ID-4058570128d30)
9998554661	Farhan Patel	WESTERN EXPRESS HWY, CHAITANYA NAGAR, DAVRI NAGAR, VAKOLA,SANTACRUZ EAST, MUMBAI, MAHARASHTRA 400055 Mumbai	26-06-2023	19:11:01	Matin(8652864781). Vakola Flyover,Anand Nagar, Vakola, Santacruz East, Mumbai, Maharashtra 400055 Mumbai (LAST CELL ID-4058740254434)
9998554661	Farhan Patel	Open Plot of Jitendra Baldevsinh Vasia, Behind Haveli, Sachin gaon, Surat Gujarat	01-07-2023	13:50:42	CENTER POINT, HOUSINH BOARD NAKA, SACHIN-NAVSARI MAIN ROAD, SACHIN, SURAT, Gujarat (LAST CELL ID-4058570027e24)

9998554661	Farhan Patel	SONAWALA BUILDING, OPPOSITE OF OLD CUSTOM HOUSE, FORT, MUMBAI -400001 Mumbai	01-07-2023	21:49:52	SONAWALA BUILDING, OPPOSITE OF OLD CUSTOM HOUSE, FORT, MUMBAI -400001 Mumbai (LAST CELL ID-4058740096424)
9998554661	Farhan Patel	ANKITBHAI (992504425 6), PLOT NO. D2-21-22, SACHIN INDUSTRIAL ESTATE, SACHIN Gujarat	03-07-2023	16:10:14	ANKITBHAI (992504425 6), PLOT NO. D2-21-22, SACHIN INDUSTRIAL ESTATE, SACHIN Gujarat (LAST CELL ID-405857002bd24)
9998554661	Farhan Patel	Times of India junction Mumbai	03-07-2023	22:31:33	Acme Plaza, W.E. HIGH WAY, GOREGAON (E), 400063 Mumbai (LAST CELL ID-4058740079f34)

It appears that Shri Yasir Shaikh had received 6 incoming calls from mobile number 971544315007 (saved in Phone in the name of 'Salman Pen Dub') on 07.07.2023 at 18:28(UTC+0) [23:58 IST of 07.07.2023], 18:33(UTC+0) [00:03 IST of 08.07.2023], 18:50(UTC+0) [00:20 IST of 08.07.2023], 19:15(UTC+0) [00:45 IST of 08.07.2023], 19:20(UTC+0) [00:50 IST of 08.07.2023] and 19:25(UTC+0) [00:55 IST of 08.07.2023], just after landing at the Surat International Airport. It appears that Shri Salman Rafiqbhai Penwala (+971585156007) was in contact with Shri Yasir Shaikh on his other number, the details are below:

Parties	Date	Time	Duration	Direction	Status
From: +971544315007 Suspected Spam	07-07-2023	07-07-2023 19:25:58 (UTC+0)	00:00:00	Incoming	Missed
From: +91971544315007 Trust Cheap people can't afford	07-07-2023	07-07-2023 19:20:18 (UTC+0)	00:00:00	Incoming	Missed
From: +91971544315007 Trust Cheap people can't	07-07-2023	07-07-2023 19:15:27	00:00:00	Incoming	Missed

afford	2023	(UTC+0)	
From: +971544315007	07-	07-07-2023	00:00:00 Incoming Missed
Suspected Spam	07-	18:50:29	
	2023	(UTC+0)	
From: +971544315007	07-	07-07-2023	00:00:00 Incoming Missed
Trust Cheap people can't afford	07-	18:33:44	
	2023	(UTC+0)	
From: +91971544315007	07-	07-07-2023	00:00:00 Incoming Rejected
Trust Cheap people can't afford	07-	18:28:34	
	2023	(UTC+0)	
From: +971585156007	07-	07-07-2023	00:00:34 Incoming Answered
Salman Bhai Dubai	07-	14:13:40	
	2023	(UTC+0)	
From: +971585156007	07-	07-07-2023	00:00:07 Incoming Answered
Salman Bhai Dubai	07-	11:07:34	
	2023	(UTC+0)	
From: +971585156007	07-	07-07-2023	00:00:29 Incoming Answered
Salman Bhai Dubai	07-	10:53:43	
	2023	(UTC+0)	
From: +971585156007	07-	07-07-2023	00:00:00 Incoming Missed
Salman Bhai Dubai	07-	10:53:24	
	2023	(UTC+0)	
From: +971585156007	07-	07-07-2023	00:01:46 Incoming Answered
Salman Bhai Dubai	07-	08:10:36	
	2023	(UTC+0)	
From: +971585156007	07-	07-07-2023	00:02:46 Incoming Answered
Salman Bhai Dubai	07-	08:03:58	
	2023	(UTC+0)	
To: +971585156007	07-	07-07-2023	00:00:00 Outgoing Not answered
Salman Bhai Dubai	07-	08:03:33	
	2023	(UTC+0)	
From: +971585156007	07-	07-07-2023	00:00:48 Incoming Answered
Salman Bhai Dubai	07-	07:27:22	
	2023	(UTC+0)	
To: +971585156007	07-	07-07-2023	00:00:00 Outgoing Not answered
Salman Bhai Dubai	07-	07:26:57	
	2023	(UTC+0)	
To: +971585156007	07-	07-07-2023	00:00:00 Outgoing Not answered
Salman Bhai Dubai	07-	06:55:40	
	2023	(UTC+0)	

From: 919913868531@ 25- 25-04-2022 00:00:00 Outgoing Not
 answered s.whatsapp.net 313 04- 09:47:37
 To: 971585156007@ 2022 (UTC+0)
 s.whatsapp.net Salman
 Bhai Dubai 00:00:00 Outgoing Not
 From: 919913868531@ 25- 25-04-2022 answered
 s.whatsapp.net 313 04- 08:47:27
 To: 971585156007@ 2022 (UTC+0)
 s.whatsapp.net Salman 00:00:00 Incoming Missed
 Bhai Dubai

It appears that Shri Yasir Shaikh landed at Surat International Airport in the night of 07/08 July, 2023 via flight IX-172 scheduled to land at 23.55 hrs on 07.07.2023. Just after landing, Shri Yasir Shaikh received a call from mobile no. 917990237339 (saved in phone in the name of 'Salman Bhai 2') on 07.07.2023 at 18:28 (UTC+0) [23:58 IST of 07.07.2023] and further received 06 (six) whatsapp missed calls from mobile no. 971544315007. On scrutiny of the data, it appears that Dubai based mobile no. 971544315007 pertained to Shri Salman Rafiqbhai Penwala which proves that Shri Salman Rafiqbhai Penwala was in touch with the passenger Shri Yasir Shaikh and called him on 08.07.2023 to get the status of smuggling of gold in paste form from Surat International Airport.

- iii. It appears from the data retrieved from mobile phone of Shri Yasir Shaikh that he had communicated via whatsapp chat with Shri Salman Rafiqbhai asking for arrangement of tickets of passengers arranged by him for carrying gold from Dubai to India on the instructions of Shri Salman Penwala. The details of whatsapp chat between them is reproduced as below. It is seen that on 02.07.2023 Shri Salman Penwala asks Shri Yasir Shaikh whether the two passengers can again repeat the trip to Dubai and in response Yasir replies "Muskil hai" i.e. it is difficult. It appears that the passengers had gauged the risk associated with carrying of smuggled gold paste in large quantity which they were made to carry during their return journey on 28.05.2023 and denied going for repeat/next consecutive trip to Dubai at the behest of Shri Salman Penwala:

Chat of Yasir Shaikh With	Date & Time	Chat/Audio from	Chat/Audio from	Chat/Audio /PDF / Image	Contents of Chat/audio
Salman Penwala (917990237339)	18-05-2023 07:52:26 (UTC+0)	Yasir	919913868531@s.whatsapp.net	Chat	Hotel and aur jaane ki ticket pending
Salman Penwala (917990237339)	23-05-2023 08:46:01 (UTC+0)	Salman	917990237339@s.whatsapp.net Salman Bhai 2	PDF	booking of 02 person Mohsin Masaalawala + 1
Salman Penwala (917990237339)	29-05-2023 04:45:44 (UTC+0)	Yasir	919913868531@s.whatsapp.net	Chat	800 dhms× 24= 19200 Taxi surt to mum= 4000

					<i>2 passenger fees= 20000 Total= 43200</i>
Salman Penwala (917990237339)	29-05-2023 04:47:34 (UTC+0)	Yasir	919913868531@s.whatsapp.net	Chat	<i>Ho sake to passenger k thode zyada krwana</i>
Salman Penwala (917990237339)	29-05-2023 06:02:54 (UTC+0)	Yasir	919913868531@s.whatsapp.net	Chat	<i>To mjhe bhi kuch mile</i>
Salman Penwala (917990237339)	02-07-2023 07:37:30 (UTC+0)	Salman	917990237339@s.whatsapp.net Salman Bhai 2	Chat	<i>Wo repat jayege</i>
Salman Penwala (917990237339)	02-07-2023 07:37:33 (UTC+0)	Salman	917990237339@s.whatsapp.net Salman Bhai 2	Chat	<i>Tumare do</i>
Salman Penwala (917990237339)	02-07-2023 07:37:35 (UTC+0)	Salman	917990237339@s.whatsapp.net Salman Bhai 2	Chat	<i>Aadmi</i>
Salman Penwala (917990237339)	02-07-2023 07:41:17 (UTC+0)	Yasir	919913868531@s.whatsapp.net	Chat	<i>Poochta hu pr mushkil hai</i>
Salman Penwala (917990237339)	04-07-2023 12:37:35 (UTC+0)	Salman	917990237339@s.whatsapp.net Salman Bhai 2	Chat	<i>4 room hai Adjust ker lena</i>
Salman Penwala (917990237339)	05-07-2023 08:08:33 (UTC+0)	Yasir	919913868531@s.whatsapp.net	Chat	<i>Assalamualaikum 6835 dhms bhai ke 1600 dhms yaha ke</i>
Salman Penwala (917990237339)	05-07-2023 09:58:10 (UTC+0)	Yasir	919913868531@s.whatsapp.net	Chat	<i>Uvesh imtiyaz Sakib Yeh do fix ok Friday</i>
Salman Penwala (917990237339)	06-07-2023 06:31:50 (UTC+0)	Yasir	919913868531@s.whatsapp.net	Chat	<i>Next me hum sab hai</i>
Salman Penwala (917990237339)	06-07-2023 21:21:41 (UTC+0)	Salman	917990237339@s.whatsapp.net Salman Bhai 2	Chat	<i>2 bande or aaj mai ker sakte hai</i>
Salman Penwala (917990237339)	06-07-2023 21:22:37 (UTC+0)	Salman	917990237339@s.whatsapp.net Salman Bhai 2	Chat	<i>Tum do chale jaate ho kuch bhi kero</i>
Salman Penwala (917990237339)	06-07-2023 21:22:43 (UTC+0)	Salman	917990237339@s.whatsapp.net Salman Bhai 2	Chat	<i>Ijrat ka sawal hai</i>
Salman Penwala (917990237339)	06-07-2023 21:27:39 (UTC+0)	Yasir	919913868531@s.whatsapp.net	Chat	<i>Mera biwi ka krdo bismillah</i>

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Salman Penwala (917990237339)	06-07-2023 21:27:49 (UTC+0)	Salman	917990237339@s.whatsapp.net Salman Bhai 2	Chat	<i>Aap dono ka</i>
Salman Penwala (917990237339)	06-07-2023 21:28:06 (UTC+0)	Yasir	919913868531@s.whatsapp.net	Chat	<i>Haan</i>
Salman Penwala (917990237339)	06-07-2023 21:28:17 (UTC+0)	Salman	917990237339@s.whatsapp.net Salman Bhai 2	Chat	<i>Thik hai bhai mai kerta hu</i>
Salman Penwala (917990237339)	06-07-2023 21:28:35 (UTC+0)	Salman	917990237339@s.whatsapp.net Salman Bhai 2	Chat	<i>Mai land ho gaya hu fir inshallah uth k er msg kerta hu</i>
Salman Penwala (917990237339)	06-07-2023 21:32:30 (UTC+0)	Yasir	919913868531@s.whatsapp.net	Chat	<i>Confirm hi hai na ?</i>
Salman Penwala (917990237339)	06-07-2023 21:32:54 (UTC+0)	Yasir	919913868531@s.whatsapp.net	Chat	<i>To me carrying lelu isliye</i>
Salman Penwala (917990237339)	06-07-2023 21:35:08 (UTC+0)	Salman	917990237339@s.whatsapp.net Salman Bhai 2	Chat	<i>Ha confrim</i>

(i) It appears that Shri Yasir Shaikh has also communicated on whatsapp with his brother Mohsin Shaikh on his mobile 9712411166, the details of such whatsapp chat during the material period is as under:

Chat of Yasir Shaikh With	Date & Time	Chat/Audio from	Chat/Audio from	Chat/Audio/PDF/Image	Contents of Chat/audio
Mohsin Shaikh (9712411166)	24-06-2023 08:47:25(UTC+0)	Yasir	919913868531@s.whatsapp.net 313	Chat	<i>10800÷2=5400 Already given = 6000 600+990= 1590 (pending) 10000 carrying given pending Total= 11590 pending</i>
Mohsin Shaikh (9712411166)	02-07-2023 07:06:39(UTC+0)	Yasir	919913868531@s.whatsapp.net 313	Chat	<i>10000-1900= 11900 pending</i>
Mohsin Shaikh (9712411166)	03-07-2023 17:00:45(UTC+0)	Yasir	919913868531@s.whatsapp.net 313	Chat	<i>Bhai sab ki return ticket aur hotel baaki hai okk</i>
Mohsin Shaikh (9712411166)	05-07-2023 07:59:51(UTC+0)	Yasir	919913868531@s.whatsapp.net 313	Chat	<i>Salman bhai se total tere kitne lene hai</i>

Mohsin Shaikh (9712411166)	05-07-2023 08:01:13(UTC+0)	Moshin	919712411166@s.whatsapp.net Bhai	Chat	6835
Mohsin Shaikh (9712411166)	05-07-2023 09:38:22(UTC+0)	Yasir	919913868531@s.whatsapp.net 313	Chat	Friday ko 2 hai Sakib aur uvesh fin al kre hai ok
Mohsin Shaikh (9712411166)	05-07-2023 09:38:46(UTC+0)	Moshin	919712411166@s.whatsapp.net Bhai	Chat	Kidhar surat ?
Mohsin Shaikh (9712411166)	05-07-2023 09:38:58(UTC+0)	Moshin	919712411166@s.whatsapp.net Bhai	Chat	Ya bombay ?
Mohsin Shaikh (9712411166)	05-07-2023 09:40:11(UTC+0)	Yasir	919913868531@s.whatsapp.net 313	Chat	Surat

(ii) **Mobile Phone of Shri Farhan Patel:**

The mobile data from Apple_iPhone X having mobile number 7070494997 being used by Shri Farhan Patel, retrieved by RFSL, Surat, was analysed. It appears that Shri Farhan Patel has stated in his statement dated 18.07.2023 and 19.07.2023 that he had formatted (factory reset) his phone after booking of the case of gold smuggling at Surat International airport and thereby he tried to destroy the evidences present in his mobile. However, few incriminating documents/chats were retrieved from his mobile, which are discussed as under:

From the contact details, the contact of following persons were retrieved from the mobile of Shri Farhan Patel: -

Sr. No.	Mobile of Farhan	Other person mobile number involved	Observation/ result of analysis
1	7070494997	9898443095	The contact number is of Shri Rizwan Limbada alias Moulana
2		7990237339	The contact number is of Shri Salman Penwala. Saved in name of Anas
3		27849068403	The contact number is of Shri Shabbir Hatiya

(vi) From the whatsapp call log it appears that Shri Farhan Patel was in touch from his mobile number 7070494997 with the persons involved in smuggling of gold as under:-

Sr. No.	Mobile of Farhan	Other person mobile number involved	Remarks
1	7070494997	9898443095	1 call retrieved
2		7990237339	The contact number is of Shri Salman Penwala. Saved in name of Anas
3		27849068403	The contact number is of Shri Shabbir

		Hatiya
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(vii) On scrutiny of working copy of retrieved data of mobile phone of Shri Parag Dave, it appears from the call logs of Shri PD Dave, that he had received calls from number 9898443095, the details are as below:

Description	Date & Time	Call of duration	Call Nature	
Direction:	23-06-2023	00:00:00	Missed	Source:
Incoming	20:25:41 (UTC+5:30)			
From				
919898443095				
Kondh Gam Rizwan Bhai Brc				
Direction:	19-06-2023	00:00:00	Missed	Source:
Incoming	05:54:40 (UTC+5:30)			
From				
919898443095				
Kondh Gam Rizwan Bhai Brc				
Direction:	15-06-2023	00:00:00	Missed	Source:
Incoming	05:49:39 (UTC+5:30)			
From				
919898443095				
Kondh Gam Rizwan Bhai Brc				

(viii) It appears from the call logs of Shri Parag Dave, retrieved from his mobile phone, that he had received calls from number 8320727472, the details are as below:

Description	Date & Time	Call of duration	Call Nature	
Direction:	23-06-2023	00:00:00	Not answered	Source:
Outgoing	15:14:26 (UTC+0)			
To				
+918320727472				
Shabbir Bhai BRC Parner				
Direction:	23-06-2023	00:00:00	Rejected	Source:
Incoming	15:24:44 (UTC+0)			
From				
+918320727472				
Shabbir Bhai BRC Parner				

(ix) On being asked regarding the calls received on the mobile of Shri Parag Dave, PSI from mobile No. 9898443095, Shri Parag Dave stated in his statement dated 20/21.07.2023 that the person using contact no. 9898443095 (Kondh Gam Rizwan Bhai BRC) might have called him for seeking some help; that he would have called him for seeking help regarding status of flight or might have any problem at immigration or emigration.

(x) It appears from the documents submitted by RPO Surat vide letter dated 20.07.2023 that mobile number 9898443095 belonged to Shri Mahmed Rizvanbhai Aiyubhai Limbada, 429, Vahorawad Faliyu, At-Po- Kondh, Bharuch. Shri Parag Dave, PSI had received missed call from Shri Mahmed Rizvan Limbada on 15.06.2023 at 5.49 AM and on 19.06.2023 at 5.54 AM. He further received a miss call on 23.06.2023 at 20.25 hrs from Shri Mahmed Rizvan Limbada and it also appears that on 23.06.2023 Shri Mahmed Rizvan Limbada was scheduled to board flight IX-172 at Sharjah. Thus, it appears that the missed call from Shri Mahmed Rizvan Limbada to Shri Parag Dave on 23.06.2023 at 20.25 hrs was nothing but an indication for his arrival at Surat International Airport. It also appears that Shri Mahmed Rizvan Limbada had placed a missed call on early morning i.e 5.49 AM on 15.06.2023 and 5.54 AM on 19.06.2023 which indicated the exchange of Gold which was collected by Shri Parag Dave from passengers at Surat Airport on arrival of flight on 14.06.2023 (Wed) & 18.06.2023 (Sun) respectively.

(xi) On being asked regarding the calls received on the mobile of Shri Parag Dave, PSI from mobile No. 8320727472, Shri Parag Dave stated in his statement dated 20/21.07.2023 **(RUD-29)** that some persons called for enquiry in advance about the international flight and it might be possible that this person might be one of them. It appears that Shri Parag Dave had made call to mobile No. 8320727472 on 23.06.2023 at 15.14 Hrs but call was not answered. Further he received call from same number on 23.06.2023 at 15:24 hrs which Shri Parag Dave rejected. The flight IX-172 was schedule to arrive at Surat International Airport on 23.06.2023 and Shri Mahmed Rizvan Limbada was coming from that flight. Shri Parag Dave was aware about the scheduled arrival of Shri Mahmed Rizvan Limbada and he was also in touch with Shri Shabbir Ismail Hatiya (Mobile No. 8320727472).

(xii) It appears that Mahmed Rizvanbhai Limbada had travelled from Sharjah to Surat on 23.06.2023 via flight IX-172 and landed at Surat International Airport on 23.06.2023. It appears that Mahmed Rizvanbhai Limbada was in continuous touch with the members of this gold/gold paste smuggling syndicate viz. Shri Salman Rafiqbhai Penwala and Tousique Siddique. Mahmed Rizvanbhai Limbada had spoken to both the persons just after landing at Surat International Airport, details of calls are as under:

Calling Party Telephone Number	Calling party Name	Called Party Telephone Number	Called party name	Call Date	Call Time	Call Duration (in Sec.)
917990237339	Salman	919898443095	Rizwan Limbada	23-06-2023	19:12:32	52
971554958340	Tousique	919898443095	Rizwan Limbada	24-06-2023	00:01:27	20

(xiii) It appears that Shri Salman Rafiqbhai Penwala had travelled with an accomplice viz. Mohd. Sattar on 05.07.2023 from Sharjah to Surat via Flight IX-172 and had smuggled gold/gold paste on this occasion. It appears that after the successful smuggling of gold on 05.07.2023 by Shri Salman Rafiqbhai Penwala & others, Shri Salman Rafiqbhai went back to Dubai on 06.07.2023 from Mumbai Airport. From the investigation, it appears that Shri Salman Rafiqbhai Penwala handed over the gold in paste form to 3 passengers who were intercepted by the DRI on 07.07.2023 at Surat International Airport with huge quantity of undeclared gold in paste form. It appears that Mahmed Rizvanbhai Limbada was in continuous touch with the members of the gold/gold paste smuggling syndicate viz. Shri Salman Rafiqbhai Penwala, Tousique Siddique, Shabbir Hatiya, Farhan Patel, and others. Mahmed Rizvanbhai Limbada had spoken to the syndicate members just after landing of the flight IX-172 on 05.07.2023 & 07.07.2023 at Surat International Airport, details of calls are as under:

Calling Party Telephone Number	Calling party Name	Called Party Telephone Number	Called party name	Call Date	Call Time	Call Duration (in Sec.)
971544315007	Salman	919898443095	Rizwan Limbada	05-07-2023	19:52:40	101
919898443095	Rizwan Limbada	917990237339	Salman	05-07-2023	23:59:50	27
971554958340	Tousique	919898443095	Rizwan Limbada	06-07-2023	00:00:26	545
919898443095	Rizwan Limbada	918320727472	Shabbir Hatiya	06-07-2023	00:10:37	7
917990237339	Salman	919898443095	Rizwan Limbada	06-07-2023	00:43:30	21
918320727472	Shabbir Hatiya	919898443095	Rizwan Limbada	06-07-2023	00:59:20	6
919898443095	Rizwan Limbada	917990237339	Salman	06-07-2023	01:40:49	35
919998554661	Farhan Patel	919898443095	Rizwan Limbada	07-07-2023	23:51:22	8
971544315007	Salman	919898443095	Rizwan Limbada	07-07-2023	23:55:25	39
971544315007	Salman	919898443095	Rizwan Limbada	08-07-2023	00:02:39	22
971544315007	Salman	919898443095	Rizwan Limbada	08-07-2023	00:07:31	38

| | | | | | | |

971544315007	Salman	919898443095	Rizwan Limbada	08-07-2023	00:11:20	35
971544315007	Salman	919898443095	Rizwan Limbada	08-07-2023	00:13:47	38
971544315007	Salman	919898443095	Rizwan Limbada	08-07-2023	00:35:47	52
971544315007	Salman	919898443095	Rizwan Limbada	08-07-2023	01:02:32	168

(xiv) The analysis of CDR of Shri Salman Rafiqbhai Penwala, Shri Rizwan Limbada, Shri Farhan Patel, Shri Paragkumar Dave and Shri Shabbir Hatiya as annexed in Annexure **(RUD-30)** attached to this SCN shows that all these people were in contact with each other including Shri Tousique Siddique. Shri Rizwan Limbada is seen travelling to Dubai and South Africa. Shri Rizwan Limbada travelled to Dubai on 21.06.2023 and returned on 23.06.2023. During his stay at Dubai he was in touch with Shri Shabbir Hatiya and Shri Tousique Siddique. When he returned from Dubai, he contacted Shri Tufail Suriya on 24.06.2023, the passenger who came with him from Sharjah via flight IX-172 and this corroborates the voice note of Shri Farhan Patel with Shri Mohsin Shaikh wherein Shri Farhan Patel was conveying to Shri Mohsin Shaikh to ask Shri Tufail to get Moulana's slippers which were with him. Shri Tufail Suriya remained in washroom with Shri Rizwan for a long time and when Shri Tufail Suriya came out of the washroom and crossed immigration counter, he was carrying black office bag which belonged to another passenger and his grey bag was not available with him during the time.

(xv) CDR ANALYSIS OF SHRI FARHAN PATEL (MOBILE NO. 9998554661) FROM 22.06.2023 TO 05.07.2023 SHOWING CALL DETAILS WITH SHRI SALMAN PENWALA, SHRI TOUSIQUE SIDDIQUE SIDDIQUE, SHRI SHABBIR HATIYA WHEN HE WAS IN MUMBAI:-

Calling Party Telephone Number		Called Party Telephone Number		Call Date	Call Time	Call Duration	Call Type	Roaming Circle Name
918320727472	Shabbir Patel	919998554661	Farhan Patel	22-06-2023	16:58:12	97	a_in	MH
971585296007	Tousique Siddique	919998554661	Farhan Patel	24-06-2023	13:27:16	59	a_in	MH
971585296007	Tousique Siddique	919998554661	Farhan Patel	24-06-2023	15:46:43	31	a_in	MU
971585296007	Tousique Siddique	919998554661	Farhan Patel	24-06-2023	16:01:45	93	a_in	MU
971585296007	Tousique Siddique	919998554661	Farhan Patel	24-06-2023	16:32:40	40	a_in	MU
	Tousique		Farha	24-0				

971585296007	e Siddique	919998554661	n Patel	6-20 23	16:5 8:19	18	a_in	MU
971585296007	Tousique Siddique	919998554661	Farhan Patel	24-0 6-20 23	17:0 7:48	35	a_in	MU
971585296007	Tousique Siddique	919998554661	Farhan Patel	01-0 7-20 23	19:5 8:53	68	a_in	MU
971585296007	Tousique Siddique	919998554661	Farhan Patel	03-0 7-20 23	19:5 5:41	123	a_in	MH
918320727472	Shabbir Patel	919998554661	Farhan Patel	03-0 7-20 23	21:4 6:55	92	a_in	MH
971544315007	Salman	919998554661	Farhan Patel	03-0 7-20 23	23:0 4:01	94	a_in	MU

Shri Farhan Patel in his statement stated that he used to receive call from Shri Tousique Siddique/Shri Salman Penwala when he reached Mumbai and they would confirm the identity of the person on whatsapp/botim apps to whom the said gold was to be delivered. However, a few normal calls can also be seen - Shri Tousique Siddique has called Shri Farhan Patel whenever Shri Farhan Patel reached Mumbai. Thus, the statement of Shri Farhan Patel is corroborated with the above CDR analysis of particular days.

ANALYSIS OF CCTV FOOTAGE OF SURAT INTERNATIONAL AIRPORT:

9. In response to the reference made by the Deputy Director, DRI, Surat, the Airport Director, Surat International Airport has submitted the CCTV footage of immigration area situated at first floor of Surat International Airport. The analysis of video footage received from Surat International Airport is as under: -

9.1 CCTV footage of 5th July,2023

On scrutiny of video footage of Camera no. 31, 34 & 59 installed at immigration area, the following observation is noticed:

CAMERA:31							
Sr. No.	Camera No.	Date	Time	Comments	Date	Time	Comments
1	31	05.07.2023	23:52:11	PSI goes to toilet with one more officer	05.07.2023	23:53:32	PSI comes out of toilet with other officer
				2 passengers one wearing blue pant and white shirt having trolley bag			

2	31	05.07.2023	23:57:43	and one business bag on trolley and other passenger wearing stripe shirt with one small laptop bag around his shoulder and one bag in hand which appears to be very heavy enters the toilet one by one. One more passenger viz Shri Salman Penwala in purple dress with red small bag on his shoulder also enters the toilet.			
3	31	06.07.2023	00:00:09	PSI P D Dave enters the toilet	06.07.2023	00:03:47	PSI Dave comes out of toilet and goes towards office cabin.
4	31	06.07.2023	00:06:54	PSI Dave re-enters the toilet	06.07.2023	00:08:42	PSI Dave comes out of toilet and again goes towards office cabin.
5					06.07.2023	00:08:51	Shri Salman Penwala comes out of toilet along with two other passengers

6	31	06.07.2023	00:28:54	Shri Salman Penwala reaches at immigration counter	06.07.2023	00:29:28	Shri Salman Penwala left immigration counter
7	31	06.07.2023	00:30:28	1st Passenger viz Md Sattar reaches at immigration counter	06.07.2023	00:31:12	1st Passenger viz Md Sattar left immigration counter
8	31	06.07.2023	00:31:07	2nd Passenger reaches at immigration counter	06.07.2023	00:31:37	2nd Passenger left immigration counter
9	31	06.07.2023	00:39:34	PSI Dave re enters the toilet	06.07.2023	00:40:00	PSI Dave comes out of toilet and again goes towards office cabin.
10	31	06.07.2023	00:47:43	PSI Dave leaving immigration counter with bag			
CAMERA:34							
11	34	05.07.2023	23:52:05	PSI comes towards toilet with one more officer	05.07.2023	23:53:42	PSI Dave comes out of toilet along with one officer and moves towards PI Baldania
				2 passengers one wearing blue pant and white shirt having trolley bag and one small bag on trolley and other passenger wearing stripe shirt with one small			

12	34	05.07.2023	23:57:34 to 23:57:54	hanging bag around his shoulder and one hand bag having weight (is heavy) coming towards the toilet. One more passenger viz Shri Salman Penwala in purple dress with red small bag on his shoulder also comes towards the toilet.			
13	34	06.07.2023	23:58:02	PSI P D Dave comes towards the toilet	06.07.2023	00:04:47 to 00:05:00	PSI Dave moves away from the toilet area and enters the office cabin.
14	34	06.07.2023	00:06:24	PSI Dave again come towards the toilet	06.07.2023	00:08:57 to 00:09:10	PSI Dave moves away from the toilet area and enters the office cabin.
15	34	06.07.2023	00:28:53	Shri Salman Penwala reaches the immigration counter	06.07.2023	00:29:26	Shri Salman Penwala left immigration counter and moves downstairs
16	34	06.07.2023	00:30:26	1st Passenger viz Md Sattar reaches the immigration counter	06.07.2023	00:31:06	1st Passenger viz Md Sattar left immigration counter and goes downstairs

17	34	06.07.2023	00:31:06	2nd Passenger reaches at immigration counter	06.07.2023	00:31:37	2nd Passenger left immigration counter and goes downstairs with two bags in hand and seen easily lifting the hand bag which appeared to be very heavy before entering the toilet.
18	34	06.07.2023	00:47:43	PSI Dave leaving immigration counter with bag			
19	34	06.07.2023		PSI Dave comes out with bag from the office cabin, passes through immigration counter and goes down stairs.			
CAMERA:59							
20	59	06.07.2023	00:31:59	Shri Salman Penwala exiting airport building			
21	59	06.07.2023	00:43:25	1st passenger viz Md Sattar existing airport building			
22	59	06.07.2023	00:41:44	2nd passenger exiting airport			

				building			
23	59	06.07.2023	00:49:56	PSI Dave exiting airport building with bag on his shoulder			

9.2 From the video footage, it can be seen that on 5th July, 2023 Shri Parag Dave, PSI was seen going to the toilet as enumerated above at Sr. No. 1 and 9 and comes out of the toilet around One minute later whereas when he entered in the washroom after Shri Salman Penwala along with two other passengers entered in the washroom, he remained in washroom for around **3 and ½ minutes** for first time and **around 3 minutes** for the second time. It appears that Shri Parag Dave, PSI entered in the washroom **two times** immediately within a matter of **3 minutes**. The 2nd passenger as enumerated above at Sr. No. 2 can be seen moving with bag in his hand which appears to be very heavy but when he crosses the immigration counter as enumerated above at Sr. no. 17, he can be seen easily lifting the said bag with his left hand along with one more business/laptop bag in the same left hand. It appears that he was having heavy goods in his bag before entering the men's washroom but he handed over the said goods/left the said good in the washroom area as a result of which the weight of the bag became light. Further, Shri Salman Penwala along with the above said two passengers came out from the washroom after waiting inside for **almost 10 minutes** and only after Shri Parag Dave, PSI having entered twice in the said washroom had finally exited. It appears from the footage that Shri Parag Dave, PSI came out of toilet second time at **00:08:42 hrs** and Shri Salman Rafiqbhai Penwala along with the above said two passengers comes out at **00:08:51 hrs**. When Shri Parag Dave, PSI was confronted with the said footage during his statement, he gave elusive reply and could not properly explain the reason for going twice to the toilet area adjacent to immigration area after entry of Shri Salman Penwala along with the above said two passengers. Further, Shri Parag Dave, PSI after coming out of the washroom both times headed towards office cabin as enumerated above at Sr. No. 13 & 14 and he can also be seen moving out of the office cabin with a heavy bag and thereafter, out of the airport building, as enumerated above at Sr. No. 10,19 & 23. This fact is further corroborated with the statements of Shri Yasir Shaikh, Shri Uvesh Shaikh, Shri Sakib Aatashbajiwala and Shri Farhan Patel. The three accused viz Shri Yasir Shaikh, Shri Uvesh Shaikh and Shri Sakib Aatashbajiwala stated that the gold in the form of paste smuggled by them were to be handed over to an immigration officer and on confrontation with Shri Parag Dave, PSI, they recognised him as the same officer to whom the gold in form of paste was to be handed over. Further, Shri Farhan Patel has also stated that when he smuggled gold in paste form, it was being handed over by another passenger in the toilet area adjacent to immigration counter to Shri Parag Dave, PSI. Thus, the modus operandi explained by all these accused can be verified with activities captured in the CCTV footage of airport. It appears that the activities taking place in the video footage of immigration area of Surat International Airport clearly correspond with the modus operandi of smuggling.

9.3 CCTV footage of 23rd June,2023

On scrutiny of video footage of Camera no. 31, 34 & 59 installed at

4	31	23.06.2023	23:56:25	PSI Dave re-enters the toilet	23.06.2023	23:57:17	comes out of toilet and stands nearby.
5	31	23.06.2023	23:57:29	PSI Dave re-enters the toilet	-	-	-
6	31	-	-	-	23.06.2023	23:56:35	Passenger in red T-shirt comes out of the toilet without the hanging bag carried by him into the washroom. He is calling someone and roaming near line.
7	31	23.06.2023	23:57:00	Passenger in red T-shirt re-enters the toilet.	23.06.2023	23:57:58	Passenger in red T-shirt comes out of the toilet.
8	31	-	-	-	23.07.2023	23:59:00 to 23:59:58	PSI Dave Comes out of the toilet and moves towards office cabin.
9	31	24.06.2023	00:07:29 to 00:08:07	Passenger in red T-shirt crosses immigration area without office bag	-	-	-
10	31	24.06.2023	00:07:16	PSI Dave re-enters the toilet	24.06.2023	00:08:22 to 00:08:49	PSI Dave comes out of the toilet and moves towards office cabin.
11	31	-	-	-	24.06.2023	00:08:23	Shri Rizwan Limbada alias Moulana comes out of the toilet
							2nd

12	31	-	-	-	24.06.2023	-	passenger cannot be seen when he comes out of the toilet due to crowd at toilet entrance and his short stature.
13	31	24.06.2023	00:21:28	PSI Dave re-enters the toilet	24.06.2023	00:22:29	PSI Dave Comes out of the toilet and does not go inside the office cabin.
14	31				24.06.2023	00:19:00	2nd Passenger in grey shirt & blue jeans crosses the immigration counter with black office bag around his shoulder and without his grey bag which he took inside the toilet. The black bag was earlier with 1st passenger in red t-shirt
15	31	-	-	-	24.06.2023	00:27:31 to 00:28:20	Shri Rizwan Limbada alias Moulana crossess immigration counter
				PSI Dave re-			PSI Dave Comes out of the toilet and does

20	34	23.06.2023	23:54:39	PSI P D Dave moves towards the toilet.	23.07.2023	23:59:21 to 23:59:37	Comes moves away from the toilet area and moves towards
21	34	24.06.2023	00:00:25	PSI Dave comes out of Office cabin	-	-	office cabin. -
22	34	24.06.2023	00:06:37	PSI P D Dave moves towards the toilet.	-	-	-
23	34	24.06.2023	00:07:28 to 00:08:20	Passenger in red T-shirt crosses immigration area without the hanging bag and moves downstairs	-	-	-
24	34	-	-	-	24.06.2023	00:08:40 to 00:09:08	PSI Dave moves away from the toilet area and moves towards office cabin.
25	34	24.06.2023	00:09:54	PSI Dave comes out of Office cabin	-	-	-
26	34	-	-	-	24.06.2023	00:20:09 to 00:20:53	2nd Passenger in grey shirt & blue jeans reaches and crosses the immigration counter with black office bag around his shoulder and without his grey bag which he took inside the toilet and moves downstairs. The black bag was

							earlier with 1st passenger in red t-shirt.
27	34	-	-	-	24.06.2023	00:28:19 to 00:28:40	Shri Rizwan Limbada alias Moulana crosses immigration counter and goes downstairs
28	34	24.06.2023	00:44:33	PSI Dave comes out of one office cabin and enters in the cabin which he visited after coming out of toilet with a bag which is very light weight and swinging in his hand.	24.06.2023	00:45:33 to 00:45:47	PSI Dave comes out without any bag and moves towards toilet area.
29	34	24.06.2023	00:49:46	PSI comes out of one office cabin and enters the other cabin.	24.06.2023	00:50:48	PSI Dave comes out with blue bag on his shoulder which has weight (appears to be heavy)
30	34	24.06.2023	-	-	24.06.2023	00:51:31	PSI Dave leaving immigration counter with bag
CAMERA:59							
31	59	24.06.2023	00:32:52	2nd passenger in grey shirt and blue jeans leaves with black office bag brought by 1st passenger			

				with other luggage			
32	59	24.06.2023	00:53:37	PSI Dave existing airport building with bag on his shoulder alongwith another officer.			
33	59	24.06.2023	01:12:44	Shri Rizwan Limbada alias Moulana exit airport building			
34	59	24.06.2023	-	The passenger in red t-shirt was stopped by Customs officer for examination.			

10.4. Thus, it can be seen that on 23rd June, 2023 PSI Dave is seen going to the washroom as enumerated above at Sr. No. 1, 13 and 16 and comes out of the washroom **in around one minute** also did **not head** to the office cabin whereas when he enters the toilet after Shri Rizwan Limbada and two other passengers enter the washroom, he entered the washroom and remained there for around **1 and ½ minutes** on both the occasions as enumerated at Sr. No.5, 8 & 10 and after coming out heads towards office cabin. Also, it is seen at Sr. No. 3 & 4, he enters the washroom **two times**, comes out within a few seconds and the third time re-enters the washroom within a few seconds. The passenger in red T-shirt and black jeans enters the washroom with a hanging bag but comes out of the washroom without the said bag after two minutes and after talking with someone on mobile re-enters the washroom within a few seconds and comes out again after one minute without the said hanging bag and crosses the immigration counter without the said bag. It is pertinent to see that the second passenger in grey shirt and blue jeans crosses the immigration counter with the said black office bag hanging around his shoulder which belongs to the passenger in red t-shirt. Moreover, the grey bag which was with the second passenger when he entered the washroom was not present with him when he crossed the immigration counter. **Thus, the bag got exchanged or the bag of one passenger was handed over to another passenger after entering into the toilet which corroborates with the statements of Shri Yasir Shaikh/ Shri Farhan Patel wherein it was instructed by Shri Salman Penwala that one passenger will enter the toilet cabin in washroom area and he will hand over the gold paste to another passenger who was going to enter the toilet cabin.** The passenger in red t-shirt handed over his black office bag to the other passenger in grey shirt and blue jeans who remained in the washroom there along with Shri Rizwan Limbada alias Moulana. Shri Rizwan Limbada alias Moulana who remained in washroom for **14 minutes**,

comes out of the toilet along with Shri P. D. Dave, PSI (after he enters toilet as mentioned at Sr. No.10). Further, when Shri P. D. Dave, PSI comes out of washroom as mentioned at Sr. No. 10, he can be roughly seen to be carrying some square type object below his shirt. Further, at Sr. No. 28, Shri P. D. Dave PSI is seen coming out of one office cabin and going into another office cabin with a blue bag which seems to be light weight and when he come out of the said cabin as mentioned at Sr. No. 29 he wore the said bag on his shoulder and from the position of the bags it seems to be having weight. Moreover, the data retrieved from mobile phone and whatsapp call logs & call log (of 08.06.2023) of mobile no. 8488074596 (registered in the name of Shri P. D. Dave's wife and being used by Shri P. D. Dave) shows that he was in touch with Shri Rizwan Limbada (9898443095). Though Shri P. D. Dave removed the said SIM and deleted whatsapp business chat and botim application in order to destroy the evidences but even then a few call logs got retrieved which shows that he was in touch with the said gold smuggling cartel. Thus, the modus operandi explained by all these accused can be verified with activities of CCTV footage of airport. The activities taking place in the video footage of immigration area of Surat International Airport clearly concurs/corresponds with the modus operandi.

10. SUMMARY OF THE INVESTIGATION AND MODUS OPERANDI OF THE SYNDICATE:

(i) Based on specific intelligence four passengers arriving from Sharjah by Air India Flight No. IX-172 were intercepted at Surat International Airport on the night of 07/08.07.2023, which further led to the seizure of 9723 Grams of pure gold recovered from gold paste attempted to be smuggled by passenger Shri Mohamed Sakib Bustak Ahmad Atashbajiwala, 28,432 Grams of pure gold recovered from gold paste attempted to be smuggled by other passenger Shri Uvesh Imtiyaz Shaikh and 3882 Grams of pure gold extracted from gold paste found abandoned in the men's washroom at the immigration area under panchnama dated 07/08.07.2023. With regard to the recovery of smuggled gold mentioned above, a Show Cause Notice in F.No.VIII/26-11/AIU/CUS/2023-24 dated 28.08.2023 restricted to the seizure of gold, was issued and the matter was adjudicated by the Additional Commissioner of Customs, Surat vide issuance of Order-in-Original No. 17/AB/ADC/SRT-AIRPT/2024-25 dated 04.02.2025 in F.No. VIII/26-11/AIU/CUS/2023-24 confiscating the 42,037 Grams of the seized gold. The adjudicating authority also imposed penalty on each noticee under the provisions of Section 112 of the Customs Act, 1962.

(ii) During further investigation, it was revealed that an organised syndicate led by Shri Salman Penwala, Shri Mahmed Rizvanbhai Aiyubbbhai Limbada, Shri Tousique Siddique were directly involved in smuggling of foreign origin gold into India and illegal export of foreign currencies out of India through various passengers/carriers travelling through International Airports for past 3-4 years.

(iii) During the search conducted at the residence of Shri Salman Rafiqbhai Penwala on 12.07.2023, several incriminating documents in the form of handwritten diaries and notebook were recovered, which accounted the precise details of financial transactions between him and other syndicate members namely, Shri Mahmed Rizvanbhai Aiyubbbhai Limbada and Shri Tousique Siddique. Further, these handwritten records of Shri Salman Penwala accounted exact details of passengers/carriers who used to carry smuggled gold into India on their trip to Dubai for which the expenses including tickets, Visa and Hotel stay were fully sponsored by Salman Penwala. On their onward journey from India to Dubai, these passengers/carriers were made to carry foreign currencies in USD procured locally in India by Salman Penwala and after a short stay at Dubai, these passengers were handed over gold in paste or bar form to smuggle back during their return journey to India. Apart from the expenses for Dubai trip, these passengers/carriers were also paid 'carrying charges' which varied depending on the quantity of the smuggled gold carried by these hired passengers. The other trusted associate of Shri Salman Penwala namely, Shri Mohsin Shaikh and Shri Yasir Shaikh played crucial role in arranging passengers/carriers for smuggling gold as per his instructions.

(iv) The computation based on handwritten records of sale proceeds of smuggled gold during the year 2020-2022, further reveal that the syndicate has smuggled substantial quantity of foreign origin gold having total market value of Rs. 9.71 Crores and illegally exported foreign currencies in USD amounting to Rs. 4.72 Crores out of India.

(v) During the year 2023, Shri Salman Penwala along with other syndicate members, further indulged in smuggling of large quantity of gold in paste form, through various passengers who used to bring gold in paste form concealed in pouches kept in belts having cavity which were worn by the passengers during their travel from Dubai/Sharjah to India during the year 2023. The belts containing gold in paste form were handed over to passengers by Shri Salman Penwala a few hours before their departure from Sharjah/ Dubai to India. In this entire chain of smuggling, there was a key person namely Shri Parag Dave, PSI, posted at Immigration Department, Surat Airport who connived with gold/gold paste smuggling syndicate members to facilitate smuggling of gold/gold paste through the Airport. Having been posted in Kosamba earlier, Shri Parag Dave, PSI was well known and in continuous touch with Shri Mahmed Rizvanbhai Aiyubbhai Limbada and his associate Shri Shabbir Ismail Hatiya, who belonged to Bharuch. Shri Parag Dave, PSI after his posting at Surat International Airport in March-2023, thus, became crucial member of this gold smuggling syndicate led by Shri Salman Penwala and others. Shri Parag Dave, PSI, used to receive the gold in paste form from the passengers in the toilet area of Men's washroom situated near the immigration counter on the first floor of Surat International airport and carried the same outside the airport premises, providing safe exit to the smuggled gold without getting noticed.

(iv) On instructions of Salman Penwala and Shri Tousique Siddique, another associate Shri Farhan Patel delivered 5 Kg of smuggled gold paste from Surat to Mumbai on 01.06.2023, 6 Kg of smuggled gold on 24.06.2023 and 5-6 Kgs. of smuggled gold paste each on 26.06.2023, 01.07.2023 and 03.07.2023 at the place and person as instructed by Shri Tousique Siddique. It is further revealed by their travel records that on two occasions i.e. on 23.06.2023 and 05.07.2023, the key members of syndicate Shri Mahmed Rizvanbhai Aiyubbhai Limbada and Shri Salman Penwala, themselves travelled along with other co- passengers/carriers hired by them and carried smuggled gold paste during their journey from Sharjah to Surat.

(v) From the records available in the diary/notebook and whatsapp Chat details of Salman Penwala with his wife, it is revealed that Shri Mahmed Rizvanbhai Aiyubbhai Limbada and Salman Penwala were the key persons behind the sourcing of funds which was further utilised to purchase the gold in Dubai and the sale proceeds of smuggled gold in India were distributed as profit sharing among syndicate members. There are also records of sourcing and routing of money through non-banking channels by the syndicate members as evident from the Handwritten Diaries recovered from the residence of Shri Salman Penwala. Further, as per Tickets ledger provided by the Royal Travels, the tickets for travel of passengers/carriers hired by the syndicate members were booked by Shri Salman Penwala and the payment for tickets were settled using funds sourced for the activity of smuggling of gold into India.

(vi) The import of gold is restricted in terms of provisions prescribed under Customs Act read with Foreign Trade Policy notified under FT(D&R) Act, 1992. Gold may be imported only by eligible passengers in terms of Customs Notification No. 50/2017-Customs dated 30.06.2017 and by the agencies notified by the DGFT as per Circular No. 34/2023-Cus. Thus, the gold imported by any persons other than the eligible passengers and notified agency may be treated as illegal imports in terms of Section 11A(a) of the Customs Act and is liable to confiscation under section 111 of the Customs Act, 1962.

(vii) It appears that passengers/ carriers hired by the syndicate used to carry gold by ingenious concealment and cleared the smuggled gold from Customs Area in clandestine manner without filing any declaration under section 77 of the Customs Act, 1962 before Airport Customs authorities. Further, import of gold is not permitted through courier as per Regulation 2(2)(a)(iv) of Courier Imports and Exports (Electronic Declaration and Processing) Regulations, 2010, thus, handwritten records found in the diaries and notebook of Shri Salman Penwala accounting several Kgs. of Gold through Courier such as Fedex, Aramex and DHL, reveals illegal import of gold in blatant violation of import policy restrictions applicable to

these goods. It appears that prior to the seizure of 42,037 Grams of the smuggled gold from passengers intercepted on 07.07.2023, Shri Salman Penwala and other syndicate members namely Shri Mahmed Rizvanbhai Aiyubbbhai Limbada, Shri Tousique Siddique, smuggled substantial quantity of gold having total market value of Rs. 9.71 Crores into India during 2020-22 and this smuggled gold is liable to confiscation under the provisions of Customs Act, 1962.

(viii) Shri Farhan Patel and Shri Yasir Shaikh have accepted in their respective statements recorded u/s 108 of Customs Act, 1962, that they had carried gold during their trip to Dubai arranged by Shri Salman Penwala in 2022 and further, it is revealed that they also carried foreign currencies in USD while they travelled from India to Dubai.

(ix) It appears that Shri Salman Penwala along with other syndicate members namely, Shri Mahmed Rizvanbhai Aiyubbbhai Limbada and Shri Tousique Siddique had established entire network and hired the passengers/carriers who had smuggled the gold at the behest of this syndicate. Thus, in terms of section 2(3A) of the Customs Act, 1962, Shri Salman Penwala along with other syndicate members namely, Shri Mahmed Rizvanbhai Aiyubbbhai Limbada, Shri Tousique Siddique are the 'beneficial owner' of the smuggled gold brought into India on past instances as detailed and computed in para 7.2 and 7.3.

(x) It appears that various passengers/carriers hired by the syndicate had illegally carried foreign currency equivalent to Rs. 4.72 Crores from India to UAE without following the regulations prescribed under Foreign Exchange Management (Export and Import of currency) Regulations, 2015, thus, their act falls under the category of illegal exports in terms of Section 11H(a) of the Customs Act, 1962 and the currency exported by them is liable to confiscation under the provisions of section 113 of Customs Act, 1962.

12. LEGAL PROVISIONS:

The provisions of law, relevant to import of goods in general, the Policy and Rules relating to the import of gold, the liability of the goods for confiscation and liability of the persons concerned for penalty of improper/illegal imports under the provisions of the Customs Act, 1962 and other laws for the time being in force, are summarized as under:-

i. Under ITC (HS) heading sub code 98030000, import of all dutiable articles, imported by a passenger or a member of a crew in his baggage is restricted and their import is allowed only in accordance with the provisions of the Customs Baggage Rules by saving clause 3(1)(h) of the Foreign Trade (Exemption from Application of Rules in Certain Case) Order, 1993.

ii. **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.

iii. **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.

iv. **Rule 11 of the Foreign Trade (Regulation) Rules, 1993- Declaration as to value and quality of imported goods:**

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

v. Section 2 of the Customs Act, 1962: Definitions -

In this Act, unless the context otherwise requires,

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

(3A) "beneficial owner" means any person on whose behalf the goods are being imported or exported or who exercises effective control over the goods being imported or exported;

(14) "dutiable goods" means any goods which are chargeable to duty and on which duty has not been paid;

(22) "goods" includes-

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

(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;

(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 of the Customs Act 1962.

vi. Section 11A (a) of the Customs Act, 1962;

(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.

vii. Section 11H (a) of the Customs Act, 1962:

(a) 'illegal export' means the export of any goods in contravention of the provisions of this Act or any other law for the time being in force.

viii. 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.

ix. Section 111 of Customs Act, 1962: 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;

.....

(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 trans-shipment, with the declaration for trans-shipment referred to in the proviso to sub-section (1) of section 54;

x. 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,

(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111,

shall be liable, -

(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty not exceeding the value of the goods or five thousand rupees, whichever is the greater;

(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher:

Provided that where such duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA is paid within thirty days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent. of the penalty so determined;

(iii) in the case of goods in respect of which the value stated in the entry made under this Act or in the case of baggage, in the declaration made under section 77 (in either case hereafter in this section referred to as the declared value) is higher than the value thereof, to a penalty not exceeding the difference between the declared value and the value thereof or five thousand rupees, whichever is the greater;

(iv) in the case of goods falling both under clauses (i) and (iii), to a penalty not exceeding the value of the goods or the difference between the declared value and the value thereof or five thousand rupees, whichever is the highest;

(i) in the case of goods falling both under clauses (ii) and (iii), to a penalty not

exceeding the duty sought to be evaded on such goods or the difference between the declared value and the value thereof or five thousand rupees], whichever is the highest.

- xi. Section 113:** *Confiscation of goods attempted to be improperly exported, etc.–The following export goods shall be liable to confiscation: -*
- (a) *any goods attempted to be exported or brought within the limits of any Customs area for the purpose of being exported, contrary to any prohibition imposed by or under the Act or any other law for the time being in force;*
- xii. Section 114-** *Penalty for attempt to export goods improperly, etc.– Any person 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 113, or abets the doing or omission of such an act, shall be liable, -*
- (i) *in the case of goods in respect of which any prohibition is in force under the Act or any other law for the time being in force, to a penalty not exceeding three times the value of the goods as declared by the exporter or the value as determined under the Act, whichever is greater;*
- xiii. THE BAGGAGE RULES, 2016 (Earlier Baggage Rules, 1998 as amended from time to time):**
- RULE 7. *Currency. - The import and export of currency under these rules shall be governed in accordance with the provisions of the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015, and the notifications issued thereunder.*
- xiv.** As per Customs Baggage Declaration Regulations, 2013 all passengers who come to India and having anything to declare or are carrying dutiable or prohibited goods shall declare their accompanied baggage in the prescribed form.
- xv.** Customs Notification No. 50 /2017 –Customs dated 30.06.2017, as amended, issued by the Central Government; and RBI Circular No. 25 dated 14.08.2013 [RBI/2013-14/187, AP (DIR Series)] permit the import of gold into India by eligible passenger/specified entities, subject to certain conditions.
- xvi.** In terms of the Circular No. 34/2013-Cus. issued by the Directorate General of Export Promotion vide F. No. DGEP/EOU/G & J/16/2009 dated 04.09.2013, import of gold is restricted and gold is permitted to be imported only by the agencies notified by DGFT which are as follows:
- Metals and Minerals Trading Corporation Limited (MMTC);
 - Handicraft and Handloom Export Corporation (HHEC);
 - State Trading Corporation (STC);
 - Project and Equipment Corporation of India Ltd. (PEC);
 - STC Ltd.;
 - MSTC Ltd.;
 - Diamond India Ltd. (DIL);
 - Gems and Jewellery Export Promotion Council (G & J EPC);

- A star Trading House or a Premier Trading House under Paragraph 3.10.2 of the Foreign Trade Policy and
- Any other authorized by Reserve Bank of India (RBI).

Hence, the import of gold by any other persons/agencies other than the above mentioned is restricted in terms of the Circular No. 34/2013-Cus. issued by the Directorate General of Export Promotion and the same is liable for confiscation under the Customs Act, 1962.

xvii. The CBIC's instructions issued vide F. No. 495/6/97-Cus. VI dated 06.05.1996 and reiterated in letter F. No. 495/19/99-Cus VI dated 11.04.2000 clearly states that the import of goods in commercial quantity would not be permissible within the scope of the Baggage Rules, even on payment of duty.

xviii. **As per Section 2(m) of the Foreign Exchange Management Act, 1999:** *In the Act, unless the context otherwise requires, -*
(m) "foreign currency" means any currency other than Indian currency;

xxix **Notification No. FEMA – 6 (R)/RB-2015 dated 29/12/2015 {Foreign Exchange Management (Export and import of currency) Regulations, 2015} -**

REGULATION 5: Prohibition on export and import of foreign currency: -

Except as otherwise provided in these regulations, no person shall, without the general or special permission of the Reserve Bank, export or send out of India, or import or bring into India, any foreign currency.

REGULATION 7: Export of foreign exchange and currency notes: -

(1) *An authorised person may send out of India foreign currency acquired in normal course of business,*

(2) *Any person may take or send out of India, -*

(i) *Cheques drawn on foreign currency account maintained in accordance with Foreign Exchange Management (Foreign Currency Accounts by a person resident in India) Regulations, 2000;*

(ii) *foreign exchange obtained by him by drawal from an authorised person in accordance with the provisions of the Act or the rules or regulations or directions made or issued thereunder;*

(iii) *currency in the safes of vessels or aircrafts which has been brought into India or which has been taken on board a vessel or aircraft with the permission of the Reserve Bank;*

(3) *Any person may take out of India, -*

(a) *foreign exchange possessed by him in accordance with the Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulations, 2015;*

(b) *unspent foreign exchange brought back by him to India while returning from travel abroad and retained in accordance with the Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulations, 2015;*

(4) Any person resident outside India may take out of India unspent foreign exchange not exceeding the amount brought in by him and declared in accordance with the proviso to clause (b) of Regulation 6, on his arrival in India.

12.1 A combined reading of the above mentioned legal provisions under the Foreign Trade (Development and Regulation) Act, 1992 and the Customs Act, 1962, read with the notification and orders issued thereunder, it appears that certain conditions have been imposed on the import of gold into India as a baggage by a passenger, in as much as, only passengers complying with certain conditions such as he/she should be of Indian origin or an Indian passport holder with minimum six months of stay abroad etc. can only import gold in any form and the same has to be declared to the Customs at the time of their arrival and applicable duty has to be paid in foreign currency. These conditions are nothing but restrictions imposed on the import of gold or gold jewellery through passenger baggage. The Hon'ble Supreme Court of India in the case of Sheikh Mohd. Omer Vs Collector of Customs, Calcutta, reported in 1983 (13) ELT 1439, clearly laid down that any prohibition applies to every type of prohibition which may be complete or partial and even a restriction on import is to an extent, a prohibition. Hence, the restriction imposed on import of gold through passenger baggage is to an extent, a prohibition.

SMUGGLED GOLD AND FOREIGN CURRENCY LIABLE TO CONFISCATION:

13. From the investigation, it is gathered that the syndicate had been actively smuggling gold in the past from abroad into India and illegally exported foreign currency out of India during the period 2020-2022 and further in the year 2023 substantial quantity of gold in paste form was smuggled through Surat International Airport with the connivance of Shri P.D. Dave, PSI posted at Immigration Department Surat Airport. Further, as admitted in his statement by Shri Farhan Patel, who is a key aid and accomplice of the Mastermind Shri Salman Penwala, that he had delivered an average of 5-6 kg of smuggled gold at several occasion in May, June and July 2023 in Mumbai after the gold were handed over to him on the morning of the flight arriving from Sharjah to Surat on the instructions of Tousiq Siddique and Salman Penwala. Thus, it appears that the syndicate was regularly involved in the activity of smuggling of foreign origin gold and a substantial quantity of gold was smuggled by the syndicate into India during the year 2023 prior to the seizure of 42.037 Kgs of gold on 07.07.2023..

14. Role played by the Individuals:

14.1 Shri Salman Rafiqbhai Penwala:

(i) Summons under section 108 of the Customs Act, 1962 were issued to Shri Salman Rafiqbhai Penwala on 12.07.2023, 20.07.2023 and 01.08.2023 for recording his statement. But, Shri Salman Rafiqbhai Penwala neither appeared nor responded to any of Summons issued to him.

(ii) He along with other key accomplices in the syndicate namely Shri Mahmed Rizvanbhai Aiyubbhai Limbada, Shri Tousique Siddique, Shri Mohsin Shaikh hatched the plan to smuggle gold into India and sell it in the local market on profit sharing basis. He is well aware of the Customs regulations and procedures and had played a crucial role in arranging finances and procurement of gold in Dubai for smuggling into India along with his key accomplices. He arranged various passengers/carriers with the help of Shri Mohsin Shaikh and his brother Yasir

Shaikh by offering them free stay and tickets and Visa of Dubai, free of charge and monetary benefit of Rs 20,000/- to Rs 25,000/- to involved passengers for smuggling gold paste into India. He arranged for the safe exit of the smuggled gold from the Airport area, delivery and disposal of smuggled gold into India through his associate Shri Farhan Patel. He also arranged for the settlement of payments through non-banking channels and provided all logistic help to the members of the syndicate for smuggling of gold into India.

(iii) Apart from his role in the smuggling of 42037 gm of seized gold on 07/08.2023, he is indulged in smuggling of gold into the country and illegal export of foreign currencies for past 3-4 years through various international passengers at airports and illegal import of gold through courier. He has maintained handwritten records in his diaries detailing sale proceeds realised on sale of smuggled gold during the year 2020-2022. It is revealed that he has smuggled gold having total market value of Rs. 9.71 Crores and illegally exported foreign currencies in USD amounting to Rs. 4.72 Crores during the year 2020-22.

(iv) He along with his syndicate members further indulged in smuggling of large quantity of gold in paste form which were carried by various passengers by concealing in belts worn by them during their travel from Dubai/Sharjah to India during the year 2023. Shri Parag Dave, PSI an immigration officer posted at Surat Airport since March 2023, connived with gold/gold paste smuggling syndicate members led by Shri Salman Rafiqbhai Penwala, Shri Mahmed Rizvanbhai Aiyubbhai Limbada and actively facilitated removal of smuggled gold paste from Airport Area providing safe exit to the smuggled gold without getting noticed.

(v) Shri Parag Dave, PSI was in continuous touch with Shri Mahmed Rizvanbhai Aiyubbhai Limbada and his associate Shri Shabbir Ismail Hatiya, who belong to Bharuch. Shri Parag Dave, PSI became part of gold smuggling syndicate led by Shri Salman Penwala and he used to receive the gold in paste form from the passengers in the toilet of Men's washroom situated near the immigration counter on the first floor of Surat International airport and carried the same outside the airport premises, providing safe exit to the smuggled gold without getting noticed.

(vi) With the help of his key associate Farhan Patel, 5 Kg of smuggled gold was delivered from Surat to Mumbai on 01.06.2023, 6 Kg of smuggled gold on 24.06.2023 and 5-6 Kgs. of smuggled gold each on 26.06.2023, 01.07.2023 and 03.07.2023 at the place and person as instructed by another syndicate member Shri Tousique Siddique.

(vii) Based on the records available, he masterminded the racket of gold smuggling into India thereby evading huge amounts of customs duties and causing loss to the government exchequer. He played a key role in the smuggling racket and aided and abetted the smuggling of gold into India. He played a vital role and was among the main masterminds in this syndicate of gold smuggling, hatching the conspiracy executing the plan and abetting/aiding the smuggling of gold into India.

14.2 Shri Mahmed Rizvanbhai Aiyubbhai Limbada

(I) Summons under section 108 of Customs Act, 1962 were issued to Shri Mahmed Rizvanbhai Aiyubbhai Limbada for recording his statement. But neither has he appeared nor has he responded to any of Summons issued to him.

(ii) It appears that Shri Mahmed Rizvanbhai Aiyubhbhai Limbada had provided capital to purchase Gold in Dubai through Shri Salman Rafiqbhai Penwala. It also appears that Shri Salman Rafiqbhai had arranged the carriers/involved passengers, oversaw purchase of gold in Dubai using foreign currency illegally carried by passengers from India for organised smuggling of gold into India and retained 25% - 30 % profit margin and shared 70% to 75 % profit margin with Shri Mahmed Rizvanbhai Aiyubhbhai Limbada.

(iii) Shri Mahmed Rizvanbhai Aiyubhbhai Limbada was in touch with other key members of syndicate and it appears that he had supervised the activity of every member. It appears that he had developed liaison with Shri Parag Dave, PSI and passed necessary signals at the time of arrival of flights at Surat International Airport. One of his associate/employee and key accomplice, Shri Shabbir Ismail Hatiya in his voluntary statement dated 02.12.2024 accepted that he knew Shri Parag Dave, PSI who was posted in Kosamba earlier, which is near to his house in Panoli. Shri Shabbir Ismail Hatiya had come to Airport to pick Mahmed Rizvan Limbada and was in touch with Shri Parag Dave, PSI immigration officer at Surat Airport on 23.06.2023, the day when Shri Mahmed Rizvan Limbada was to land from Sharjah to Surat. Shri Shabbir Ismail Hatiya, is the person who was assigned with role of collecting smuggled gold from Shri Parag Dave, Immigration Officer and hand over further to Shri Patel for final delivery at Mumbai on various occasions. The call details and location revealed that Shri Shabbir Ismail Hatiya had met Shri Farhan Patel on various occasions for delivery of smuggled gold in the month of May to July as accepted by Farhan Patel in his voluntary statement.

(iv) It appears that he had invested money in the Gold carried by the passengers and later on seized by DRI under Panchnama dated 07/08.07.2023 at Surat International Airport. It appears that he with the help of Shri Salman Rafiqbhai Penwala was continuously indulged in smuggling of foreign currency out of India and smuggled Gold into India in the past.

(v) Shri Mahmed Rizvanbhai Aiyubhbhai Limbada is the financier (provided capital for procurement of gold meant for smuggling) and beneficiary of the sale proceeds of large quantity of smuggled gold smuggled on various occasions, particularly in the **Month of May, June and July 2023** as detailed at Para 7.2 and 7.3, by hiring various passengers at Surat International Airport.

(vi) He along with Shri Salman Penwala, planned and executed smuggling of gold into the country on multiple occasions in the past by hiring various passengers, by illegal import of gold by concealment through courier/parcels and gained profit out of the sale proceeds of smuggled gold evading huge amounts of customs duties and causing loss to the government exchequer. The passengers hired by him and Shri Salman Penwala carried out illegal export of foreign currencies for past 3-4 years at airports. During investigation, it is revealed that he along with other syndicate members smuggled gold having total market value of Rs. 9.71 Crores and illegally exported foreign currencies in USD amounting to Rs. 4.72 Crores during the year 2020-22.

14.3 Shri Tousique Siddique

(i) He was found to have played a vital role in smuggling foreign origin gold through the organized network and executing disposal/delivery of such smuggled goods with meticulous planning and deliberate design, with utter disregard to the extant rules and regulations imposed on the importation of gold and import policy notified by the government. This is validated further by the huge seizures made on 07.07.2023 at Surat International Airport and past smuggling and delivery of gold at Mumbai on his instructions by his accomplice Shri Farhan Patel.

(ii) He was actively involved and concerned in carrying, removing and dealing with smuggled gold in paste form through Surat International Airport and maintained close contact and liaison with Shri Farhan Patel for executing delivery of smuggled gold paste from Surat to Mumbai. His role as key member of the gold smuggling syndicate along with Shri Salman Rafiqbhai Penwala is evident from accounted details of financial transactions between him and other syndicate members namely, Shri Mahmed Rizvanbhai Aiyubbbhai Limbada in the diary entries recovered from the residence of Shri Salman Penwala.

(iii) It appears that Shri Tousique Siddique was part of the syndicate and network established for large scale smuggling of foreign origin gold. He looked after the work related to purchase and conversion of pure gold into Gold paste in Dubai. He had also arranged buyers in Mumbai and instructed Shri Farhan DRI/35/2025-O/o DD/AD-DRI-RU-SURAT I/3088664/2025 Patel to deliver the gold at specific location and provided contact details of person to whom smuggled gold was to be delivered from Surat. He was fully aware about the smuggling of Gold paste using the passengers on 07.07.2023 as he had to manage the delivery/handing over of the smuggled items to the immigration official (P D Dave) on arrival of passengers in men's washroom of Surat International Airport on 07.07.2023. He had active involvement in the smuggling of gold by the syndicate prior to 07.07.2023 and large quantity of gold calculated at 30,520 gms having value of Rs. 16,06,52,187/- were smuggled on various occasions, particularly in the Month of May, June and July 2023 as detailed at Para 7.2 and 7.3, by hiring various passengers at Surat International Airport.

14.4. Firozkhan Ahmedkhan Pathan

It appears that Shri Firozkhan Ahmedkhan Pathan went to Sharjah on 19.06.2023 and returned from Sharjah to Surat via flight IX 172 on 23.06.2023 along with prime member of the entire gold smuggling syndicate namely Mahmed Rizvanbhai Aiyubbbhai Limbada and carried the foreign origin Gold in paste form on behalf of Salman Rafiqbhai Penwala and other syndicate members. It appears that Shri Firozkhan Ahmedkhan Pathan was directly involved in smuggling of foreign origin on 23.06.2023 through Surat International Airport which are liable for confiscation.

14.5 Mohsinkhan Ahmedkhan Pathan

It appears that Shri Mohsinkhan Ahmedkhan Pathan went to Sharjah on 19.06.2023 and returned from Sharjah to Surat via flight IX 172 on 23.06.2023 travelling with prime member of the entire gold smuggling syndicate namely, Mahmed Rizvanbhai Aiyubbbhai Limbada and carried the foreign origin Gold in paste form on behalf of Salman Rafiqbhai Penwala and other syndicate members. It appears that Shri Mohsinkhan Ahmedkhan Pathan

was directly involved in smuggling of foreign origin on 23.06.2023 through Surat International Airport which are liable for confiscation.

14.6 **Tufel Haji Umar Surya**

It appears that Tufel Haji Umar Surya went to Sharjah on 19.06.2023 and returned from Sharjah to Surat via flight IX 172 on 23.06.2023 travelling with prime member of the entire gold smuggling syndicate namely, Mahmed Rizvanbhai Aiyubbbhai Limbada and carried the foreign origin Gold in paste form on behalf of Salman Rafiqbhai Penwala and other syndicate members. It appears that Shri Tufel Haji Umar Surya was directly involved in smuggling of foreign origin on 23.06.2023 through Surat International Airport which are liable for confiscation

14.7 **Samar Bishwanath samanta**

It appears that Shri Samar Bishwanath samanta returned from Sharjah to Surat via flight IX 172 on 05.07.2023 travelling with the mastermind and prime member of the entire gold smuggling syndicate namely, Salman Rafiqbhai Penwala and carried the foreign origin Gold in paste form on behalf of Salman Rafiqbhai Penwala and other syndicate members. It appears that Shri Samar Bishwanath samanta was directly involved in smuggling of foreign origin on 05.07.2023 through Surat International Airport, which are liable for confiscation.

LIABLE TO PENALTY UNDER PROVISIONS OF CUSTOMS ACT, 1962

15.1 Shri Salman Rafiqbhai Penwala: It appears that Shri Salman Rafiqbhai Penwala was the mastermind and with the help of Shri Mahmed Rizvanbhai Aiyubbbhai Limbada and other persons hatched the conspiracy for smuggling of Gold in paste form from Sharjah through Surat International Airport. Apart from his role in the smuggling of 42037 gm of seized gold on 07/08.07.2023, he has indulged in continuous smuggling of gold into the country and illegal export of foreign currencies for past 3-4 years through various international passengers at airports and illegal import of gold through courier. He has maintained handwritten records in his diaries detailing sale proceeds realised on sale of smuggled gold during the year 2020-2022. It is revealed that he has smuggled gold having total market value of Rs. 9.71 Crores and illegally exported foreign currencies in USD amounting to Rs. 4.72 Crores during the year 2020-22. He along with his syndicate members further indulged in smuggling of large quantity of gold in paste form which were carried by various hired passengers by concealing in belts worn by them during their travel from Dubai/Sharjah to India during the year 2023. Shri Parag Dave, PSI an immigration officer posted at Surat Airport since March 2023, connived with gold/gold paste smuggling syndicate members led by Shri Salman Rafiqbhai Penwala, Shri Mahmed Rizvanbhai Aiyubbbhai Limbada and actively facilitated removal of smuggled gold paste from Airport Area providing safe exit to the smuggled gold without getting noticed. Shri Salman Rafiqbhai Penwala executed the entire plan of smuggling and was the beneficiary of the sale proceeds of large quantity of smuggled gold smuggled on various occasions, particularly in the **Month of May, June and July 2023** as detailed at Para 7.2 and 7.3, by hiring various passengers at Surat International Airport. He played an active role for luring carriers /pasengers for carrying the gold from Sharjah to Surat and booked their air tickets and hotel for stay. It appears that he was having culpable mental state and the act of omission and commission on his part for the smuggling of gold which are liable for

confiscation, have rendered himself liable for penalty under Section 112 (a) & (b) of the Customs Act, 1962.

15.2 Shri Mahmed Rizvanbhai Aiyubhbhai Limbada: It appears that Shri Mahmed Rizvanbhai Aiyubhbhai Limbada had invested huge money in purchase of gold from Dubai and earned profit margin of around 70%-75% as share from Shri Salman Rafiqbhai Penwala from the sale proceeds of smuggled gold in India in 2020-2022. He abetted the smuggling of gold from Sharjah to Surat and invested huge amount of cash in the smuggled gold. He along with his syndicate members further indulged in smuggling of large quantity of gold in paste form which were carried by various passengers by concealing in belts worn by them during their travel from Dubai/Sharjah to India during the year 2023. Shri Parag Dave, PSI an immigration officer posted at Surat Airport since March 2023, connived with gold/gold paste smuggling syndicate members led by Shri Salman Rafiqbhai Penwala and Shri Mahmed Rizvanbhai Aiyubhbhai Limbada and actively facilitated removal of smuggled gold paste from Airport Area providing safe exit to the smuggled gold without getting noticed. Shri Mahmed Rizvanbhai Aiyubhbhai Limbada is the financier (provided capital for procurement of gold meant for smuggling) and beneficiary of the sale proceeds of large quantity of smuggled gold smuggled on various occasions, particularly in the **Month of May, June and July 2023** as detailed at Para 7.2 and 7.3, by hiring various passengers at Surat International Airport. It appears that he was having culpable mental state and the act of omission and commission on his part for the smuggling of gold which are liable for confiscation, have rendered himself liable for penalty under Section 112 (a) & (b) of the Customs Act, 1962.

15.3 Shri Tousique Siddique: It appears that Shri Tousique Siddique was part of the syndicate and looked after the work related to purchase and conversion of pure gold into Gold paste in Dubai. He had also arranged buyers in Mumbai and instructed Shri Farhan Patel to deliver the gold after the landing of gold at Surat Airport by the involved passengers. He was fully aware about the smuggling of Gold paste using the passengers on 07.07.2023 as he had to manage the delivery/handing over of the smuggled items to the immigration official (P D Dave) on arrival of passengers in men's washroom of Surat International Airport on 07.07.2023. He had active involvement in the smuggling of gold by the syndicate prior to 07.07.2023 and large quantity of gold calculated at 30,520 gms having value of Rs. 16,06,52,187/- were smuggled on various occasions, particularly in the **Month of May, June and July 2023** as detailed at Para 7.2 and 7.3, by hiring various passengers at Surat International Airport. It appears that he was having culpable mental state and the act of omission and commission on his part for the smuggling of gold which are liable for confiscation, have rendered himself liable for penalty under Section 112 (a) & (b) of the Customs Act, 1962.

15.4 Firozkhan Ahmedkhan Pathan

It appears that Shri Firozkhan Ahmedkhan Pathan went to Sharjah on 19.06.2023 and returned from Sharjah to Surat via flight IX 172 on 23.06.2023 along with prime member of the entire gold smuggling syndicate namely Mahmed Rizvanbhai Aiyubhbhai Limbada and carried the foreign origin Gold in paste form on behalf of Salman Rafiqbhai Penwala and other syndicate members. It appears that Shri Firozkhan Ahmedkhan Pathan was directly involved in smuggling of foreign origin on 23.06.2023 through Surat International Airport which are liable for confiscation. It appears that he was having culpable mental state and the act of omission and commission on his part for the smuggling of gold which are liable for confiscation, have rendered himself liable for penalty under Section 112 (a) & (b) of the Customs Act, 1962.

Further, it appears that Shri **Firozkhan Ahmedkhan Pathan** did not make any declaration at the time of Customs Clearance on arrival at Surat International Airport and has thus rendered himself liable for penalty under Section 114AA of the Customs Act, 1962.

15.5 Mohsinkhan Ahmedkhan Pathan

It appears that Shri Mohsinkhan Ahmedkhan Pathan went to Sharjah on 19.06.2023 and returned from Sharjah to Surat via flight IX 172 on 23.06.2023 travelling with prime member of the entire gold smuggling syndicate namely, Mahmed Rizvanbhai Aiyubhai Limbada and carried the foreign origin Gold in paste form on behalf of Salman Rafiqbhai Penwala and other syndicate members. It appears that Shri Mohsinkhan Ahmedkhan Pathan was directly

Involved in smuggling of foreign origin gold on 23.06.2023 through Surat International Airport which is liable for confiscation. It appears that he was having culpable mental state and the acts of omission and commission made on his part for the smuggling of gold which are liable for confiscation, have rendered himself liable for penalty under Section 112 (a) & (b) of the Customs Act, 1962. Further, it appears that Shri **Mohsinkhan Ahmedkhan Pathan** did not make any declaration at the time of Customs Clearance on arrival at Surat International Airport and has thus rendered himself liable for penalty under Section 114AA of the Customs Act, 1962.

15.6 Tufel Haji Umar Surya

It appears that Tufel Haji Umar Surya went to Sharjah on 19.06.2023 and returned from Sharjah to Surat via flight IX 172 on 23.06.2023 travelling with prime member of the entire gold smuggling syndicate namely, Mahmed Rizvanbhai Aiyubhai Limbada and carried the foreign origin Gold in paste form on behalf of Salman Rafiqbhai Penwala and other syndicate members. It appears that Shri Tufel Haji Umar Surya was directly involved in smuggling of foreign origin gold on 23.06.2023 through Surat International Airport which is liable for confiscation. It appears that he was having culpable mental state and the acts of omission and commission made on his part for the smuggling of gold which is liable for confiscation, have rendered himself liable for penalty under Section 112 (a) & (b) of the Customs Act, 1962. Further, it appears that Shri **Tufel Haji Umar Surya** did not make any declaration at the time of Customs Clearance on arrival at Surat International Airport and has thus rendered himself liable for penalty under Section 114AA of the Customs Act, 1962.

15.7 Samar Bishwanath samanta

It appears that Shri Samar Bishwanath Samanta returned from Sharjah to Surat via flight IX 172 on 05.07.2023 travelling with the mastermind and key member of the entire gold smuggling syndicate namely, Salman Rafiqbhai Penwala and carried the foreign origin Gold in paste form on behalf of Salman Rafiqbhai Penwala and other syndicate members. It appears that Shri Samar Bishwanath samanta was directly involved in smuggling of foreign origin gold on 05.07.2023 through Surat International Airport, which is liable for confiscation. It appears that he was having culpable mental state and the acts of omission and commission made on his part for the smuggling of gold which is liable for confiscation, have rendered himself liable for penalty under Section 112 (a) & (b) of the Customs Act, 1962. Further, it appears that Shri **Samar Bishwanath Samanta** did not make any declaration at the

time of Customs Clearance on arrival at Surat International Airport and has thus rendered himself liable for penalty under Section 114AA of the Customs Act, 1962.

15.8 Shri Mohsin Shaikh, Shri Yasir Shaikh, Md. Sattar, Shri Farhan Patel, Shri Parag Dave and Shri Shabbir Hatiya were made co-noticee's in the Show Cause Notice No. VIII/10-34-O&A/ADC/CRV/2022-23 dated 14.10.2022 issued by the Additional Commissioner of Customs, Surat, under Section 124 of Customs Act, 1962. The involvement and role of each of the aforementioned individuals were evaluated, and upon determining their culpability in the gold smuggling activity by the syndicate led by Shri Salman Penwala and others, the Adjudicating Authority in his Order dated 04.02.2025 has imposed appropriate penalties for their participation in abetting, facilitating, and dealing with the smuggling of gold into India. Regarding the aforesaid persons, both digital and documentary evidence were found to be corroborative, establishing their liability to penalty in the smuggling of gold through the airport on various past occasions in 2023 and prior. Thus, the role of these individuals in the smuggling for the past period has already been covered in the earlier show- cause notice issued in this regard and hence this show cause notice has referred to their roles in so far as it is relevant to establish and corroborate the evidences against the core members of the syndicate whose roles are sought to be brought out in detail in this Show cause notice.

16. Therefore, a Show Cause Notice F. No. **DRI/35/2025-O/o DD/AD-DRI-RU-SURAT dated 06.07.2025** was issued to **(i) Shri Salman Rafiqbhai Penwala**, Flat No. 401, 7 Star Avenue, Near Sai Baba Mandir, Sodagarwad, Near Bank Of Baroda, Surat, **(ii) Shri Mahmed Rizvanbhai Aiyubbhai Limbada**, 429, Vahorawad Faliyu, At-Po- Kondh, Bharuch, **(iii) Mohammed Tousique Siddique**, Zahida Mansion, Shaheen Street, Magdood Colony, Bhatkal, Uttara Kannada - 581320, Karnataka calling upon them to show cause in writing to the Additional Commissioner of Customs, Surat International Airport, Surat, having his office situated on 4th Floor, Customs House, Beside SMC Ward Office, Althan-Bhimrad Road, Althan, Surat - 395017 as to why:

- (i) The smuggled gold, having market value Rs. **9,71,45,084/-** as detailed in para 7.1, which were smuggled by the syndicate through various passengers/carriers travelling from Sharjah/Dubai to India and smuggled through imports in parcels/couriers at the Authorised Courier Terminals on multiple occasions **between 2020 and 2022**, should not be held liable to confiscation under Sections 111(d), (i), (j), (l), and (m) of the Customs Act, 1962.
- (ii) The quantity of gold calculated as 30,520 gms having value of Rs. 16,06,52,187/- smuggled in the **Month of May, June and July 2023** as detailed at Para 7.2 and 7.3, by hiring various passengers at Surat International Airport, should not be held liable to confiscation under Sections 111(d), (i), (j), (l), and (m) of the Customs Act, 1962.
- (iii) Penalty should not be imposed upon them under Section 112(a) & (b) of the Customs Act, 1962;

17. Therefore, a Show Cause Notice F. No. **DRI/35/2025-O/o DD/AD-DRI-RU-SURAT dated 06.07.2025** was issued to **(i) Shri SalmanRafiqbhai Penwala**, Flat No. 401, 7 Star Avenue, Near Sai Baba Mandir, Sodagarwad, Near Bank Of Baroda, Surat, **(ii) Shri Mahmed Rizvanbhai Aiyubbhai Limbada**, 429, Vahorawad Faliyu, At- Po- Kondh, Bharuch, calling upon her to show cause in writing to the Additional Commissioner of Customs, Surat International Airport, Surat, having his office situated on 4th Floor, Customs House, Beside SMC Ward Office, Althan-Bhimrad Road, Althan, Surat – 395017 as to why:-

- (i) The foreign currency having value equivalent to Indian **Rs. 4,72,49,621/-** illegally exported out of India as detailed at para 7.1, on multiple occasions between 2020 and 2022 by various passengers hired by them for this act, should not be held liable to confiscation under Section 113(d), 113(e) & 113(h) of the Customs Act, 1962 read with FEMA Act, 1999 and Rule 5 & 7 of the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015 issued by RBI under FEMA Act, 1999;.
- (ii) A Penalty should not be imposed upon them under Section 114(i) of the Customs Act, 1962.

18. Therefore, a Show Cause Notice F. No. **DRI/35/2025-O/o DD/AD-DRI-RU-SURAT dated 06.07.2025** was issued to **Firozkhan Ahmedkhan Pathan, Mohsinkhan Ahmedkhan Pathan, Tufel Haji Umar Surya, Samar Bishwanath samanta** calling upon him to show cause in writing to the Additional Commissioner of Customs, Surat International Airport, Surat, having his office situated on 4th Floor, Customs House, Beside SMC Ward Office, Althan-Bhimrad Road, Althan, Surat – 395017 as to why:-

- (i) A penalty should not be imposed upon him under Section 112(a) & (b) of the Customs Act, 1962.
- (ii) A penalty should not be imposed upon him under Section 114AA of the Customs Act, 1962.

19. DEFENCE REPLY

In the Show Cause Notice dated 06.07.2025 issued to the noticee(s), they were asked to submit a written reply/defence submission within the stipulated time.

19.1 The noticee No. 01 to 03, 05 and 06, **Shri SalmanRafiqbhai Penwala, Shri Mahmed Rizvanbhai Aiyubbhai Limbada, Mohammed Tousique Siddique , Mohsinkhan Ahmedkhan Pathan and Tufel Haji Umar Surya** did not file any defence submission in reply to the notice issued to them, within the time specified or thereafter.

19.2 In case of noticee no. 05, **Mohsinkhan Ahmedkhan Pathan**, an email has been received vide which Mohsinkhan Ahmedkhan Pathan authorized Shri Kumar V. Dave,

Advocate to appear on his behalf and to represent him in connection with the proceedings before the Custom Authority / GST Authority / Commercial Tax Authority / Income Tax Authority in respect of his Registration, Assessment, Appeal, Audit, Revision etc to produce the necessary accounts and documents. However, no defence submission has been received from Mohsinkhan Ahmedkhan Pathan or his authorized representative.

19.3 The noticees No. 04, Shri **Firozkhan Ahmedkhan Pathan**, filed a defence submission dated Nil to the office mail ID on 25.09.2025, in reply to the notice issued to him, through Kumar V. Dave, Advocate. In the defence submission dated Nil, the noticee No. 04 has stated/contended that:

- The noticee had traveled to Dubai for vacation with a friend named Mr. Mohsinkhan Ahmedkhan Pathan from June 19 to June 23, 2023, and was detained upon arrival at Surat Airport on suspicion of smuggling gold.
- The Noticee stated that the Customs Officer found no incriminating evidence in his luggage or on his person, leading to his release.
- On April 9, 2025, the Noticee was summoned for a statement, which revealed no discrepancies or evidence of wrongdoing. However, no concealment or discrepancies were found during the statement.
- The Noticee cites the case of **Vipul Joshi Vs C.C.-Ahmedabad (CESTAT Ahmedabad) CESTAT Ahmedabad**, emphasizing that without direct participation or knowledge, penalties cannot be imposed.
- The Noticee requested that considering the facts of the case, the show cause notice issued on the person should be dropped and the person may please be release from all the allegations & oblige.

19.4 The **noticee No. 07, Mr Samar Bishwanath samanta**, filed a defence submission dated Nil to the office mail ID on 22.09.2025, in reply to the notice issued to him, through Mr. Sahil Shah, Advocate. In the defence submission dated Nil, the noticee No.07 has stated/contended that:

- The Noticee denies any involvement in smuggling activities, stating there is no evidence to prove he carried gold or abetted smuggling.
- The Noticee argues that the allegations are based on conjectures, surmises, and suspicion without direct evidence.
- He emphasized that the burden of proof lies with the revenue department, which has failed to provide material evidence to substantiate the claims.

- The Noticee highlights that penalties under Sections 112(a) and 112(b) of the Customs Act require specific evidence of omission or commission during import or post-import actions, which is absent in this case.
- He further argues that Section 114AA penalties apply only to export transactions, not import transactions, and there is no evidence of false or fabricated documents used by him.
- The Noticee requests the show cause notice to be dropped, as it is legally unsustainable.
- He seeks exemption from penalties under Sections 112(a), 112(b), and 114AA of the Customs Act.
- He requested a personal hearing or representation through an authorized representative or advocate. and appealed for a fair and just resolution of the matter and requested the dismissal of the show cause notice and penalties proposed against him.

20. RECORD OF PERSONAL HEARING

“Audi alteram partem” is an important principle of natural justice that dictates to hear the other side before passing any order. Following the principle of natural justice, opportunities to be heard in person were granted to all noticees i.e. **(i) Shri SalmanRafiqbhai Penwala, (ii) Shri Mahmed Rizvanbhai Aiyubhai Limbada, (iii) Mohammed Tousique Siddique (iv) Shri Firozkhan Ahmedkhan Pathan, (v) Mohsinkhan Ahmedkhan Pathan, (vi) Tufel Haji Umar Surya, (vii) Samar Bishwanath samanta.**

20.1 (i) Shri SalmanRafiqbhai Penwala, (ii) Shri Mahmed Rizvanbhai Aiyubhai Limbada, (iii) Mohammed Tousique Siddique (iv) Shri Firozkhan Ahmedkhan Pathan, (v) Mohsinkhan Ahmedkhan Pathan, (vi) Tufel Haji Umar Surya, were granted the first, second and third personal hearings, vide F. No. GEN/ADJ/ADC/1644/2025-AIRPT-SRT-CUS-COMMRTE-AHMEDABAD with the hearing dates scheduled for 25.08.2025, 25.09.2025, 23.12.2025. However, none of the above six noticees or any authorized person on behalf of them appeared on the fixed personal hearing date. Following the principle of natural justice, the Adjudicating Authority provided an additional personal hearing fixing the date on 27.01.2026; even this time, none of the noticees or any authorized person on behalf of them appeared for the hearing.

20.2 Samar Bishwanath samanta (Noticee no. 7) was granted the first, second and third personal hearings, vide F. No. GEN/ADJ/ADC/1644/2025-AIRPT-SRT-CUS-COMMRTE-AHMEDABAD with the hearing dates scheduled for 25.08.2025, 25.09.2025, 23.12.2025. issued a letter to appear for a personal hearing on 25.08.2025, no one appeared. Shri Samar Bishwanath samanta through his authorized representative Shri Sahil Shah (advocate) vide mail dated 23.12.2025 requested for one more personal hearing. Thereafter, on request of the noticee, a letter to appear for a personal hearing in

virtual mode on 27.01.2025 was issued, On the said date, **Shri Sahil Shah (advocate) authorized representative of Samar Bishwanath samanta** attended the personal hearing on 27.01.2026 in virtual mode, wherein he reiterated the defence submissions that the Noticee denied any involvement in smuggling activities, stating there is no evidence to prove he carried gold or abetted smuggling. The Noticee stated that the allegations are based on conjectures, surmises, and suspicion without direct evidence and requested the show cause notice to be dropped, he seeks exemption from penalties under Sections 112(a), 112(b), and 114AA of the Customs Act and appeals for a fair and just resolution of the matter and requests the dismissal of the show cause notice and penalties proposed against him.

20.3 As the noticee(s) 01 to 06 **(i) Shri SalmanRafiqbhai Penwala, (ii) Shri Mahmed Rizvanbhai Aiyubbhai Limbada, (iii) Mohammed Tousique Siddique (iv) Mohsinkhan Ahmedkhan Pathan, (v) Tufel Haji Umar Surya (vi) Shri Firozkhan Ahmedkhan Pathan** failed to appear in the Personal Hearings given, The letters for personal hearing were served to the notice(s) via speed post and sent on the email address provided by the notice(s) in their statements. Further, it has been observed that no one has turned up for the personal hearing on any of the scheduled dates. In light of the foregoing, it is evident that the noticee has exhibited a clear disregard for the ongoing adjudication proceedings and has failed to submit any representation or defence in response thereto. I am of the considered view that adequate and reasonable opportunities have been afforded to the noticee in accordance with the principles of natural justice. Therefore, it would not be judicious or warranted to keep the matter pending indefinitely and therefore, I proceed to adjudicate this case **ex-parte** based on the merits of the available records.

20.4 Before proceeding further, it should be brought to attention that the Hon'ble Supreme Court, High Courts and Tribunals have held, in several judgments/decisions, that an *ex-parte* decision will not amount to a violation of the principles of Natural Justice. To fortify my stand, I rely upon the following case laws/observations made by the Hon'ble Courts and other legal fora:

a) The Hon'ble Supreme Court in the matter of ***Jethmal Versus Union Of India Reported In 1999 (110) E.L.T. 379 (S.C.)***, the Hon'ble Court has observed as under;

“ Our attention was also drawn to a recent decision of this Court in A.K. Kripak v. Union of India - 1969 (2) SCC 340, where some of the rules of natural justice were formulated in Paragraph 20 of the judgment. One of these is the well known principle of audi alteram partem and it was argued that an ex parte hearing without notice violated this rule. In our opinion this rule can have no application to the facts of this case where the appellant was asked not only to send a written reply but to inform the Collector whether he wished to be heard in person or through a representative. If no reply was given or no intimation was sent to the Collector that a personal hearing was desired, the Collector would be justified in thinking that the persons notified did not desire to appear before him when the case was to be considered and could not be blamed if he were to proceed on the material before him on the basis of the allegations in the show cause notice. Clearly he could not

compel appearance before him and giving a further notice in a case like this that the matter would be dealt with on a certain day would be an ideal formality.”

b) Hon’ble High Court of Kerala in the case of **United Oil Mills Vs. Collector Of Customs & C. Ex., Cochin Reported In 2000 (124) E.L.T. 53 (Ker.)**, the Hon’ble Court has observed that:

“Natural justice - Petitioner given full opportunity before Collector to produce all evidence on which he intends to rely but petitioner not prayed for any opportunity to adduce further evidence - Principles of natural justice not violated”

c) Hon’ble High Court of Calcutta in the case of **Kumar Jagdish Ch. Sinha Vs. Collector Of Central Excise, Calcutta Reported In 2000 (124) E.L.T. 118 (Cal.) In Civil Rule No. 128 (W) Of 1961**, decided on 13-9-1963, the Hon’ble Court has observed that:

“ Natural justice - Show cause notice - Hearing - Demand - Principles of natural justice not violated when, before making the levy under Rule 9 of Central Excise Rules, 1944, the Noticee was issued a show cause notice, his reply considered, and he was also given a personal hearing in support of his reply - Section 33 of Central Excises & Salt Act, 1944. - It has been established both in England and in India [vide N.P.T. Co. v. N.S.T. Co. (1957) S.C.R. 98 (106)], that there is no universal code of natural justice and that the nature of hearing required would depend, inter alia, upon the provisions of the statute and the rules made there under which govern the constitution of a particular body. It has also been established that where the relevant statute is silent, what is required is a minimal level of hearing, namely, that the statutory authority must ‘act in good faith and fairly listen to both sides’ [Board of Education v. Rice, (1911) A.C. 179] and, “deal with the question referred to them without bias, and give to each of the parties the opportunity of adequately presenting the case” [Local Govt. Board v. Arlidge, (1915) A.C. 120 (132)]. [para 16]”

d) Hon’ble High Court of Delhi in the case of **Saketh India Limited Vs. Union Of India Reported In 2002 (143) E.L.T. 274 (Del.)**. The Hon’ble Court has observed that:

“ Natural justice - Ex parte order by DGFT - EXIM Policy - Proper opportunity given to appellant to reply to show cause notice issued by Addl. DGFT and to make oral submissions, if any, but opportunity not availed by appellant - Principles of natural justice not violated by Additional DGFT in passing ex parte order - Para 2.8(c) of Export-Import Policy 1992-97 - Section 5 of Foreign Trade (Development and Regulation) Act, 1992. ”

e) The Hon’ble CESTAT, Mumbai in the case of **Gopinath Chem Tech. Ltd Vs. Commissioner Of Central Excise, Ahmedabad-II Reported In 2004 (171) E.L.T. 412 (Tri. - Mumbai)**, the Hon’ble CESTAT has observed that;

“ Natural justice - Personal hearing fixed by lower authorities but not attended by appellant and reasons for not attending also not explained - Appellant cannot now demand another hearing - Principles of natural justice not violated. [para 5]”

f) The Hon'ble High Court of Jharkhand in **W.P.(T) No. 1617 of 2023 in case of Rajeev Kumar Vs. The Principal Commissioner of Central Goods and Service Tax & The Additional Commissioner of Central GST & CX, 5A Central Revenue Building, Main Road, Ranchi** pronounced on 12.09.2023 wherein Hon'ble Court has held that-

“ Accordingly, we are of the considered opinion that no error has been committed by the adjudicating authority in passing the impugned Order-in-Original, inasmuch as, enough opportunities were provided to the petitioner by issuing SCN and also fixing date of personal hearing for four times; but the petitioner did not respond to either of them.

8. Having regard to the aforesaid discussions and admitted position with regard to non-submission of reply to the SCN, we failed to appreciate the contention of the petitioner that principle of natural justice has not been complied in the instant case. Since there is efficacious alternative remedy provided in the Act itself, we hold that the instant writ application is not maintainable.

9. As a result, the instant application stands dismissed. Pending I.A., if any, is also closed.”

20.5 I find that the noticees **Shri Mohsinkhan Ahmedkhan Pathan and Samar Bishwanath samanta** have made the submission against the show cause notice and Shri **Samar Bishwanath samanta** availed the opportunity of personal hearing, I proceed to decide the case on the basis of the Show Cause Notice, defence submissions, the arguments made by the noticee(s) during the personal hearing, and the applicable legal provisions.

21. DISCUSSION AND FINDINGS

I have carefully examined the facts of the case, the documents relied upon, the defence submissions, the arguments made by the noticee(s) during the personal hearing, and the applicable legal provisions.

22. In the instant case, I find that the main issue to be decided is whether:

(i) The smuggled gold, having market value Rs. 9,71,45,084/- as detailed in para 7.1, which were smuggled by the syndicate through various passengers/carriers travelling from Sharjah/Dubai to India and smuggled in between 2020 and 2022, should not be held liable to confiscation under Sections 111(d), (i), (j), (l), and (m) of the Customs Act, 1962 or otherwise;

(ii) The quantity of gold calculated as 30,520 gms having value of Rs. 16,06,52,187/- smuggled in the Month of May, June and July 2023 as detailed at Para 7.2 and 7.3, by hiring various passengers at Surat International Airport, should not be held liable to confiscation under Sections 111(d), (i), (j), (l), and (m) of the Customs Act, 1962 or otherwise;

(iii) Penalty should not be imposed upon **Shri Salman Rafiqbhai Penwala, Shri Mahmed Rizvanbhai Aiyubbhai Limbada** and **Mohammed Tousique Siddique** under Section 112(a) & (b) of the Customs Act, 1962 or otherwise;

(iv) The foreign currency having value equivalent to Indian **Rs. 4,72,49,621/-** illegally exported out of India as detailed at para 7.1, on multiple occasions between 2020 and 2022 by various passengers hired by them for this act, should not be held liable to confiscation under Section 113(d), 113(e) & 113(h) of the Customs Act, 1962 read with FEMA Act, 1999 and Rule 5 & 7 of the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015 issued by RBI under FEMA Act, 1999 or otherwise;

(v) Penalty should not be imposed upon **Shri Salman Rafiqbhai Penwala, Shri Mahmed Rizvanbhai Aiyubbhai Limbada** under Section 114(i) of the Customs Act, 1962 or otherwise;

(vi) Penalty should not be imposed upon **Shri Firozkhan Ahmedkhan Pathan, Mohsinkhan Ahmedkhan Pathan, Tufel Haji Umar Surya, Samar Bishwanath samanta** under Section 112(a) & (b) and 114AA of the Customs Act, 1962 or otherwise;

23. I find that the noticees and other persons **Shri Firozkhan Ahmedkhan Pathan, Mohsinkhan Ahmedkhan Pathan, Shri Mohammed Vasim Kapadia Proprietor of M/s. Royal Travels, Shri Shabbir Ahmed Ismail Hatiya, Shri Farhan Patel, an aide and accomplice of Shri Salman Rafiqbhai Penwala, Smt. Aaliya Penwala, wife of Shri Salman Rafiqbhai Penwala, Shri Mohsin Shaikh, Shri Yasir Shaikh (passenger/carrier and brother of Shri Mohsin Shaikh), Shri Uvesh Imtiyaz Shaikh (passenger/carrier)** have never retracted their aforesaid statements recorded under Section 108 of the Customs Act, 1962. Therefore, I consider their statements material evidence in this case and I rely on the following rulings of various courts, which have underscored the evidentiary value of a statement recorded under Section 108 of the Customs Act, 1962:

- The Hon'ble Apex Court in the case of ***Naresh Kumar Sukhwani vs Union of India 1996(83) ELT 285(SC)*** has held that the statement made under Section 108 of the Customs Act, 1962 is a material piece of evidence collected by the

Customs Officials. That material incriminates the Petitioner, inculcating him in the contravention of provisions of the Customs Act. Therefore, the statements under Section 108 of the Customs Act, 1962, can be used as substantive evidence in connecting the applicant with the act of contravention.

- In the Collector of Customs, Madras, and Ors vs. D. Bhoormull- 1983 (13) ELT 1546(S.C.) case, **the Hon'ble Supreme Court has held that the** Department was not required to prove its case with mathematical precision. The whole circumstances of the case appearing in the case records, as well as other documents, are to be evaluated, and necessary inferences are to be drawn from these facts as otherwise it would be impossible to prove everything in a direct way.
- In the case of **Surjeet Singh Chabra vs. UOI 1997 (84) ELT (646) SC**. Hon'ble Supreme Court held that the statement made before the Customs Officer, though retracted within six days, is an admission and binding since Customs Officers are not Police Officers. As such, the statement tendered before Customs is valid evidence under law.

Given the judgments cited above, I regard the above statements as material evidence. The statements have sufficient evidentiary value to demonstrate that the notices had attempted to smuggle the gold into India and illegally exported foreign currency outside India.

24. Section 2(33) of the Customs Act, 1962 defines 'prohibited goods' as 'any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with'. The said definition implies that in cases where the conditions applicable for import of goods are not complied with, such goods would fall under the category of 'prohibited goods'. Further, I also note that in the instant case, the gold has not been brought in India by a nominated agency notified by the RBI or DGFT, as the case maybe and as such the same would be covered under the category of 'prohibited goods'. My above finding is aptly supported by the case law of **Om Prakash Bhatia reported at 2003 (155) ELT 423 (SC)** wherein it has been held by the Hon'ble Supreme Court as under:

*From the aforesaid definition, it can be stated that (a) if there is any prohibition of import or export of goods under the Act or any other law for the 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 goods are not complied with, it would be considered to be prohibited goods. This would also be clear from Section 11 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 purposes specified in sub-section (2). **Hence, prohibition of importation or exportation could be subject to certain prescribed conditions to be fulfilled before or after clearance of goods. If conditions are not fulfilled, it may amount to prohibited goods.** This is also made clear by this Court in *Shekih Mohd. Omer v. Collector of Customs, Calcutta and Others* [(1970) 2 SCC 728] wherein it was contended that the expression ‘prohibition’ used in Section 111(d) must be considered as a total prohibition and that the expression does not bring within its fold the restrictions imposed by clause (3) of the Import Control Order, 1955. The Court negated 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 restrictions. Merely because Section 3 of the Imports and Exports (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 the Act. “Any prohibition” means every prohibition. In other words all types of prohibitions. Restrictions is one type of prohibition. From item (I) of Schedule I, Part IV to Import Control Order, 1955, it is clear that import of living animals of all sorts is prohibited. But certain exceptions are provided for. But nonetheless the prohibition continues.”

The above judgment has been followed by the Hon’ble High Court of Gujarat in the case of **Bhargavraj Rameshkumar Mehta reported at 2018 (361) ELT 260 (Guj)** wherein it has been observed as under:

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

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

Further, in case of Malabar Diamond Gallery P. Ltd. Vs ADG, DRI, Chennai [2016(341) ELT65(Mad.)], the Hon'ble Madras High Court has summarized the position on the issue, specifically in respect of gold, as under:

"64. Dictum of the Hon'ble Supreme Court and High Courts makes it clear that gold, may not be one of the enumerated goods, as prohibited goods, still, if the conditions for such import are not complied with, then import of gold, would squarely fall under the definition "prohibited goods", in Section 2 (33) of the Customs Act, 1962----."

Moreover, the Hon'ble High Court of Delhi in its order dated 23.11.2023 in Writ Petition No. 8976 of 2020 in the matter of Kiran Juneja Vs. Union of India & Ors. has held that "A fortiori and in terms of the plain language and intent of Section 2(33), an import which is affected in violation of a restrictive or regulatory condition would also fall within the net of "prohibited goods".

Relying on the ratio of the judgments cited above, there is no doubt that the goods smuggled in the present case are to be treated as "prohibited goods" within the meaning assigned to the term under Section 2(33) of the Customs Act, 1962.

25. I find that the noticee No. 01 to 07 either brought gold into India or illegally exported foreign currency outside India or directly or indirectly involved in such illicit activities, with an intention to smuggle and remove the same without payment of Customs duty, liable for confiscation, under the provisions of Sections 111(d), 111(i) and 111(j), 111(l) and 111(m) of the Customs Act, 1962. I believe that it is beyond doubt that the noticee had a clear intention to smuggle the gold clandestinely to evade payment of customs duty and illegally exported foreign currency outside India. The commission of the above act has thus made the impugned goods fall within the ambit of '**smuggling**' as defined under Section 2(39) of the Act.

26. I find it pertinent to note that, for Customs clearance of arriving international passengers, a two-channel system is in place—namely, the Green Channel for passengers not carrying dutiable or prohibited goods, and the Red Channel for those carrying such goods. All arriving passengers are mandatorily required to make a truthful and accurate declaration of the contents of their baggage under the applicable Customs regulations. **I find that the noticees 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 the Customs Baggage Declaration Regulations, 2013, as amended.** She tried to exit through the Green Channel, which shows that the noticee was attempting to evade the payment of applicable customs duty. Further, I would also like to draw attention to the definition of "**eligible passenger**" provided under Notification No. 50/2017- Customs New Delhi, the 30th June, 2017 wherein it is mentioned that - "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. It is appropriate to point out that in the instant case, the noticee had not declared the gold before Customs authorities, and the said import of gold was also for non-bona fide purposes. Therefore, the improperly imported gold having market value Rs. **9,71,45,084/-** as detailed in para 7.1, which were smuggled by the syndicate through various passengers/carriers travelling from Sharjah/Dubai to India and smuggled through imports in parcels/couriers at the Authorised Courier Terminals on multiple occasions **between 2020 and 2022** and quantity of gold calculated as 30,520 gms having value of Rs. 16,06,52,187/- smuggled in the **Month of May, June and July 2023** as detailed at Para 7.2 and 7.3, by hiring various passengers at Surat International Airport without declaring it to the Customs authorities on arrival in India, cannot be treated as bona fide household goods or personal effects. Thus, I unequivocally conclude that the noticees have thus contravened the provisions governing the lawful import of gold, as stipulated under the Foreign Trade Policy, 2023, and has thereby violated the provisions of Section 11(1) of

the Foreign Trade (Development and Regulation) Act, 1992, read with Sections 3(2) and 3(3) of the said Act."

27. Further as per Section 123 of the Customs Act, 1962, 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. Section 123 of Custom Act, 1962 read as follows:-

Section 123. Burden of proof in certain cases. -

¹ [(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, ² [and manufactures thereof], watches, and any other class of goods which the Central Government may by notification in the Official Gazette specify.

Hence, in respect of gold and manufactures thereof, the burden of proof that such goods are not smuggled is on the person, from whom goods are recovered. 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 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 above 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. 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 and 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 amended. Therefore, I hold that the noticees have nothing to submit in their defense.

28. 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 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.

29. 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 be 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 notice(s) had brought the gold in commercial quantities which is more than the prescribed limit. Further, the notice(s) had not declared the same before customs on their arrival which is also an integral condition to import the

gold. Moreover, from the documentary evidences it is pertinent to say that notice(s) are running a nexus of smuggling of gold without payment of customs duty.

30. In view of the foregoing discussions and evidentiary material on record, I hold gold, having market value Rs. 9,71,45,084/- smuggled through imports in parcels/couriers at the Authorised Courier Terminals on multiple occasions **between 2020 and 2022** as detailed in para 7.1 and gold calculated as 30,520 gms having value of Rs. 16,06,52,187/- smuggled in the Month of May, June and July 2023 as detailed at Para 7.2 and 7.3 deliberately not declared before the Customs authorities with the intent to illicitly clear the same and evade payment of lawful Customs duty, is liable for **absolute confiscation** under the provisions of the Customs Act, 1962. Furthermore, the manner of concealment and the circumstances surrounding its importation unequivocally establish that the said gold was brought into India by the noticee in a clandestine manner, for extraneous consideration, in furtherance of a smuggling operation.

31. Given the facts of the present case before me and the judgments and rulings cited above, I find that the manner of concealment, in this case, clearly shows that the Noticee(s) had attempted to smuggle the seized gold to avoid detection by the Customs Authorities. Further, the noticee failed to discharge the burden placed on him in Section 123. Upon a careful examination of the SCN and the statement of the notice(s) and other documents on record, I am satisfied to affirm that the manner adopted for concealment of gold is **'highly ingenious'** in nature, as the notice(s) concealed the gold with an intention to smuggle the same into India and evade payment of customs duty. Therefore, the gold, having market value Rs. 9,71,45,084/- smuggled through imports in parcels/couriers at the Authorised Courier Terminals on multiple occasions **between 2020 and 2022** as detailed in para 7.1 and gold calculated as 30,520 gms having value of Rs. 16,06,52,187/- smuggled in the Month of May, June and July 2023 as detailed at Para 7.2 and 7.3, is liable to be confiscated absolutely. **I hold in unequivocal terms that gold, having market value Rs. 9,71,45,084/- smuggled in between 2020 and 2022 as detailed in para 7.1 and gold calculated as 30,520 gms having value of Rs. 16,06,52,187/- smuggled in the Month of May, June and July 2023 as detailed at Para 7.2 and 7.3, would be liable to absolute confiscation under Section 111(d), 111(i) and 111(j), 111(l) and 111(m) of the Act.**

32. Further, I find that the legal provision for taking foreign currency out of India is very clear and does not leave any scope for ambiguity. I also find that Rule 7 of the Baggage Rules, 2016 is about currency, and it lays down that the import or export of currency is governed by the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015, and notifications issued thereunder. Thus, I find that there cannot be any denial in respect of the fact that regulations and notifications framed under the said Foreign Exchange Management (Export and Import of Currency)

Regulations, 2015, were applicable to the noticee as he was bound to follow Baggage Rules, 2016.

33. Further, I note that Regulation 5, read with Regulation 7 of Foreign Exchange Management (Export and Import of Currency) Regulations, 2015, in very clear terms, "prohibits" the export and import of "any" foreign currency without general or special permission of the Reserve Bank of India. In the instant case, I find that the noticee(s) 01 to 03 have not come forward with any document issued by any authorized authority which can establish that the noticee was granted special permission by the Reserve Bank of India to carry foreign currency that they had carried directly or through carriers/passengers to take out of India. This means that the noticee(s) no. 01 to 03 were governed by general permission or, in case of non-applicability of general permission, was prohibited from carrying the foreign currency outside India. I find that regulation 7(2)(b) of Foreign Exchange Management (Export and Import of Currency) Regulations, 2015 is the general permission which applies to the noticee in the facts and circumstances of the case before me. According to this general permission, any person can take out of India foreign exchange obtained by him by drawl from an authorized person. In this case, the noticee have failed to produce any legal document to take the foreign currency more than the permitted limit outside India. These acts of omission or commission of offence on his part were clear violations of Rules 7 of Baggage Rules read with regulations 5 and 7 of Foreign Exchange Management (Export and Import of Currency) Regulations, 2015.

34. I further notice that the law does not permit the retention of such an amount of foreign currency, i.e. more than \$2000 in the instant case. I find that in terms of Regulation 7(1) of Foreign Exchange Management (Export and import of currency) Regulations, 2015, an **authorised person** may send out of India foreign currency acquired in normal course of business. **As per regulation 7(3), a person may take out of India foreign exchange possessed by him in accordance with the Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulations, 2015. As per Regulation 3(i) of Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulations, 2015, an authorized person can possess foreign currency and coins without limit. As per regulation 3(iii), Retention by a person resident in India of foreign currency notes, bank notes and foreign currency travellers' cheques not exceeding US\$ 2000 or its equivalent in aggregate, provided that such foreign exchange in the form of currency notes, bank notes and travellers cheques (a) was acquired by him while on a visit to any place outside India by way of payment for services not arising from any business in or anything done in India; or (b) was acquired by him, from any person not resident in India and who is on a visit to India, as honorarium or gift or for services rendered or in settlement of any lawful obligation; or (c) was acquired by him by way of honorarium or gift while on a visit to any place outside India; or (d) represents the unspent amount of foreign exchange acquired**

by him from an authorised person for travel abroad. Further, I find from the records that the noticee(s) failed to produce any legal document required under the provisions of Foreign Exchange Management (Export and Import of Currency) Regulations, 2015 and Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulations, 2015 for export/possession/retention of foreign currency. Based on the facts and records of this case, it can be reasonably inferred that the noticee are also not authorized to send foreign currency out of India in the normal course of business. Neither could they produce documentary evidence regarding the purchase/acquisition of the impugned foreign currency.

40. Given the discussion in the preceding paragraphs, I find that the noticee 01 to 03 have violated the provisions governing the export of foreign currency as prescribed under the Baggage Rules, 2016, and the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015. The noticee was involved in illegal export of total of Foreign Currency USD smuggled out of India having value of Rs. **4,72,49,621/-** . and failed to provide any documentary evidence to establish that the foreign currency was lawfully acquired from an authorized source as required under Regulation 7(2)(b). These acts of omission and commission collectively establish that the noticee has engaged in the unauthorized export/smuggling of foreign currency in violation of the applicable laws and regulations. Thus, the noticee 01 to 03, has contravened the provisions of the following Act/Policy/ Notification/Rules:

- Regulations 5 and 7 of the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015;
- Rule 7 of Baggage Rules, 2016
- Sections 3 and 4 of the Foreign Exchange Management Act, 1999;
- Regulation 3 of the Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulations, 2015;
- Para 2.45 of the Foreign Trade Policy 2015-20/2023, read with Section 3(2), 3(3), and 11(1) of the Foreign Trade (Development and Regulation) Act, 1992, further read in conjunction with Section 11(3) of the Customs Act, 1962.

35. Further, I find that the issue related to the definition of prohibited goods has already been settled by various judicial pronouncements, as referenced below:

- The Hon'ble Supreme Court, in the case of ***Om Prakash Bhatia reported in 2003 (155) ELT 423 (SC)***, held that if importation and exportation of goods are subject to certain prescribed conditions, which are to be fulfilled before or after clearance of goods, the goods would fall within the ambit of 'prohibited goods' if such conditions are not fulfilled.
- The Hon'ble Supreme Court in the case of ***Sheikh Mohd. Omer vs Collector of Customs, Calcutta & Ors [1971 AIR 293]*** has held that for the purposes of Section 111(d) of the Customs Act, 1962, the term "**A prohibition**"

means every prohibition. In other words, all types of prohibition. Restriction is one type of prohibition.

- In one of its latest pronouncements dated 17.06.2021, in the case of **UOI & Ors vs M/s Raj Grow Impex LLP & Ors [CA Nos. 2217-2218 of 2021]**, the Hon'ble Supreme Court has followed the judgments in Sheikh Mohd. Omer (supra) and Om Prakash Bhatia to hold "*any restriction on import or export is to an extend a prohibition*".
- In a case decided by the **Hon'ble High Court of Madras reported at 2016-TIOL-1664-HC-MAD-CUS** in respect of **Malabar Diamond Gallery Pvt Ltd**, the Court while holding gold jewellery as prohibited goods under Section 2(33) of the Customs Act, 1962 had recorded that "restriction" also means prohibition. In Para 89 of the order, it was recorded as under;

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

Notably, as per Section 2(33) of the Customs Act, 1962, "*prohibited goods*" is defined as *any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with*. In this case, the foreign currency attempted to be exported improperly by the passenger without following the due process of law and without adhering to the conditions and procedures of export and have thus acquired the nature of prohibited goods given Section 2(33) of the Act. As the currencies were kept undeclared, concealed, without fulfilment of prescribed conditions, they are to be treated as prohibited goods. Thus, "mens rea" on the part of the noticee is evident since they had not declared to the Customs Authorities in any manner about the foreign currency being carried by them directly or indirectly for export and did not possess valid documents showing procurement of the said foreign currency from authorized person. By attempting to export foreign currency without legitimate documents illicitly, it is established that the noticee(s) had a clear intention to export/smuggle out the foreign currency undetected in contravention of Regulations 5 & 7 of the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015. 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." By the aforesaid act of

commission and omission, the noticee(s) 01 to 03 rendered the goods liable for confiscation under section 113 of the Customs Act 1962. Therefore, I believe that the foreign currency in the present case is liable for absolute confiscation. Hence, the noticee(s) 01 to 03, by the aforesaid acts of commission and omission, has rendered the impugned seized foreign currency of value **Rs. 4,72,49,621/-** liable for confiscation under Section Section 113(d), 113(e) & 113(h) of Customs Act, 1962, read with Regulation 7 of Foreign Exchange Management (Export and Import of Currency) Regulations, 2015 issued under Foreign Exchange Management Act, 1999, and Rule 7 of the Baggage Rules, 2016 issued under Customs Act, 1962.

36. Further, I find that the noticee(s) had illicitly smuggled gold and illegally exported foreign currency outside India. In regard to imposition of penalty under Section 112 of Customs Act, 1962, I find that in the instant case, the principle of '*mens-rea*' on behalf of noticee is established as the noticee concealed the gold in form of gold paste hidden in the sky-blue jeans worn by the Noticee No. 1, which shows his mala fide intention to evade the detection from the Authority and removing it illicitly from Surat Airport without payment of duty. Accordingly, while determining the quantum of penalty in the present case, I deem it appropriate to consider the *ratio decidendi* laid down by the **Hon'ble Supreme Court 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.*" In the instant case, the noticee were attempting to evade the Customs Duty by not declaring the gold imported/smuggled into India and, hence, the identity of the goods is not established, and non-declaration at the time of import is considered as an act of omission on his part. Thus, it is clear that the noticee(s) have concerned themselves with carrying, removing, keeping, concealing and dealing with the smuggled gold which they knew or had reason to believe that the same are liable for confiscation under Section 111 of the Customs Act, 1962. Therefore, I find that the passenger/noticee are liable for penal action under Section 112 (a) &(b) and Section 114 of the Customs Act, 1962, and I hold accordingly.

EXAMINATION OF ROLE, EVALUATION OF DEFENCE SUBMISSIONS AND DETERMINATION OF CULPABILITY OF THE NOTICEE NO. 1, Shri Salman Rafiqbhai Penwala IN THE INSTANT CASE

37. EXAMINATION OF THE ROLE OF THE NOTICEE NO. 2, Shri Salman Rafiqbhai Penwala, IN LIGHT OF THE SHOW CAUSE NOTICE ISSUED TO HIM.

I will now proceed to assess the role of **Shri Salman Rafiqbhai Penwala** in light of the

allegations made against him in the Show Cause Notice dated 06.07.2025.

37.1 As outlined earlier in the Show Cause Notice and the brief facts of the case, it has been found that Shri Salman Rafiqbhai Penwala was the mastermind behind the organized gold smuggling racket operating at Surat International Airport. He had orchestrated the smuggling of 43.537 kg of gold paste by recruiting passengers through Shri Mohsin Shaikh and others. He used to arrange their travel, stay, and visas in the UAE and provided them with financial incentives ranging from Rs. 20,000/- to Rs. 25,000/-. Further, he had devised a method wherein passengers would conceal the gold paste in black belts worn at the waist and, upon arriving at the airport, would follow his instructions to leave the contraband in the designated airport washrooms. Further, he coordinated this operation through conference calls involving the passengers and Immigration Officer Shri Dave, who used to facilitate the smuggling process. The evidence available in the case suggests that Shri Salman has been engaged in similar illicit activities, including the smuggling of foreign currency out of India and gold into India, in the past as well.

37.2 I will now examine the statements recorded of Shri Mohamed Sakib, Shri Uvesh Imtiyaz Shaikh, Shri Mohsin Shaikh, and Smt. Marufabanu and other individuals pertaining to this case in light of Shri Salman's alleged involvement in the gold smuggling syndicate.

37.3 I have gone through the statements dated 09.07.2023, of Shri Uvesh Imtiyaz Shaikh, another passenger intercepted by the DRI/Customs on 08.07.2023, from whom 32,725.22 grams of gold paste was recovered, yielding 28,432 grams of 99% pure gold. He has stated that his friend Shri Yasir Shaikh had informed him that there was one person by the name Shri Salman Rafiqbhai Penwala, based in Dubai and that if he wanted to travel to Dubai then he (Shri Salman Rafiqbhai Penwala) could arrange tickets, Visa and his stay for 2-3 days in Dubai on the condition that at the time of return journey to India, he will have to smuggle gold in paste form into India by way of concealment of the same in black coloured belts kept in hand baggage and then he met Yasir Shaikh through his employer Shri Mohsin Shaikh who was the owner of **4ever Nutrition** shop in Adajan; that Shri Yasir Shaikh was the younger brother of Shri Mohsin Shaikh. Shri Salman Rafiqbhai Penwala gave one belt containing 04 pouches of gold paste and one more packet of gold paste to him and as per instructions of Shri Salman Penwala he had concealed the said belts having pouches of gold paste which he carried during his return journey from Sharjah to Surat on 07.07.202

37.4 Further, I have gone through the statements dated 09.07.2023 of Shri Yasir Shaikh, another passenger intercepted by the DRI/Customs on 08.07.2023. He stated that his cousin, Shri Nawaz Shaikh informed him in June-2023 that his friend Shri Yasir Shaikh knew a person named Salman Rafiqbhai Penwala in Dubai and if he wanted to travel to Dubai then Shri Salman Rafiqbhai Penwala could arrange tickets, Visa and his stay for 2-3 days in Dubai on the condition that at the time of return to India he had to carry gold/gold paste concealed in a belt for smuggling the same into India. In the afternoon of 07.07.2023, Shri Salman Rafiqbhai Penwala had given one belt containing 04 pouches of gold paste and 02 more pouches of gold paste to him in Dubai for carrying it during return travel to Surat International Airport and that Salman Rafiqbhai Penwala had shown on his mobile the photo of the immigration officer who would receive the Gold from him at toilet in the Men's Washroom which is located before the

immigration counter.

37.5 Further I have gone through the statements of **Shri Yasir Shaikh** (passenger/carrier and brother of Shri Mohsin Shaikh), was recorded on 09.07.2023 and 11.07.2023 u/s 108 of Customs Act, 1962, wherein he interalia stated that Shri Salman Rafiqbhai Penwala had handed over to him 09 white coloured pouches containing Gold in paste form in 3 black belts on the afternoon of 07.07.2023 in Dubai. The bag containing the said pouches was carried by him during the check-in procedure at Sharjah airport while boarding flight to Surat on 07.07.2023 and further there was an understanding between Shri Salman Rafiqbhai Penwala and the immigration officer at Surat Airport for the exchange of the smuggled gold paste from passengers in washroom area; that Salman Penwala had shown in his mobile the picture of the person who will receive smuggled gold at Surat Airport who was later identified as Shri Paragkumar D Dave, an officer of immigration department. He had booked his ticket for travel from India to UAE from **M/s Royal Travels**, Surat; that he had received ticket for travel from UAE to India from Shri Salman Penwala on whatsapp; He came in contact with Salman Penwala through Shri Mohsin Shaikh and he came to know that Shri Salman Penwala is engaged in smuggling of gold paste through Airport and has smuggled gold through different persons successfully on earlier occasions also. He was informed by Shri Mohsin Shaikh that on **5th July 2023**, Shri Salman Penwala had travelled along with one person named Sattar and handed over the smuggled gold paste to the immigration officer in washroom area adjacent to the immigration area.

37.6 He was shown the Diary of **Paperline brand** entry at page no. 157 recovered from house of Shri Salman Penwala under the Panchnama dated 12.07.2023. At page no. 157 there is heading written as "Yasir/Family" with date 21.01.2022, on being asked about his past travel details as mentioned by Salman Penwala in his diary and regarding carrying of smuggled gold, he stated that he had visited Dubai during 19.01.2022 to 24.01.2022 with his wife and during that trip as instructed by Salman Penwala, he had carried Foreign Currency from India to Dubai and brought 180 Grams of gold to India while his return journey to India. During that trip the foreign currency of USD 50000 was handed over to him in Surat by one of the person sent by Salman Penwala and the Foreign Currency was carried by concealing in Check-in luggage when he took flight to Dubai; on reaching hotel in Dubai, Salman Penwala came to collect the USD amount carried by him from India to Dubai; that Salman Penwala again met him at Dubai on the day of returning to India and handed over solid gold weighing approx. 180 gm for carrying to India by concealing in luggage; the smuggled gold so brought was collected from his home at Surat by some known person of Salman Penwala. Similar other carrier persons used to work for Salman Penwala and Salman used to arrange foreign currencies locally in India which was further carried by passengers while their journey to Dubai and those currencies were converted to Dirham in Dubai; Salman used to collect those foreign currencies carried by passengers and further arranged gold for passengers in Dubai who would conceal and carry the smuggled gold into India while returning through Airport. Salman Penwala used to realize some profit by conversion of those smuggled foreign currency from USD to Dirham at Dubai and at some instances carriers were only instructed to carry foreign currencies from India to Dubai and they may or may not carry smuggled gold while returning to India as instructed by Salman Penwala. On being asked about the pattern of smuggling of gold during 2020-2022 as shown in Diary entries found in four diaries resumed from the residence of Salman Penwala, he stated that Salman Penwala used to arrange passengers by offering them free tickets, hotel stay, visa etc. in Dubai and used to handover foreign currencies ranging from 10000-50000 USD procured locally in India during their departure mostly from Mumbai Airport as the tickets from Mumbai to Dubai were cheaper; and during their return journey

from Dubai they were handed over solid gold for concealing and smuggling into India.

37.7 He has gone through various handwritten entries of Diaries/Notebooks with title "Sonilex", "Jivraj", "Paperline" and "Hometown in the early morning" belonging to Salman Penwala, and stated that the amount calculation written with the name of carrier or passenger on the top refers to the above said modus of smuggling of gold into India and smuggling of foreign currency out of India through the hired passengers/carriers by Shri Salman penwala .The travel tickets for himself and his wife for travel to Dubai on 03.07.2023 and past trip in January 2022 to Dubai were booked by Salman Penwala .He also works as courier of various trading items like Burkha, dry fruits, perfumes, chocolates etc. and travelled to Dubai on various occasions for carrying trading goods from Dubai to India. Having seen the data retrieved from his mobile phone showing whatsapp chat with Shri Salman Rafiqbhai Penwala between 18.05.2023 to 29.05.2023, he stated there were two carrier /passengers namely, Mohsin Masalawala and one other person, Ejaz Masalwala were arranged by him for travelling to Dubai on the instructions of Salman Penwala for carrying smuggled gold paste on their return journey; that he had requested for Hotel and ticket booking to Salman Penwala, thereafter, he (Salman) sent him pdf copies of tickets for those two passengers who travelled to Dubai from Mumbai Airport and they returned via Surat Airport; on being asked as to how much quantity of gold was carried by those passengers, he stated that Salman used to handover gold paste only a few hours before boarding at Sharjah Airport and some carriers used to wear Belt containing gold paste only during check-in time and later they would pass-on the belts to handbag luggage of some other passengers as instructed by Salman Penwala; he stated that those two carrier/ passengers stated above had worn Belts containing gold paste weighing approx. 5-6 Kg. while Check-in at Sharjah Airport on 28.05.2023 on return journey to India, however later they passed-on the belt containing gold paste to some other carrier /passengers as instructed by Salman Penwala; on being further asked he stated that he does not have exact details of those passengers who travelled along with passengers arranged by him during the return trip to India on 28.05.2023. Salman Penwala had asked through whatsapp message whether those two passengers arranged by him, will be travelling again to Dubai or not; later he replied him that it would not be possible for them to travel again. For the two passengers arranged by him Salman Penwala had given him Rs. 20,000/- as carrying fees and also he arranged for the tickets, visa, hotel stay and local tour in Dubai in-lieu of their travel for carrying gold paste during their return journey to India; also Salman Penwala had told him that he had good contact with immigration officer at Surat International Airport for exchange of smuggled gold paste in washroom area before the immigration counter from the above mentioned two passengers who had carried gold paste during their return journey from Sharjah Airport to Surat Airport. Salman Penwala was looking for two more passengers to travel to India on 07.07.2023 and Salman Penwala requested him and his wife to travel along with passengers **Mohamed Sakib** and **Uvesh Imtiyaz Shaikh** and also persuaded him by saying that he did not have to carry the gold paste throughout the journey and that he can pass-on the belt with gold paste to another passenger Uvesh after check-in procedure at Sharjah Airport.Having seen and gone through the statement of Shri Farhan Patel dated 26.02.2025 wherein he (Farhan) stated that on various occasions i.e. on 24.06.2023, 26.06.2023, 01.07.2023 and 03.07.2023 he had collected the smuggled gold paste carried by various passengers through Surat Airport for further delivery to Mumbai, he stated that Farhan Patel used to work for Salman Penwala and since Salman Penwala had arrangement for taking delivery of gold paste through immigration officer P.D. Dave, PSI in the washroom before the immigration counter at Surat International Airport, it would have facilitated the frequent smuggling of gold paste in that particular period as mentioned above. I find that that Salman Rafiqbhai Penwala Salman was the one who provided the gold paste for smuggling into India and Salman Penwala has been the chief orchestrator of the smuggling network, engaging multiple individuals, in gold smuggling operations.

37.8 **Further I have gone through the statement of Shri Mohsin Shaikh,** was recorded under Section 108 of the Customs Act, 1962 on 11.07.2023, 17.07.2023 and 20.07.2023 wherein he stated that from last 1 year, he used to talk with Salman Rafiqbai Penwala on his mobile Nos 544315007 (Dubai), 7990237339 (India) to provide some job in Dubai as **his business was not in good financial condition** but Salman Rafiqbai Penwala had informed him that he could provide free tour of Dubai and pay Rs.20,000/25,000 approx. for each passenger who could act as a carrier to smuggle gold from Dubai to India. Shri Mohamed Sakib agreed and accordingly he forwarded the passport details of Shri Mohamed Sakib to Shri Salman Rafiqbai Penwala on whatapp. One day in Dubai, he met with Salman Rafiqbhai Penwala and Tousique Siddique along with other different carriers who were supposed to smuggle Gold/gold paste into India from Dubai. Around on 20.06.2023, Salman Rafiqbhai Penwala had asked him if he could arrange any passenger for carrying Gold from Dubai to Surat; that he arranged one Shri Tufel Surya for smuggling of Gold for Shri Salman Rafiqbhai Penwala; that he forwarded passport of Shri Tufel Surya to Shri Salman Rafiqbhai Penwala for Dubai Visa; that Shri Salman Rafiqbhai Penwala then forwarded the Visa of Tufel Surya which he forwarded to him (Tufel Surya) I find that that Salman Rafiqbhai Penwala Salman has been the chief orchestrator of the smuggling network, engaging multiple individuals, in gold smuggling operations.

37.9 Further, I have gone through the statement dated 12.07.2023 **Smt. Aaliya Penwala**, wife of Shri Salman Rafiqbhai Penwala recorded under Section 108 of the Customs Act wherein she inter alia stated that Her husband Shri Salman Rafiqbhai Penwala has settled in Dubai from past 02-03 Years and was engaged in trading of Fruits and Vegetables; that Shri Salman Rafiqbhai Penwala rarely comes to India once in two-three months for approx. 4-6 days. She identified the handwriting and confirmed that descriptions in that Diary were written by her husband, Shri Salman Rafiqbhai Penwala. She had been shown the page no 5 to 7 of that diary wherein some calculation were written in the date "10/1/22", "11/1/22(1155061) Bal", "12/1/22(116728) BAL", "13/1/22 (113115) BAL", "14/1/22 (350415) BAL" & "15/1/22 (455046)". She identified the handwriting and confirmed that descriptions in that Diary were written by her husband in a Diary having marking as "HOME TOWN IN THE EARLY MORNING" and Notepad of Brand "Sonilex" resumed under panchnama dated 12.07.2023. I find that these details were related to the financial transactions done by Salman Rafiqbhai Penwala Salman related to engaging multiple individuals in gold smuggling operation.

37.10 Further, I have gone through the Statements of **Shri Farhan Patel**, an aide and accomplice of Shri Salman Rafiqbhai Penwala, were recorded on 18.07.2023, 19.07.2023, 20.07.2023 & 26.02.2025 u/s 108 of the Customs Act 1962, wherein he inter alia stated that for the last one year he was working with Shri Salman Rafiqbhai Penwala; that Shri Salman Rafiqbhai Penwala gave him 10000-12000 a month in cash; that Shri Salman Rafiqbhai Penwala lived mostly in Dubai and according to his information, Shri Salman Rafiqbhai Penwala had also been smuggling gold from Dubai to India for the last 2-3 months through Airport. He had gone to Surat International Airport 4 times in June-2023 at the behest of Shri Salman Rafiqbhai Penwala; that he (Salman) used to send him a photo and used to say that someone he knew was coming from Sharjah to Surat and as soon as that person came out of Surat International Airport, he would receive him and drop him wherever the person sought to be dropped; that he used to recognize that person as his photo would be shared with him by Shri Salman Rafiqbhai Penwala. On 23.06.2023, Shri Salman Rafiqbhai Penwala called him and said that a person named Shabbir (+27-849068403) would call him and give him the gold

paste which was smuggled from Dubai to Surat and he had to take that gold paste to Mumbai; that on 24.06.2023 around 5 am he got a call from Shabbir Bhai (+27-849068403) asking him to meet outside McDonald's in Adajan area and around 6 o'clock on that day he met Shabbir who gave him a bag; that when he opened it, there were 4-5 pouches of gold paste inside a white paper; that after taking the bag, he got a call from Shri Tousique Siddique who told him that he had to take the bag to Mumbai and give it to a person on Mohammed Ali Road; that he did not remember the name and mobile number of that person and now he did not have it because he had factory reset his mobile phone after getting to know about the case made by DRI officers out of fear; that the person to whom he had given gold paste in Mumbai, also looked like a labor and the gold paste was delivered to him after confirming his identity on phone (Botim voice call) from Shri Tousique Siddique..He had visited Dubai 10-12 times thus far and had visited Dubai almost 4 times in the last 1 year; that he had last traveled from Mumbai to Dubai on 18th May 2023; that his ticket was booked by Shri Salman Rafiqbhai Penwala and the arrangements to stay there were also made by Shri Salman Rafiqbhai Penwala

37.11 He came back to Surat on 31.05.2023 by Air India Flight No. IX 172; that Shri Salman Rafiqbhai Penwala gave him 02 pouches filled with gold paste; that according to his estimate, the weight of 1 pouch of gold paste would be around 500-600 grams; that Shri Salman Rafiqbhai Penwala came to drop him at Sharjah airport, then Shri Salman Rafiqbhai Penwala introduced him to 2 more people and in front of him both of them were given 1-1 sachets weighing about 500-600 grams; that Shri Salman Rafiqbhai Penwala told them at Sharjah that this gold paste was to be given to an immigration officer at Surat International airport in the washroom next to the immigration office; that when all three of them landed at Surat International airport and went to the washroom, he saw that an immigration officer also followed them in the washroom and one of the three passengers, to whom they had handed over all the gold paste in the flight, was in the toilet cabin; that the immigration officer went to the toilet cabin with him; that he bent down and saw that the passenger who had all the gold paste, was handing over pouches of gold paste to the immigration officer sitting in the other toilet cabin; that for smuggling this gold paste, Shri Salman Rafiqbhai Penwala had given him Rs 20,000/- when he came to India from Dubai in June. He had been shown a page attached to the Panchnama dated 07/08/07.2023, which was the photo identity card of Mr. P. D. Dave, and on being asked, he told that they had handed over the pouches of gold paste to the same immigration officer whose photo was in the identity card whose copy was shown to him; that the same immigration officer was helping to get the gold paste smuggled from Surat International Airport at the behest of Shri Salman Rafiqbhai Penwala. He stated that 2 pouches of gold paste brought by him and 02 pouches of gold paste which were brought by 02 other passengers from Dubai to Surat on 31.05.2023 by Air India Flight No. IX 172 were handed over to Shri P.D. Dave, Immigration Officer at Surat airport; that the same 04 pouches of gold paste were given to him by Shabbir Bhai on the morning of 01.06.2023, which he delivered to a person on Mohammad Ali Road in Mumbai on the directions of Tousique Siddique I find that Shri Salman Penwala has directly controlled gold smuggling operations through Farhan Patel and other associates, ensuring the safe transport and delivery of smuggled gold.

37.12 Further, I have gone through the statements dated 11.07.2023, 17.07.2023, and 20/21.07.2023 of **Shri Mohsin Shaikh** wherein he has stated that Shri Salman Penwala has offered him free trips to Dubai and a payment of Rs. 20,000-25,000 per passenger for acting as a carrier to smuggle gold from Dubai to India. He had recruited multiple carriers, including his brother Shri Yasir and sister-in-law Marufabanu, and forwarded their passport details to Shri Salman via WhatsApp. He has confirmed that Shri P. D. Dave, an immigration officer, has been the designated recipient of the smuggled gold. He has further stated in his

statement that he has met Tousique, a commission agent working with Shri Salman in Dubai, and has affirmed that Shri Tousique has been responsible for acquiring and converting gold into paste. He has further indicated that Shri Farhan Patel has been in continuous contact with Shri Salman in Dubai and has handled financial settlements on his behalf. In view of the afore mentioned, I find that Salman Penwala has been the chief orchestrator of the smuggling network, engaging multiple individuals, including Mohsin Shaikh and Farhan Patel, in gold smuggling operations.

37.13 Further, I have gone through the statements dated 18.07.2023, 19.07.2023, and 20.07.2023 of Shri Farhan Patel recorded under Section 108 of the Customs Act. He has admitted to working for Shri Salman Penwala, who has been smuggling gold from Dubai to India for the past two to three months. Under Shri Salman's instructions, he visited Surat International Airport four times in June 2023 to receive smuggled gold. On 07.07.2023, Shri Salman called him regarding the arrival of three carriers, including Shri Yasir Shaikh, but he left the airport due to delays. He has also received multiple deliveries of gold paste from a person named Shabbir, acting on Salman's directions, and has transported it to Mumbai. He further admitted that he has factory reset his mobile phone and discarded his SIM card out of fear after learning that Shri Salman's name has been implicated in the DRI case. He has confirmed that gold paste has been handed over to an immigration officer at Surat International Airport's washroom and has identified Shri P. D. Dave, PSI as the recipient. I find that Shir Salman Penwala has directly controlled gold smuggling operations through Farhan Patel and other associates, ensuring the safe transport and delivery of smuggled gold.

37.14 Further, I have gone through the statement of **Shri Mohammed Vasim Kapadia** Proprietor of M/s. Royal Travels, Bhaga Talao, Near Lalgate Police Station, Surat was recorded on 02.08.2023 under Section 108 of the Customs Act, 1962 wherein he interalia stated that M/s. Royal Travels (GSTIN: 24ARBPK2390P1ZJ) was proprietorship firm and he was the proprietor of the said firm, engaged in the business of ticket booking, hotel booking, Haj booking and Umrah booking etc. He knew Shri Salman Rafiqbhai Penwala (+91-7990237339, +97-1544315007, +91-9228181206) as in 2018 Shri Salman Penwala visited his office of Royal Travels for flight ticket booking and he used to call him/whatsapp him for flight ticket booking; that sometimes he used to book tickets for himself and sometimes he used to call him to book tickets for other persons also. He produced the copy/details of ticket pages running from page no. 1 to 15 booked either in the name of Shri Salman Rafiqbhai Penwala or through his reference; that Shri Salman Rafiqbhai Penwala had made online payment i.r.o. of the above said flight tickets and he produced the print out pages running from page 16 to 24 as a proof of payment received from Shri Rafiqbhai Salman Penwala. On being asked regarding Shri Farhan Patel, he stated that in 2022, Shri Farhan Patel left the job from his office and to the best of his knowledge, he started working for Shri Salman Penwala. On being asked regarding the tickets booked in the name of Shri Yasir Shaikh, Marufabanu, Mohammed Sakib Atasbajiwala and Uvesh Shaikh, he stated that on 03.07.2023, Shri Salman Rafiqbhai Penwala called him to book flight tickets of Yasir Shaikh, Marufabanu, Mohammed Sakib Atasbajiwala and Uvesh Shaikh from Mumbai to Abu Dhabi for DOJ 04.07.2023 and had further said that he would make payment of the above said tickets; that as the booking of the above said passengers came thorough his reference and he (Shri Salman Rafiqbhai Penwala) was about to make payment, he made ledger entry of the above said payment in the ledger maintained in the name of Shri Salman Rafiqbhai Penwala; that he produced the copy of the ledger maintained in the name of Penwala Salman Mohammedrafiq which is the ledger of Shri Salman Rafiqbhai Penwala. Out of the above said passengers i.e. Yasir Shaikh, Marufabanu, Mohammed Sakib Atasbajiwala and Uvesh Shaikh, Shri Salman Rafiqbhai Penwala asked him to book ticket from Sharjah to Surat

for Mohammed Sakib Atasbajiwala. I find that Shri Salman Penwala has systematically arranged travel logistics for gold smugglers, demonstrating his deep involvement in the smuggling operations.

37.15 Further, I have examined the seized diaries, notebooks, and loose papers from Salman Penwala's residence under the panchnama dated 12.07.2023. His wife, Smt. Aaliya Penwala, has confirmed that the handwriting in these records belongs to Shri Salman. The entries in the notepad "SONILEX", notebook with cover title "JIVRAJ" diaries contain detailed accounts of gold smuggling transactions, foreign currency movements, and profit-sharing agreements. These records confirm Salman's direct role in coordinating smuggling activities with multiple carriers. I find that Shri Salman Penwala has meticulously documented his smuggling operations, including financial settlements and profit distribution.

37.16 Further, I have gone through the forensic analysis of seized mobile phones which has revealed incriminating call logs and chat records linking Shri Salman Penwala to key members of the smuggling syndicate. Call logs from Shri Yasir's phone have confirmed multiple communications with Shri Salman and Shri Tousique before and after smuggling operations. WhatsApp chats between Salman and his wife, Aaliya, indicate financial transactions related to gold smuggling. Further, the analysis of PSI Parag Dave's phone suggests his complicity in facilitating smuggling at Surat International Airport. I find that Salman Penwala has coordinated the smuggling network through direct communication and financial dealings with key operatives.

37.17 Further, I have found that the CDR analysis has established that Shri Salman Penwala has been in constant communication with key smugglers, including Shri Limbada and Tousique, both before and after the arrival of flights carrying smuggled gold at Surat International Airport. PSI Parag Dave's call records have shown direct contact with Shri Salman's associates, indicating his role in facilitating smuggling operations. Further, the CDR of Shri Farhan Patel aligns with his statement confirming the transportation of smuggled gold paste to Mumbai. I find that Salman Penwala has orchestrated gold smuggling operations through a well-connected network of carriers and facilitators.

37.18 Further, I have found that the investigative findings have revealed that the CCTV footage of 05.07.2023 shows PSI Parag Dave entering and exiting the washroom under suspicious circumstances immediately after Shri Salman and two passengers. One of the passengers was seen carrying a visibly heavy bag before entering but exited with ease, indicating the offloading of smuggled gold. I find that Shri Salman Penwala has personally overseen the smuggling operations at Surat International Airport, coordinating with immigration officials and carriers to ensure the safe handover of contraband.

37.19 These aforementioned findings have conclusively established beyond any reasonable doubt that Shri Salman Penwala has been the key architect of the gold smuggling network and used to manage the financial transactions, maintained detailed records, coordinated with the gold carriers, and directly oversaw the handover of smuggled gold.

38. DETERMINATION OF CULPABILITY OF SHRI SALMAN PENWALA

38.1 I find that the three Summonses dated 12.07.2023, 20.07.2023 and 01.08.2023 were issued to Shri Salman Rafiqbhai Penwala (Noticee No.1) to appear and give his statement. However, Shri Salman failed to appear on any occasion. Four opportunities for personal hearings dated 25.08.2025, 25.09.2025, 23.12.2025 and 27.01.2026 were also allowed to Shri Salman to present his case; neither he nor any authorised person on his behalf appeared on any occasion. Shri Salman has repeatedly avoided joining the investigation which raises strong suspicion of his involvement in the alleged act of gold smuggling. His conduct suggests an attempt to obstruct the investigation, conceal evidence, or evade legal consequences, all of which warrants appropriate action to be taken against him under the relevant provisions of the Indian Customs Act, 1962.

38.2 Further, I find that the four passengers intercepted i.e. Shri Mohamed Sakib Mustak Atashbajiwala, Shri Uvesh Imtiyaz Shaikh, Shri Yasir Shaikh, and Smt. Marufabanu Yasir Shaikh, while crossing the green channel at Surat International Airport a total of gold 43537.280 grams in paste form was recovered, from which pure gold 38,155 grams was extracted. Further, 4,670 grams gold found abandoned in the washroom, from which 3882 pure gold was extracted and thus, total pure gold 42,037 grams out of gold paste 48,207.28 grams were extracted. The gold was seized, and statements of all four passengers were recorded. I find that on a combined reading of the statements of the passengers intercepted i. e. Shri Mohamed Sakib Mustak Atashbajiwala, Shri Uvesh Imtiyaz Shaikh and Shri Yasir Shaikh, recorded under section 108 of the Customs Act, 1962, it establishes that Shri Salman Rafiqbhai Penwala as the key orchestrator of the gold smuggling syndicate operating between Dubai and India. Shri Salman primarily resided in Dubai and was responsible for recruiting couriers, arranging their travel and stay, and facilitating the smuggling of gold in paste form.

38.3 Further, I find that the statements also confirm that Shri Salman had successfully smuggled gold on 05.07.2023. He had travelled with one accomplice, Sattar Bhai, and delivered gold paste to the immigration officer, Shri P.D. Dave, following the same modus operandi. This previous successful smuggling operation had emboldened him to execute another on 08.07.2023, which ultimately failed.

38.4 Further, I find that Shri Mohsin Shaikh in his statements dated 11.07.2023, 17.07.2023 and 20.07.2023 has inter alia stated that Shri Salman offered him free tours of Dubai and a payment of approximately Rs.20,000–25,000 per passenger for acting as a carrier to smuggle gold from Dubai to India. He had recruited Sakib, Shri Yasir (his real brother), and sister-in-law, Smt. Marufabanu; Mohsin had then forwarded the passport details of them to Shri Salman. It strengthens my belief that in this syndicate every person had their role cut

out and it also confirms my belief that Shri Salman is the kingpin of the syndicate.

38.5 Further, I find in the statements dated 18.07.2023, 19.07.2023, and 20.07.2023 of Shri Farhan Patel, recorded under section 108 of the Customs Act, wherein he has inter alia stated that he used to work for Shri Salman. I further find that the investigation has revealed that Shri Salman had played a central role in orchestrating gold smuggling operations between Dubai and India. He primarily resided in Dubai and managed the entire smuggling network, arranging travel, accommodation, and logistics for couriers. In June 2023, he had directed Shri Farhan four times to come to Surat International Airport to receive smuggled gold. On 07.07.2023, Shri Salman had contacted his associate in India, stating that he had dispatched three couriers, including Shri Yasir Shaikh (brother of Mohsin Shaikh), from Dubai to Surat. However, upon his arrival, Shri Salman was unable to establish contact with them. He then reached out to Shri Mohsin Shaikh, who confirmed that Yasir was delayed due to airport checks. Learning about the delay, Shri Farhan left the airport. Earlier, on 23 June 2023, Shri Salman had informed the same operative about a gold delivery by Shri Shabbir (contact: +27-849068403). On 24 June 2023, around 5 a.m., Shri Shabbir called and asked to meet near McDonald's, Adajan, Surat. By 6 a.m., Shri Shabbir handed over a bag containing four to five pouches of gold paste. Shortly after, Shri Tousique Siddique contacted the operative, instructing him to deliver the bag to an unknown recipient on Mohammed Ali Road, Mumbai. Due to fear of ongoing investigations, Shri Farhan factory reset his mobile phone, erasing all records of the recipient's details. Salman continued smuggling gold through similar deliveries on 26 June, 1 July, and 3 July 2023. I find that Tousique Siddique, a Dubai-based associate of Salman, was also actively involved in gold smuggling. Tousique and Salman frequently worked together, and their communications were tracked via Instagram (ID: tousiquesiddique). Salman also utilized Farhan Patel as a key associate, paying him ₹20,000 per operation to deliver smuggled gold to an immigration officer at Surat Airport. Patel confirmed that Shri Salman personally provided him with two pouches of gold paste on 31 May 2023 upon his arrival in Surat via Air India Flight IX 172. To ensure safe handover, Shri Salman had instructed that the smuggled gold be dropped in the men's washroom at Surat International Airport, where an immigration officer, Shri P.D. Dave, would collect it. He even shared a video of the washroom with detailed instructions on the handover process. When confronted, multiple operatives confirmed Shri Salman's involvement and identified him through his passport details and mobile number (7990237339, saved as "Anas M." in Farhan Patel's phone). Thus, the evidence has overwhelmingly established that Shri Salman was the mastermind behind this gold smuggling syndicate, controlling the entire operation remotely from Dubai, recruiting couriers, arranging finances, and coordinating deliveries through his trusted associates in India.

38.6 Further, I have gone through the statement dated 12.07.2023 of Smt. Aaliya Penwala wherein she has confirmed that her husband, Shri Salman, had been residing in Dubai for the past two to three years. When shown a "Paperline" diary, she has identified the handwriting as her husband's but stated that she was unaware of

the calculations recorded on pages 5–7 (dated 10/1/22 to 15/1/22) since she never inquired about his business dealings. She has also signed a “*Home Town in the Early Morning*” diary (pages 1–221), where she noted profit calculations attributed to “*TOUSIQ BHAI,*” a name unfamiliar to her. Additionally, she was shown a small “*Jivraj*” notebook and a “*Sonilex*” notepad, both of which she confirmed contained her husband's handwriting. This further fortifies the fact that the syndicate was being led by Shri Salman and he was monitoring majority of things ranging from logistical support to financial accounting handling the finance. This is another factor which reinforces my position regarding role of Shri Salman in the gold smuggling syndicate.

38.7 Further, I have meticulously examined the evidence collected, including the seized diaries, notebooks, loose papers, which have collectively established the direct involvement of Shri Salman Rafiqbhai Penwala in organized gold smuggling operations. I find that the seizure conducted on 12.07.2023, in the presence of his wife, Smt. Aaliya Penwala had led to the recovery of two diaries, two notebooks/pads, and several loose papers, which contained handwritten records of financial transactions related to gold smuggling and foreign currency movements. Smt. Aaliya Penwala confirmed that the handwriting in these documents belonged to Shri Salman. The “*Paperline*” diary (pages 1-183) had explicit details of passengers engaged in smuggling on Shri Salman’s behalf, confirming his systematic and organized approach to gold smuggling. Specific entries in the diary demonstrated Shri Salman’s role in coordinating the illicit transportation of gold and foreign currency. For instance: *Page 155* recorded a passenger named *Farhan*, who smuggled 150 grams of gold and \$20,000 from India in January 2022, generating a profit of ₹45,488. *Page 156* detailed another smuggling instance by *Imran*, who also transported \$20,000 and 150 grams of gold, *Page 157* described *Yasir* smuggling \$50,000 and 180 grams of gold, with corroborative immigration records verifying his travel. The “*Home Town in the Early Morning*” diary (pages 1- 221) further revealed extensive records of smuggling transactions, including an entry on 24.06.2021 which indicated that profits from 1 kg of smuggled gold were divided between Salman (25%) and Moulana, i.e., Shri Rizwan Limbada (75%), demonstrating their joint involvement in illicit operations. Additionally, the “*Jeevraj*” notebook (pages 1-27) and “*Sonilex*” notepad (pages 1-33) provided detailed financial records of smuggled gold and balance sheets maintained for Moulana (Shri Limbada). These records clearly documented the names of couriers, amounts of gold smuggled, corresponding AED and USD values, and their expected profits, indicating a well-structured smuggling network.

38.8 I find that after a careful examination of the documentary evidence and corroborative statements, it is evident that Shri Salman and Shri Limbada has systematically evaded Customs duties by smuggling large quantities of gold into India using multiple carriers and pre-determined drop-off arrangements at airports, leveraging the connivance of an Immigration Officer. The seized documents clearly show that the smuggling was not a one-time act but a well-organized and ongoing criminal operation.

38.9 Further, I find that the forensic analysis of seized mobile phones of Shri Yasir Shaikh has revealed incriminating call logs and WhatsApp chats directly linking Shri Salman Rafiqbhai Penwala to a well-coordinated gold smuggling operation. All logs retrieved from Shri Yasir Shaikh's phone have confirmed multiple incoming calls from Shri Salman and Shri Tousique Siddique, further corroborating their active involvement in the smuggling operation. Financial Transactions and Smuggling Network. The WhatsApp messages/Chat between Smt. Aaliya Penwala (wife of Shri Salman) and her husband has also indicated financial transactions related to smuggling activities, reinforcing Shri Salman's role as the financier and coordinator of the entire gold smuggling network. Additionally, the forensic data retrieved from Shri Farhan Patel's phone has suggested his direct involvement in smuggling approximately 43,537.280 kg of gold paste on behalf of Shri Salman, further confirming the large-scale and systematic nature of the operation.

38.10 I find that the analysis of call logs, subscriber records, and forensic extractions of digital evidence from the seized phones of Shri Salman and his accomplices irrefutably proves his role as the key mastermind behind the organized gold smuggling syndicate.

38.11 Further, I have gone through the analysis of CCTV footage of Surat international airport outlined in the Show cause notice. I find that the CCTV footage from Camera No. 31, 34 & 59 at Surat International Airport's immigration area 05.07.2023 and 06.07.2023 has revealed highly suspicious movements of PSI Parag Dave and Shri Salman, along with two other passengers, including Shri Md. Sattar.

a. At 23:57:43 hrs, Shri Salman, wearing a purple dress with a red small bag, entered the men's washroom along with two passengers (one in a white shirt with a trolley bag and another in a striped shirt carrying a visibly heavy bag).

b. At 00:00:09 hrs on 06.07.2023, PSI Parag Dave entered the toilet and remained inside for 3 minutes and 38 seconds, exiting at 00:03:47 hrs and proceeding directly to his office cabin.

c. Within 3 minutes, at 00:06:54 hrs, PSI Parag Dave re-entered the toilet and stayed for 1 minute and 48 seconds, exiting at 00:08:42 hrs.

d. Immediately at 00:08:51 hrs, Shri Salman and the two passengers exited the toilet.

This synchronized movement strongly suggests that a handover of smuggled gold paste has occurred inside the washroom, aligning with the statements given by the multiple accused individuals.

38.12 Further, I find that the second passenger (striped shirt) was seen

entering the washroom carrying a visibly heavy bag. Upon exiting the immigration counter at 00:31:37 hrs, the same passenger lifted the bag effortlessly, indicating a transfer of concealed goods (gold paste) inside the washroom. This method matches the modus operandi of smuggling as described by accused persons in their statements.

38.13 I find that the suspicious Behavior of PSI Parag Dave and His Exit with a Heavy Bag, the footage from Camera No. 34 & 59 further confirmed PSI Parag Dave's involvement:

- a. At 00:47:43 hrs, PSI Dave left the immigration counter carrying a bag.
- b. At 00:49:56 hrs, PSI Dave exited the airport building with the same bag on his shoulder.

This sequence indicates that the smuggled gold paste was retrieved by PSI Dave inside the washroom and later carried out of the airport using his official access.

Further, I have gone through the analysis of CCTV footage of Surat international airport outlined in the Show cause notice. Upon going through the same, I have found that the video footage from Camera No. 31, 34, and 59 installed at the immigration area of Surat International Airport on 23rd and 24th June 2023, the following observations were made:

38.13 I find that on 23rd June 2023, PSI P. D. Dave was observed entering the toilet at 23:47:42, 00:21:28, and 00:45:55, each time staying for approximately one minute and not proceeding towards the office cabin thereafter. However, when he entered the washroom after Shri Rizwan Limbada alias Moulana and two other passengers, he remained inside for around 1.5 minutes on both occasions (23:57:29 and 00:07:16). Upon exiting, he directly proceeded towards the office cabin, raising suspicion of an exchange of items inside the toilet.

38.14 I also find that the passenger in a red t-shirt and black jeans entered the washroom carrying a black office bag but exited without it at 23:56:35. After making a phone call, he re-entered the toilet at 23:57:00 and exited again at 23:57:58 without the black office bag. The second passenger in a grey shirt and blue jeans, who initially carried a grey bag, later crossed the immigration counter carrying the black office bag originally with the passenger in the red t-shirt. The grey bag was missing when the second passenger exited the toilet, suggesting a possible exchange of contraband.

38.15 I find that the above observations correlate with the modus operandi of gold smuggling, as per statements from Shri Yasir Shaikh and Shri Farhan. They had disclosed that Shri Salman had instructed that one passenger would enter the toilet cabin to transfer gold paste to another passenger. This sequence aligns with the behavior seen in the CCTV footage. The passenger in the red t-shirt handed over the black office bag to the passenger in a grey shirt and blue jeans, who then carried it

through the immigration. Shri Rizwan Limbada alias Moulana remained in the washroom for 14 minutes and exited along with PSI P. D. Dave, reinforcing the likelihood of an exchange.

38.16 I find that upon exiting the washroom after Shri Rizwan Limbada, PSI P. D. Dave appeared to carry a square-shaped object underneath his shirt. This was further corroborated by:

- a. CCTV footage from Sr. No. 28, where PSI P. D. Dave entered an office cabin with a lightweight blue bag.
- b. At Sr. No. 29, he exited with the same bag, but its weight appeared significantly heavier, indicating a possible concealment of smuggled goods.

38.17 I find that the video footage analysis of both the dates strongly suggests that gold smuggling was being facilitated through an organized exchange in the toilet at Surat International Airport. PSI P. D. Dave was actively involved in the process, including handling the exchanged items and communicating with key individuals in the smuggling network. His frequent interactions with the suspects, bag exchange activities, and destruction of digital evidence further substantiate his involvement. The timeline and activities recorded in the CCTV footage correspond with the established smuggling modus operandi. The evidence aligns with the statements of key witnesses and the established smuggling modus operandi, proving a well-coordinated illicit activity involving multiple accused individuals.

38.18 I also find that the statements of co-accused have entirely corroborated Shri Salman's role. The statements of Shri Yasir Shaikh, Shri Uvesh Shaikh, Shri Sakib, and Shri Farhan Patel have directly confirmed that Shri Salman was the mastermind behind the operation. Shri Yasir, Shri Uvesh, and Shri Sakib stated that the gold paste smuggled by them was to be handed over to an immigration officer inside the washroom at Surat Airport. On confrontation with PSI Parag Dave, they immediately recognized him as the designated receiver. Shri Farhan Patel also confirmed that during his smuggling attempt, another passenger had handed over the gold paste to PSI Dave inside the toilet adjacent to the immigration counter. This statement directly links Shri Salman's smuggling network to PSI Parag Dave.

38.19 I find that the observed movements in the video footage exactly match the descriptions given by the accused smugglers:

- a. Gold paste concealed in belts or packets was handed over inside the men's washroom at the immigration area.
- b. PSI Parag Dave was the designated receiver, who ensured that the contraband was taken out of the airport undetected.

c. Shri Salman orchestrated the entire operation remotely from Dubai, recruiting couriers, booking flights, and providing clear instructions on where and how the gold was to be delivered.

38.20 Upon a thoughtful review of the foregoing, I find that the video footage, corroborated by the statements of multiple accused persons, establishes that Shri Salman Rafiqbhai Penwala has played a central role in planning and executing the gold smuggling operation. He had recruited couriers and instructed them to carry gold paste from Dubai to Surat. He also coordinated the smuggling with PSI Parag Dave, who facilitated the illicit removal of gold from the airport. The method used (handover inside the immigration washroom) aligns perfectly with the recovered video footage, proving premeditated smuggling. Considering these findings, Shri Salman is conclusively identified as the mastermind of a structured gold smuggling syndicate, making him liable for strict legal action under the Customs Act, 1962.

38.21 Upon an exhaustive review of the preceding, I am conclusively led to the determination that Shri Salman Rafiqbhai Penwala is the mastermind behind a structured gold smuggling syndicate operating between Dubai and Surat. His role is central in organizing and executing smuggling operations by recruiting couriers, coordinating logistics, and ensuring safe delivery of contraband gold into India. Shri Salman has recruited and lured carriers by offering them free travel and financial incentives of ₹20,000 to ₹25,000. He had arranged their air tickets, visas, and hotel accommodations, ensuring a smooth process for transporting gold in paste form. These carriers, including Shri Mohamed Sakib Mustak Atashbajiwala, Shri Uvesh Imtiyaz Shaikh, and Shri Yasir Shaikh, were provided with black belts containing gold paste pouches, which they wore around their waists while traveling. Once the couriers arrived at Surat International Airport, Shri Salman instructed them to drop the smuggled gold paste inside the men's washroom near the immigration area. To facilitate this, he had developed a direct liaison with PSI Parag Dave, an immigration officer, who would collect the gold and smuggle it out of the airport without detection. CCTV footage from June and July 2023 corroborates this operation, showing suspicious exchanges inside the washroom, synchronized movements of couriers and PSI Dave, and subsequent changes in bag weights. Additionally, call logs, WhatsApp chats, and financial records have also proved Shri Salman's active coordination with smugglers, including his direct links to key operatives like Shri Rizwan Limbada, Shri Tousique Siddique, and Shri Farhan Patel.

38.22 I also find that Shri Salman's diaries, seized from his residence, contain meticulous financial records detailing gold smuggling profits, courier payments, and profit-sharing arrangements. These records have shown structured transactions, with profits being shared between Salman (25%) and Limbada (75%), which reinforces his role as a key financier of the operation.

38.23 I have also observed that despite multiple summonses and hearing

letters being issued by the Department and the DRI, Shri Salman failed to appear before investigating authority and the Adjudicating authority which further strengthens the case against him. The overwhelming evidence—statements from passengers and Intermediaries, financial trails, call logs, and CCTV analysis compellingly validates beyond any dispute that Shri Salman was the architect of this smuggling syndicate.

38.24 Under Section 112(a), 112(b) of the Customs Act, 1962, any person who knowingly facilitates the improper importation of goods liable for confiscation under Section 111 or acquires, possesses, or deals with such goods while being aware of their smuggled nature is subject to penalty. The evidence at hand has clearly established that Shri Salman Rafiqbhai Penwala was the architect of the smuggling syndicate. He used to entice individuals by offering them complimentary trips to Dubai in exchange for acting as carriers to smuggle gold into India. He has effectively coordinated with syndicate members and maintained liaison with Shri Parag Dave, PSI. It is evident that he provided specific instructions to carriers on how to transport and smuggle the goods into India in collusion with Shri Parag Dave. His role extended beyond mere facilitation—he was actively involved in handling smuggled goods, including their receipt and subsequent distribution to the carriers, such as the smuggled goods, including their receipt and further distribution to the carriers such as, the passengers intercepted in the instant case. His actions demonstrate a culpable mental state, as he has actively participated in both the acts of commission and omission, which are essential to the smuggling scheme. Given his direct and knowing participation in smuggling activities, I unequivocally find **Shri Salman Rafiqbhai Penwala** is liable for imposition of **penalty under Section 112(a), 112(b)** of the Customs Act, 1962 for abetting, facilitating and actively participating, handling, dealing of gold into India.

38.25 Under Section 114(i) of the Customs Act, 1962, Any person 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 113, or abets the doing or omission of such an act, shall be liable in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty. The evidence at hand has clearly established that Shri Salman Rafiqbhai Penwala was the architect of the smuggling syndicate. He used to entice individuals by offering them complimentary trips to Dubai in exchange for acting as carriers to carry foreign currency I.e. dollars out of India. The passengers hired by Shri Salman Penwala carried out illegal export of foreign currencies

for past 3-4 years at airports. During investigation, it is revealed that he along with other syndicate members illegally exported foreign currencies in USD amounting to Rs. 4.72 Crores during the year 2020-22. His role extended beyond mere facilitation—he was actively involved in handling smuggled goods, including their receipt and subsequent distribution to the carriers, such as the smuggled goods, including their receipt and further distribution to the carriers such as, the passengers intercepted in the instant case. His actions demonstrate a culpable mental state, as he has actively involved in **exporting goods improperly**, which are essential to the smuggling scheme. Given his direct and knowing participation in smuggling activities, I unequivocally find **Shri Salman Rafiqbhai Penwala** is liable for imposition of **penalty under Section 114(i)** of the Customs Act, 1962 for abetting, facilitating and actively participating, handling, dealing of illegally exported foreign currencies from India.

39. NOTICE NO.2- Shri Mahmed Rizvanbhai Aiyubhai Limbada

ROLE PLAYED BY Shri Mahmed Rizvanbhai Aiyubhai Limbada IN ENTIRE THE GOLD SMUGGLING SCHEME

39.1 I will now proceed further to examine the role of Shri **Shri Mahmed Rizvanbhai Aiyubhai Limbada** in light of the allegations made against him in the Show Cause Notice dated 06.07.2025.

39.2 As outlined earlier in the Show Cause Notice and the brief facts of the case, investigations have indicated that Shri Limbada had invested substantial funds in acquiring gold in Dubai through Shri Salman Penwala, who used to arrange and manage the carriers and undertake all logistics of procuring and smuggling the gold into India. It has further appeared that profits were divided such that Shri Salman retained approximately 25%, while Shri Limbada received the balance of 75%. The record reflected that Shri Limbada remained in close contact with principal syndicate members and used to supervise their activities, including coordination with Shri Parag Dave, PSI, to signal the timely arrival of flights at Surat International Airport. Additionally, the evidence at hand suggests that Shri Limbada financed the gold ultimately

seized under the Panchnama dated 07/08.07.2023 at Surat International Airport and previously, in conjunction with Shri Salman, was engaged in the illicit export of smuggling gold into India.

39.3 Now, I will proceed to examine the statements dated 18.07.2023, 19.07.2023 and 20.07.2023 of Shri Farhan Patel, wherein he has admitted that he was acquainted with an individual commonly referred to as "Maulana," subsequently identified as Shri Mahmed Rizwan Aiyubbbhai Limbada. He has further admitted that he had observed Maulana (Limbada) at Shri Salman Rafiqbhai Penwala's residence in Dubai approximately nine or ten months earlier. He further stated that according to his knowledge, money involved in smuggled gold was related to Mohd. Rizvan Limbada, whom he also addressed as Moulana. Further, on going through the statement dated 01.08.2023 of Shri Mohammed Vasim Kapadia, Proprietor of M/s Royal Travels, wherein he has identified Mohammed Rizwan Limbada's number as "Maulana Bharuch," and has stated that Salman might have given this number to him for ticket bookings.

39.4 Further, upon going through the statements dated 11.07.2023, 17.07.2023 and 20-21.07.2023 of Shri Mohsin Shaikh, I find that on being asked regarding Maulana, he stated that he did not know any Maulana, but around 1-1.5 month ago when he met Shri Salman and Shri Tousique in Dubai, he had overheard their conversation where one of them was saying that "Maulana ko hisab dena hai. Based on the statements discussed above, I find that Limbada, referred to as "Maulana," has been linked to the smuggling syndicate. His presence in Dubai, his association with Shri Salman and Shri Tousique, and his references to financial dealings involving him clearly indicate his involvement in the gold smuggling operation. His identification through documentary evidence by Shri Farhan and his presence at key locations connected to the syndicate further substantiate his role in the illicit activities.

39.5 Further, based on the analysis of records resumed from the residence of Shri Salman, I find that the seized diaries, notebooks, and loose papers recovered

from the residence of Shri Salman under panchnama dated 12.07.2023 have established his active involvement in gold smuggling. Handwritten entries confirmed by his wife, Smt. Aaliya Penwala, have detailed smuggling transactions, including gold and foreign currency movements. The "Paperline" diary has recorded specific instances where passengers smuggled gold and USD, with corresponding profits. The "Home Town in the Early Morning" diary has documented smuggling operations and profit-sharing between Shri Salman and Shri Limbada (Maulana), confirming their financial arrangements. The "Jeevraj" notebook and "Sonilex" notepad have further revealed records of profits and balances maintained for Shri Limbada, establishing their joint orchestration of gold smuggling operations. I have found that the evidence has conclusively linked both individuals to structured smuggling activities, evasion of customs duties, and financial liabilities arising from these transactions.

Further, I find that the forensic analysis of seized mobile phones has also established direct links between key individuals and the gold smuggling operation. Call logs and chat records have confirmed real-time coordination, with missed calls from Dubai-based numbers to Shri Sakib and Shri Yasir immediately after landing, proving their communication with Shri Salman and Tousique. WhatsApp chats have further revealed discussions on smuggling plans and financial transactions involving Shri Aaliya Penwala and her husband. Evidence from Shri Farhan's phone has indicated involvement in smuggling 43.5 kg of gold paste. Call records have shown that PSI Shri Parag Dave has received multiple calls from Shri Rizwan Limbada, including one coinciding with Shri Limbada's arrival on flight IX-172, suggesting an alert for his presence at Surat Airport. Additional call patterns have linked him to gold exchanges and other key smugglers, including Shri Shabbir Hatiya. These findings have confirmed a structured communication network facilitating smuggling operations.

Further, I find that the certified call detail records (CDRs) obtained by the DRI have established crucial links between key individuals involved in the gold smuggling syndicate. Reliance Jio has confirmed interactions between

Shri Salman, Shri Limbada, and Shri Sakib, while CDR analysis has revealed that PSI Shri Parag Dave spoke with Shri Limbada on 08.06.2023 for over 42 seconds, proving his role in facilitating smuggling at Surat International Airport. Further evidence has linked him to other smugglers, including Shri Shabbir. CDR data has also confirmed that Shri Salman and Shri Limbada have maintained constant communication with smugglers before and after flights carrying gold paste landed. Additionally, I find that Shri Farhan's CDR analysis has aligned with his movements between Gujarat and Maharashtra, corroborating his statement regarding the delivery of gold paste to Mumbai and his communication with key syndicate members, including Shri Tousique, Shri Salman, and Shri Shabbir.

Further, I find that the CCTV footage analysis of Cameras No. 31, 34 & 59 at the immigration area on 23rd June 2023 has established the active involvement of Shri Rizwan Limbada in the smuggling operation. The footage has confirmed that PSI Parag Dave and Shri Limbada had engaged in multiple suspicious interactions inside the washroom, with PSI Dave entering and exiting strategically to facilitate contraband movement. Shri Limbada has remained inside the washroom for 14 minutes, exiting alongside PSI Dave, who was observed carrying a square-shaped object beneath his shirt, strongly indicating the transfer of smuggled gold paste. The footage has also corroborated the statements of Shri Yasir and Shri Farhan, confirming that the smuggling syndicate used the washroom for contraband exchanges as per Shri Salman's instructions. The bag exchange sequence among passengers further aligns with the structured modus operandi of gold smuggling, reinforcing Shri Limbada's pivotal role in orchestrating and executing the illicit operation.

DETERMINATION OF CULPABILITY OF SHRI MAHMED RIZVANBHAI AIYUBBHAI LIMBADA IN ENTIRE THE GOLD SMUGGLING SCHEME

40.1 Upon reviewing the statements of Shri Farhan Patel (dated 18/19.07.2023) and Shri Mohsin Shaikh (dated 20/21.07.2023) recorded under Section 108 of the Customs Act, it has been revealed that Shri Patel has explicitly

identified "Maulana" as Shri Rizwan Limbada, confirming that large sums of money belonged to him. Shri Patel has also recognised Shri Limbada from a CCTV screenshot at Surat Airport, further substantiating his involvement. Additionally, Shri Mohsin admitted hearing references to settling accounts with "Maulana," which indicates financial transactions linked to gold smuggling.

40.2 Further, I find that diaries, notebooks, and loose papers seized from Shri Salman Penwala's residence (panchnama dated 12.07.2023) document detailed records of gold smuggling transactions. These records indicate profit-sharing between Shri Salman and Shri Limbada (75%-25%) from smuggling 1 kg of gold on 24.06.2021. The "*Jeevraj*" and "*Sonilex*" notebooks further document smuggling operations, including amounts in AED and USD, confirming the involvement of Shri Limbada in financing and executing gold smuggling through multiple couriers.

40.3 Further, I find that conversations retrieved from seized electronic devices reveal incriminating references to Shri Limbada, alias "Maulana." A message from A.M. Traders directly implicates Shri Limbada, referring to him as a key operator in smuggling approximately 43,537 grams of gold paste through Surat International Airport. WhatsApp chats between Smt. Penwala and Shri Salman further discuss monetary and logistical arrangements, indicating active coordination with Shri Limbada.

40.4 Further, I find that call data records received from telecom service providers have confirmed frequent communication between Shri Limbada, Shri Salman Penwala, and Shri Parag Dave, PSI, Immigration, Surat Airport. On 08.06.2023, Shri Dave contacted Shri Limbada for 42 seconds, a conversation aligning with the instant gold smuggling operation. Additionally, the flight records have confirmed Shri Limbada's travel between Dubai and India on crucial smuggling dates, which also reinforces his role as a financier and organiser of this gold smuggling scheme. I also find that CCTV footage from Surat International Airport on 23.06.2023 provides substantial visual evidence of the gold smuggling activities. The footage showed Shri Limbada entered the immigration washroom along with suspected couriers, and he remained inside for 14 minutes before exiting alongside PSI Parag Dave. Notably, PSI Dave was later seen carrying an object concealed under his shirt, which suggests an exchange of illicit gold. The footage aligns with the modus operandi described by multiple accused, proving that gold paste was transferred inside the washroom and subsequently smuggled out by the designated receivers.

40.5 After an exhaustive evaluation of the aforementioned, I find that suitably gathered evidence points to a structured gold-smuggling syndicate operating through Surat International Airport. Investigation has confirmed that Noticee No. 2, Shri Mahmed Rizwan ("Maulana") Limbada, has financed the acquisition of gold in Dubai and has worked closely with key associates, particularly

Shri Salman Rafiqbhai Penwala, to conduct repeated smuggling operations. The Show Cause Notice details call records, statements, and documentary evidence, proving that Shri Limbada has funded large-scale gold purchases and supervised their illicit entry into India. I also find that suitably corroborated evidence, including statements under Section 108 of the Customs Act, 1962, financial records, seized diaries, electronic communications, call detail records, and CCTV footage, conclusively establishes that Shri Mahmed Rizwanbhai Aiyubhai Limbada, alias "Maulana," is a principal financier and orchestrator of a structured gold smuggling syndicate operating through Surat International Airport. Despite multiple summonses, his deliberate evasion of inquiry further indicates culpability. His direct involvement in hawala transactions, coordination with key associates—including mastermind Shri Salman—and engagement with compromised officials to ensure the systematic evasion of Customs duties proves his dominant role in the illicit operations. The recovered evidence, particularly ledger entries and witness statements, highlight his active role in financing, directing funds, instructing carriers, and supervising logistics. His repeated travel between Dubai and India aligns with smuggling consignments, confirming his culpable mental state.

40.6 Under Section 112 (a) of the Customs Act, 1962, any person who knowingly assists in the improper importation of goods liable for confiscation under Section 111 or engages in any act that renders such goods liable for confiscation is subject to penalty. I find that Shri Mahmed Rizwanbhai Aiyubhai Limbada, through his deliberate actions, has knowingly dealt with smuggled gold, fully aware that it was illegally brought into India and was liable for confiscation. He has effectively coordinated with syndicate members and maintained liaison with Shri Parag Dave, PSI. His role in the clandestine handover and his association with known smugglers leaves no doubt that he falls squarely within the ambit of Section 112(a) & (b). Following a meticulous review of the aforementioned, I am decisively led to the conclusion that **Shri Mahmed Rizwanbhai Aiyubhai Limbada** is liable for imposition of **penalty under Section 112 (a) & (b)** of the Customs Act, 1962.

40.7 Under Section 114(i) of the Customs Act, 1962, Any person 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 113, or abets the doing or omission of such an act, shall be liable in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in

force, to a penalty. The evidence at hand has clearly established that **Shri Mahmed Rizvanbhai Aiyubbhai Limbada** was the architect of the smuggling syndicate. He has effectively coordinated with syndicate members who entice individuals by offering them complimentary trips to Dubai in exchange for acting as carriers to carry foreign currency I.e. dollars out of India. The passengers hired by Shri Salman Penwala in collusion with **Shri Mahmed Rizvanbhai Aiyubbhai Limbada** carried out illegal export of foreign currencies for past 3-4 years at airports. During investigation, it is revealed that he along with other syndicate members illegally exported foreign currencies in USD amounting to Rs. 4.72 Crores during the year 2020-22. His role extended beyond mere facilitation—he was actively involved in handling smuggled goods, including their receipt and subsequent distribution to the carriers, such as the smuggled goods, including their receipt and further distribution to the carriers such as, the passengers intercepted in the instant case. His actions demonstrate a culpable mental state, as he acted as a financier and supervisor with Shri Salman Penwala in **exporting goods improperly through individuals**, which are essential to the smuggling scheme. Given his direct and knowing participation in smuggling activities, I unequivocally find **Shri Mahmed Rizvanbhai Aiyubbhai Limbada** is liable for imposition of **penalty under Section 114(i)** of the Customs Act, 1962 for abetting, facilitating and actively participating, handling, dealing of illegally exported foreign currencies from India.

41. NOTICEE NO.3- MOHAMMED TOUSIQUE SIDDIQUE

ROLE PLAYED BY MOHAMMED TOUSIQUE SIDDIQUE IN ENTIRE THE GOLD SMUGGLING SCHEME

41.1 I will now proceed to examine the role of Shri Mohammad Tousique Siddique in light of the allegations made against him in the Show Cause Notice dated 06.07.2025.

41.2 As outlined earlier in the Show Cause Notice and the Brief facts of the case, Shri Tousique Siddique was a part of the gold/gold paste smuggling syndicate whose role was to convert pure gold into paste form in Dubai and deal with the buyer in India. Shri Tousique Siddique was well aware of the smuggling of gold paste through Surat International Airport. It appears that he had worked with Shri Salman Rafiqbhai Penwala and indulged in smuggling foreign currency out of India and smuggled Gold into India in the past also.

41.3 I will now proceed to examine the statements recorded by the co-noticees, Shri Mohammad Tousique Siddique, and other key individuals in this case, whose statements indicate and confirm Shri Mohammad Tousique Siddique's involvement in the gold smuggling syndicate.

41.4 After going through the Statement dated 11.07.2023 of **Shri Mohsin Shaikh**, I find that Shri Mohsin Shaikh has confirmed that he had met Shri Mohammed Tousique Siddique in Dubai, where he was introduced to Shri Salman Rafiqbhai Penwala and other individuals involved in gold smuggling gold/gold paste into India. He has further admitted in his statement that Shri Mohammed Tousique showed the photograph of Shri P.D. Dave, a PSI posted at Surat International Airport, to other carriers and informed them that this officer would receive the smuggled gold in the washroom area of the immigration checkpoint. This indicates that Shri Mohammed Tousique was actively involved in coordinating the smuggling network and had knowledge of the compromised immigration official at the airport.

41.5 Further, after going through the Statement dated 17.07.2023 of **Shri Mohsin Shaikh**, I find that Shri Mohsin has further elaborated on his interactions with Shri Mohammed Tousique, confirming that Shri Mohammed Tousique had shown the photograph of Shri P.D. Dave as the person who would receive the gold in Surat, and had not shown the photo of any other officer. Additionally, when questioned about the financiers behind the smuggling operation, Shri Mohsin suggested that although Shri Mohammed Tousique was not the financier, he knew who the financier was. The above admission of Shri Mohsin confirms that Shri Tousique had access to important information about the financial backers and key individuals involved in the smuggling operation, which highlights his deeper role in this entire gold smuggling scheme.

41.6 Further, after going through the Statement dated 18.07.2023 of Shri Farhan Patel, I find that Shri Farhan Patel's statement highlights Shri Mohammed Tousique's direct involvement in the gold smuggling network. Shri Farhan has confirmed that he was in constant communication with Shri Mohammed Tousique, who instructed him on how to transport gold paste from Surat to Mumbai. He has also revealed that on several occasions, he was contacted by Shabbir Bhai, an associate of Shri Mohammed Tousique, who provided the gold paste to be delivered to Mumbai on Shri Mohammed Tousique's instructions. Further, Shri Farhan mentioned that he used to communicate with Shri Mohammed Tousique via the Botim application, which further demonstrates Shri Mohammed Tousique's active role in coordinating the smuggling activities. Furthermore, after going through another Statement dated 19.07.2023 of Shri Farhan Patel, I find that Shri Farhan has once again confirmed that the gold paste was handed over to him by Shabbir Bhai, an associate of Shri Mohammed Tousique in Surat and was subsequently delivered to an individual in Mumbai under Shri Mohammed Tousique's directions. Shri Farhan has also explained that Shabbir informed him about the arrangement at Surat Airport, where gold was

being passed to him through compromised channels, specifically through Shri P.D. Dave, the immigration officer posted at Surat International Airport. Upon a thorough examination of the foregoing, I am led to the definitive conclusion that both the statements of Shri Farhan Patel further substantiate the direct involvement of Shri Mohammed Tousique in coordinating the logistics of the smuggling operation and facilitating the seamless transfer of smuggled gold.

41.7 Further, after going through the Statement dated 20/21.07.2023 of Shri Mohsin Shaikh, I find that Shri Mohsin has identified his involvement in facilitating the smuggling of gold by confirming that he had arranged a watch and a bag for a passenger, as directed by Shri Mohammed Tousique. He has further revealed that he received payment from Shri Salman in exchange for the goods arranged for the carrier. The voice clip mentioned in this statement provided additional evidence of Shri Mohammed Tousique 's role in organising and facilitating the smuggling operation by directing his associates to deliver goods and arrange for payments. Upon going through the above, I am firmly led to this determination that this corroborates Shri Mohammed Tousique's active participation in coordinating the operational aspects of the smuggling network.

41.8 Further, after going through the Statement dated 20/21.07.2023 of Shri Farhan Patel, I find that Shri Farhan described his involvement in a previous gold smuggling operation in which he was given 150 grams of gold by Shri Mohammed Tousique in Dubai. He has further stated that after returning to India, he handed over the gold to Shri Salman in Surat, which confirms Shri Mohammed Tousique's role in organising the smuggling of gold from Dubai to India. The above statement further highlights the relationship between Shri Mohammed Tousique and his associates, including Shri Salman, who worked together in the smuggling operations. It is significant to emphasise here that the foregoing statements discussed so far were recorded per Section 108 of the Customs Act, 1962, providing evidentiary value akin to judicial proceedings. It is a well-established legal position that the statements made voluntarily before Customs officers are admissible as evidence unless retracted promptly with cogent proof of coercion. I have found that no immediate retraction of the statement was made in the present case. Furthermore, I seek to fortify my position by relying on the Hon'ble Supreme Court's ruling in ***K.I. Pavunny v. Assistant Collector (1997) 3 SCC 721***, which upheld the evidentiary value of voluntary confessions made under Section 108.

41.9 Further, after going through the available evidence in the form of Call Logs of Shri Mahmed Rizvanbhai Limbada, I find that Shri Mahmed Rizvanbhai Limbada was in constant communication with members of the smuggling syndicate, including Shri Salman Penwala and Shri Tousique Siddique. Just after landing at Surat International Airport on 23.06.2023, Shri Limbada received calls from Shri Salman and Shri Mohammed Tousique. These calls strongly suggest that Shri Mohammed Tousique was actively coordinating the gold paste smuggling operation and was in direct contact with individuals like Shri Limbada to facilitate the smuggling.

41.10 Further, after going through the evidence available before me in the form of the Call Records of Shri Farhan Patel, it is evident beyond any reasonable doubt that the multiple calls that were exchanged between Shri Farhan Patel and Shri Mohammed Tousique Siddique from 22.06.2023 to 05.07.2023. These calls, in my view, unequivocally establish that Shri Mohammed Tousique was directly coordinating the operations related to the delivery of the smuggled gold paste. The evidence of these communications points to Shri Mohammed Tousique's active involvement in confirming the identities of individuals to whom the illicit goods were to be delivered, further solidifying his pivotal role within the gold smuggling syndicate. Additionally, the analysis of the CDR data also corroborates the statement made by Shri Farhan Patel, wherein he has confirmed receiving calls from both Shri Mohammed Tousique Siddique and Shri Salman, specifically regarding confirmation of deliveries once Shri Farhan arrived in Mumbai. The frequency, consistency, and timing of these calls indisputably highlight Shri Siddique's central role in the operational logistics of the gold smuggling activities, further affirming that his role was not merely peripheral but central to the operational planning and execution of the smuggling activities, further establishing his direct participation in the unlawful conduct.

41.11 After performing an exhaustive evaluation of the aforementioned statements, I am firmly compelled to conclude that Shri Mohammed Tousique Siddique was an integral figure in the gold smuggling network. His consistent communication with the key operatives, such as Shri Salman, Shri Shabbir Hatiya, and Shri Farhan Patel, underscores his role as a coordinator within the smuggling syndicate. Furthermore, the evidence, including the CDR analysis and witness statements, conclusively demonstrates beyond any reasonable doubt that Shri Mohammed Tousique was actively involved in organising the transportation and delivery of smuggled gold paste, facilitating the coordination between various members of the syndicate, and overseeing the success of the illegal operations.

42. DETERMINATION OF CULPABILITY OF SHRI MOHAMMED TOUSIQUE SIDDIQUE IN ENTIRE THE GOLD SMUGGLING SCHEME

42.1 Upon an exhaustive review of the preceding, I am conclusively led to the determination that Shri Mohammad Tousique Siddique played a key role in the organized smuggling of gold into India. He was actively involved in the procurement, conversion, and transportation of smuggled gold from Dubai to Surat, operating as a critical link in the smuggling syndicate. The investigation has established that he was responsible for converting pure gold into paste form in Dubai, arranging its carriers, and coordinating with key operatives, including Shri Salman Rafiqbhai Penwala. Further, multiple statements recorded under Section 108 of the Customs Act, 1962 confirm that Shri Tousique Siddique personally instructed

gold carriers regarding the smuggling operation, including showing them the photograph of Shri Parag Dave, an immigration officer at Surat International Airport, as the intended receiver of the smuggled gold. Additionally, call records and digital evidence indicate that he was in direct communication with smuggling operatives at critical stages of the smuggling process.

42.2 Under Section 112(a) & (b) of the Customs Act, 1962, any person who is concerned in, or abets, the improper importation of goods liable for confiscation under Section 111 is subject to penal action. Shri Tousique Siddique's direct role in planning, facilitating, and coordinating the smuggling operation, including his close association with the compromised immigration officer and the logistics of gold handover in India, falls squarely within this provision. Furthermore, his culpable state of mind is evident from his systematic coordination, knowledge of the gold consignment movements, and prior involvement in smuggling operations. He was fully aware that the gold being transported was liable for confiscation, yet he actively participated in its illegal importation and facilitated its delivery, thereby making himself liable for penal action. Accordingly, I hold **Shri Mohammad Tousique Siddique** liable for imposition of **penalty under Section 112(a) & (b)** of the Customs Act, 1962.

NOTICEE NO.4 - FIROZKHAN AHMEDKHAN PATHAN

43. ROLE PLAYED BY FIROZKHAN AHMEDKHAN PATHAN IN ENTIRE THE GOLD SMUGGLING SCHEME

43.1 I will now proceed further to examine the role of Shri Firozkhan Ahmedkhan Pathan in light of the allegations made against him in the Show Cause Notice dated 06.07.2025.

43.2 As outlined earlier in the Show Cause Notice and the Brief facts of the case, it has been determined that Firozkhan Ahmedkhan was involved in gold smuggling.

43.4 I will now proceed to examine the statements dtd. 15.04.2024 recorded by Shri Firozkhan Ahmedkhan Pathan, as per his statement The contact no. used for the flight ticket booking was +91-9974235675 and the e-mail id used for the flight ticket booking was salmanbhai21@yahoo.co.in. On being asked about the phone number and email Id of the concerned person, no satisfactory reply has been given.

Further, he was shown the video footage recording dated 23/24.06.2023 of Camera-31, installed at First floor covering Immigration counter area of Surat International Airport and he agreed that he had given a sling bag to Mohsinkhan Ahmedkhan Pathan and went to the toilet cabin, then later when Firozkhan came out, Mohsinkhan handed over his bag to Shri Firozkhan Ahmedkhan Pathan and went to

the toilet cabin. Shri Firozkhan Ahmedkhan Pathan put his sling bag into Mohsinkhan sling bag which was admitted by Farhan that it contained gold paste and it was later delivered at Mumbai. I will now proceed to examine the statements dtd. 16.04.2024 recorded by Shri Mohsinkhan Ahmedkhan Pathan , where he agreed that Shri Firozkhan Ahmedkhan Pathan had put his sling bag into Mohsinkhan's sling bag. Firozkhan Ahmedkhan was involved in gold smuggling of 6 kgs.

43.5 I will now proceed with the defence submission given by Shri Firozkhan Ahmedkhan Pathan, as per his submission he stated that he had traveled to Dubai for vacation with a friend named Mr. Mohsinkhan Ahmedkhan Pathan from June 19 to June 23, 2023, and was detained upon arrival at Surat Airport on suspicion of smuggling gold. The Noticee stated that the Customs Officer found no incriminating evidence in his luggage or on his person, leading to his release. On April 9, 2025, the Noticee was summoned for a statement, which revealed no discrepancies or evidence of wrongdoing. However, no concealment or discrepancies were found during the statement. The Noticee cites the case of Vipul Joshi Vs C.C.-Ahmedabad (CESTAT Ahmedabad) CESTAT Ahmedabad, emphasizing that without direct participation or knowledge, penalties cannot be imposed. The Noticee requested that considering the facts of the case, the show cause notice issued on the person should be dropped and the person may please be release from all the allegations & oblige.

However, I find that from the details available on copies of tickets booked by aforesaid passengers (RUD-26), analysis of CCTV Footage and statements of their accomplices namely, Yasir Shaikh, Farhan Patel and Mohsin Shaikh recorded under Section 108 of Customs Act, 1962, it appears that the above passengers was deployed/hired by the key persons of the syndicate namely, Shri Salman Penwala and Shri Mahmed Rizvan Aiyubhai Limbada for smuggling of gold in paste form through Surat Airport. On 05.07.2023 and 23.06.2023 respectively, Shri Salman Penwala and Shri Mahmed Rizvan Aiyubhai Limbada have themselves along with their co-passengers mentioned above smuggled large quantity of gold from Sharjah, U.A.E. to Surat Airport. From the email id and mobile contact number used for booking the tickets, it is seen that the email ID **salman.bhai21@yahoo.co.in** belonged to Shri Salman Penwala and his brother Shri Mohammed Azim Mohammed Rafiq Penwala and the contact nos. +971- 585156007, +971-544315007, +91-9228181206 belonged to Shri Salman Penwala as per Statement of Shri Mohammed Vasim Kapadia, Proprietor of M/s. Royal Travels and extracted WhatsApp Chat communication from Mobile phone of Shri Yasir Shaikh. Further, it appears that on 05.07.2023 and 23.06.2023 Shri Salman Penwala and Shri Mahmed Rizvan Aiyubhai Limbada along with other co-passengers/carriers brought smuggled gold in paste form and as per their plan and modus, handed over smuggled Gold Paste carried by them to Shri Parag Dave, P.S.I. in the Men's washroom near the immigration counter at Surat International Airport for evading Customs Check and Scrutiny before the exit. It appears that Shri Salman Penwala had arranged booking of tickets, Visa and stay of these passengers at Dubai and successfully smuggled gold in connivance with Shri Parag Dave, P.S.I. who was posted at Immigration

Department Surat Airport. From the statements of Shri Farhan Patel, it appears that the gold smuggled in the night of 23.06.2023 was handed over to him by Shri Shabbir Ismail Hatiya and he further carried and delivered the smuggled gold at Mumbai as per instructions of Tousique Siddique on 24.06.2023.

43.6 Further, on going through the defence submission, I find that the noticee has contended that no gold/gold paste were recovered from him while arriving at the airport which shows that he was not involved in such illegal activities. In this regard, I would like to argue that the mere fact that no goods recovered from him does not conclusively establish that the noticee was not involved in the alleged smuggling of gold/gold paste. The absence of direct involvement does not negate the overall findings of the investigation, which are based on other corroborative evidence, call detail records, statements of co-conspirators, passengers and of intermediaries recorded under Section 108 of the Customs Act, 1962, and other circumstantial evidence. The scope of the investigation extends beyond the search of the premises and includes electronic evidence, financial transactions, and linkages with known smuggling networks. Therefore, I firmly opine that the claim of non-involvement cannot be sustained solely based on the absence of smuggled gold.

43.7 Further, I have gone through the contention raised by the defence there is no documentary evidence to prove that he was involved in the smuggling of gold/gold paste. In this regard, I find that the evidence against the noticee is cumulative and comprises multiple factors, including the voluntary statement of Shri Farhan Patel recorded under Section 108 of the Customs Act, 1962, data received from digital devices, call detail records, and corroborative material gathered from the co-conspirators. The CDR and data retrieved have clearly proved beyond doubt that Shri Shabbir was in touch with Shri Dave, PSI. The statements of **Shri Mohammed Vasim Kapadia** Proprietor of M/s. Royal Travels, Yasir Shaikh, Farhan Patel and Mohsin Shaikh, made under Section 108 of the Customs Act, hold evidentiary value, as it was recorded in a legally admissible manner without the applicability of Section 25 of the Indian Evidence Act, which prohibits the admissibility of confessional statements made to police officers and the documentary evidences found in diaries of Shri Salman Penwala, video recordings of the of arrival area of Surat International Airport on the arrival date, tickets booked with email Ids of Salman Penwala and his phone numbers and travelling history with the co-conspirators who are involved in smuggling in collusion with the Shri Dave, PSI. Further, the noticee has failed to provide any cogent rebuttal or alternative explanation regarding his involvement with individuals engaged in smuggling activities.

43.8 Thus, based on the foregoing discussion regarding the culpability of Shri Firozkhan Ahmedkhan Pathan in the present gold smuggling case, the statements recorded from Shri Firozkhan Ahmedkhan Pathan and Shri Mohsinkhan Ahmedkhan Pathan co-noticees, and other key individuals, along with corroborative evidence such as CCTV recordings, has conclusively established his involvement in a well-organized and coordinated gold smuggling syndicate. The evidence on record clearly

demonstrates the nexus between Shri Firozkhan Ahmedkhan Pathan, and other co-conspirators, highlighting his active participation in the illicit activities.

43.9 Further, upon going through the defence submission, I find that the defence has argued that he has never been involved in the improper importation of prohibited goods, nor any smuggled goods have been recovered from him. It has been also contended that, in the absence of documentary evidence linking him to the import or abetment of smuggling, he cannot be held liable under Section 112 of the Customs Act, 1962. I find that, based on these arguments, the defence has asserted that any penalty under Section 112(a) and (b) would be legally unsustainable. I find that the defence's argument, citing the non-recovery of smuggled goods from Shri Firozkhan Ahmedkhan Pathan's physical possession, is legally untenable in light of Section 112(a) and 112(b) of the Customs Act, 1962. These provisions enunciate to impose penalties not only on those who physically import or possess smuggled goods but also on those who aid, abet, or otherwise deal with goods they know or have reason to believe are liable for confiscation under Section 111. It is appropriate to point out that the language used in Section 112 of the Act is plain and unambiguous, and therefore, we are required to consider the same in their ordinary sense. Any interpretation that allows a person to benefit from their own wrongdoing or undermine the objectives of a statute should be rejected. I find it appropriate at this stage to refer to relevant case laws where the Hon'ble Courts have provided guidance on the interpretation of the statute.

- In *Poppatlal Shah v. State of Madras* reported in AIR 1953 SC 274, the Supreme Court held that,

— *“It is settled rule of construction that to ascertain the legislative intent all the constituent parts of a statute are to be taken together and each word, phrase and sentence is to be considered in the light of the general purpose and object of the Act itself.”*

- The observation of the Hon'ble Supreme Court in the case of *Raj Krishna v. Bonod Kanungo* reported in AIR 1954 SC 202, -

- *“ It is well settled that a statute must be read as a whole and one provision of the Act should be construed with reference to other provisions in the same Act, so as to make a consistent enactment of the whole statute. Such a construction has the merit of avoiding any inconsistency or repugnancy either within the statute or between a Section or other parts of the statute.”*

- In the *State of W.B. v. Union of India* reported in AIR 1963 SC 1241, the Apex Court held that in considering the expression used by the Legislature, the Court should have regard to the aim, object and scope of the statute to be read in its entirety.

• In *Balram Kumawat v. Union of India* reported in (2003) 7 SCC 628, the Supreme Court held that,

— “Contextual reading is a well-known proposition of interpretation of statute. The clauses of a statute should be construed with reference to the context vis-a-vis the other provisions so as to make a consistent enactment of the whole statute relating to the subject-matter. The rule of —*ex visceribus actus* should be resorted to in a situation of this nature.”

• In *A.N. Roy Commissioner of Police v. Suresh Sham Singh* reported in (2006) 5 SCC 745 : AIR 2006 SC 2677, the Apex Court held that,-

— “ It is now well settled principle of law that, the Court cannot change the scope of legislation or intention, when the language of the statute is plain and unambiguous. Narrow and pedantic construction may not always be given effect to. Courts should avoid a construction, which would reduce the legislation to futility. It is also well settled that every statute is to be interpreted without any violence to its language. It is also trite that when an expression is capable of more than one meaning, the Court would attempt to resolve the ambiguity in a manner consistent with the purpose of the provision, having regard to the great consequences of the alternative constructions.”

A plain reading of the above is sufficient to firmly establish the legal position that a law must be read in its entirety, ensuring that each provision is understood in harmony with the others. I find it legally imperative to underscore that the phrase “*or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under Section 111*”, as stated in Section 112 of the Customs Act, 1962, must be interpreted in a broad and purposive manner to uphold the objectives of the statute. The legislative intent behind this provision is to penalize not only those who are found in direct physical possession of smuggled goods but also those who knowingly engage in handling, facilitating, or in any way dealing with goods that are liable for confiscation. The term “*dealing with*” extends beyond mere possession and includes activities such as receiving, storing, transporting, financing, or assisting in the movement of such goods. (*emphasis supplied*).

In the present case, the noticee squarely falls within the ambit of this provision, as there is substantial evidence demonstrating his involvement in the smuggling operation. The statements of the co-accused, corroborated by material facts, establish that the noticee was actively engaged in the receipt and onward transmission of smuggled gold. However, in the present case, the penalty under Section 112(a) & (b) and Section 114AA is proposed based on concrete evidence derived from the investigation. I find that the legal position is well settled that direct possession of smuggled goods is not a prerequisite for imposing a penalty under Section 112 of the

Customs Act, 1962. The section clearly states that *any person* who aids, abets, or is in any way concerned with improper importation of goods is liable to penalty. The Hon'ble Supreme Court has held in multiple rulings that penalties under customs laws can be imposed based on circumstantial and corroborative evidence, particularly in cases involving clandestine operations such as smuggling, where direct documentary evidence may not always be available. I am, therefore, of the view that the cumulative weight of evidence in the present case justifies the invocation of Section 112(a) & (b) and Section 114AA of the Customs Act, 1962, against the noticee. The plea of absence of direct documentary evidence is untenable when viewed in light of the overwhelming corroborative materials gathered during the investigation. Accordingly, I find that the noticee's claim for immunity from penalty under Section 112 and Section 114 is baseless and, hence, does not merit consideration.

44. DETERMINATION OF CULPABILITY OF FIROZKHAN AHMEDKHAN PATHAN IN ENTIRE THE GOLD SMUGGLING SCHEME

44.1 As per the statement Under Section 112(a) and 112(b) of the Customs Act, 1962, any person who knowingly facilitates the improper importation of goods liable for confiscation under Section 111 or acquires, possesses, or deals with such goods while being aware of their smuggled nature is subject to penalty. The evidence at hand has clearly established that Shri Firozkhan Ahmedkhan Pathan was an active participant in the smuggling syndicate, directly involved in the transportation and handling of smuggled 6kg gold. He had travelled from Dubai to Surat along with other known smugglers, actively coordinating with key operatives, to ensure the smooth execution of smuggling operations. He has knowingly participated in the transportation and handling grams of smuggled gold concealed in paste form, fully aware that the said goods were liable for confiscation under the Customs Act, 1962. His actions establish a culpable mental state, as he actively engaged in both affirmative acts and deliberate omissions, integral to the execution of the smuggling operation. Given his direct and knowing participation in smuggling activities, I find Shri Firozkhan Ahmedkhan Pathan liable for imposition of penalty under Section 112 (a) and 112 (b) of the Customs Act, 1962.

44.2 Under Section 114AA of the Customs Act, 1962, if a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods. The evidence at hand has clearly established that he was directly involved in the transportation and handling of smuggled 6kg gold from Dubai to Surat along with other known

smugglers, actively coordinating with key operatives, to ensure the smooth execution of smuggling operations. He has knowingly participated in the transportation and handling grams of smuggled gold concealed in paste form, fully aware that the said goods were liable for confiscation under the Customs Act, 1962. Given his direct and knowing participation in smuggling activities, I find Shri Firozkhan Ahmedkhan Pathan liable for imposition of penalty under Section 114AA of the Customs Act, 1962.

NOTICEE NO.5-MOHSIN AHMEDKHAN PATHAN

45. ROLE PLAYED BY MOHSINKHAN AHMEDKHAN PATHAN IN ENTIRE THE GOLD SMUGGLING SCHEME

45.1 I will now proceed further to examine the role of Shri Mohsinkhan Ahmedkhan Pathan in light of the allegations made against him in the Show Cause Notice dated 06.07.2025.

45.2 As outlined earlier in the Show Cause Notice and the Brief facts of the case, it has been determined that Shri Mohsinkhan Ahmedkhan Pathan was involved in gold smuggling.

45.3 I will now proceed to examine the statements dtd. 16.04.2024 recorded by Shri Mohsinkhan Ahmedkhan Pathan, where he was shown the video footage recording dated 23/24.06.2023 of Camera-31, installed at First floor covering Immigration counter area of Surat International Airport and he agreed that Shri Firozkhan Ahmedkhan Pathan handed over his sling bag to him(Mohsinkhan) and went to the toilet cabin, then later when Firozkhan came out, he (Mohsinkhan) handed over his bag to him (Shri Firozkhan Ahmedkhan Pathan) and went to the toilet cabin. Then he found that Shri Firozkhan Ahmedkhan Pathan had put his sling bag into his(Mohsinkhan) sling bag; on coming out of the toilet cabin he saw that Shri Firozkhan Ahmedkhan Pathan was spending time in washing his face/hands etc so he left the men's washroom before Shri Firozkhan Ahmedkhan Pathan. I will now proceed to examine the statements dtd. 15.04.2024 recorded by Shri Firozkhan Ahmedkhan Pathan where he confirmed that he put his bag in the bag of Shri Mohsinkhan Ahmedkhan Pathan. Shri Mohsinkhan Ahmedkhan Pathan was involved in gold smuggling of 6 kgs.

45.4 Further, I find that from the details available on copies of tickets booked by aforesaid passengers (RUD-26), analysis of CCTV Footage and statements of their accomplices namely, Yasir Shaikh, Farhan Patel and Mohsin Shaikh recorded under

Section 108 of Customs Act, 1962, it appears that the above passengers was deployed/hired by the key persons of the syndicate namely, Shri Salman Penwala and Shri Mahmed Rizvan Aiyubbbhai Limbada for smuggling of gold in paste form through Surat Airport. On 05.07.2023 and 23.06.2023 respectively, Shri Salman Penwala and Shri Mahmed Rizvan Aiyubbbhai Limbada have themselves along with their co-passengers mentioned above smuggled large quantity of gold from Sharjah, U.A.E. to Surat Airport. From the email id and mobile contact number used for booking the tickets, it is seen that the email ID **penwalamohdazim@gmail.com** belonged to Shri Salman Penwala and his brother Shri Mohammed Azim Mohammed Rafiq Penwala and the contact nos. +971- 585156007, +971-544315007, +91-9228181206 belonged to Shri Salman Penwala as per Statement of Shri Mohammed Vasim Kapadia, Proprietor of M/s. Royal Travels and extracted WhatsApp Chat communication from Mobile phone of Shri Yasir Shaikh. Further, it appears that on 05.07.2023 and 23.06.2023 Shri Salman Penwala and Shri Mahmed Rizvan Aiyubbbhai Limbada along with other co-passengers/carriers brought smuggled gold in paste form and as per their plan and modus, handed over smuggled Gold Paste carried by them to Shri Parag Dave, P.S.I. in the Men's washroom near the immigration counter at Surat International Airport for evading Customs Check and Scrutiny before the exit. It appears that Shri Salman Penwala had arranged booking of tickets, Visa and stay of these passengers at Dubai and successfully smuggled gold in connivance with Shri Parag Dave, P.S.I. who was posted at Immigration Department Surat Airport. From the statements of Shri Farhan Patel, it appears that the gold smuggled in the night of 23.06.2023 was handed over to him by Shri Shabbir Ismail Hatiya and he further carried and delivered the smuggled gold at Mumbai as per instructions of Tousique Siddique on 24.06.2023.

45.5 Thus, based on the foregoing discussion regarding the culpability of Shri Mohsinkhan Ahmedkhan Pathan in the present gold smuggling case, the statements recorded from Shri Mohsinkhan Ahmedkhan Pathan and Shri Firozkhan Ahmedkhan Pathan co-noticees, and other key individuals, along with corroborative evidence such as CCTV recordings, has conclusively established his involvement in a well-organized and coordinated gold smuggling syndicate. The evidence on record clearly demonstrates the nexus between Shri Mohsinkhan Ahmedkhan Pathan and other co-conspirators, highlighting his active participation in the illicit activities.

46. DETERMINATION OF CULPABILITY OF MOHSINKHAN AHMEDKHAN PATHAN IN ENTIRE THE GOLD SMUGGLING SCHEME

46.1 As per the statement Under Section 112(a) and 112(b) of the Customs Act, 1962, any person who knowingly facilitates the improper importation of goods liable for confiscation under Section 111 or acquires, possesses, or deals with such goods while being aware of their smuggled nature is subject to penalty. The evidence at hand has clearly established that Shri Mohsinkhan Ahmedkhan Pathan was an active participant in the smuggling syndicate, directly involved in the transportation and handling of smuggled 6kg gold. He had travelled from Dubai to Surat along with other known smugglers, actively coordinating with key operatives, to ensure the smooth execution of smuggling operations. He has knowingly participated in the transportation and handling grams of smuggled gold concealed in paste form, fully aware that the said goods were liable for confiscation under the Customs Act, 1962. His actions establish a culpable mental state, as he actively engaged in both affirmative acts and deliberate omissions, integral to the execution of the smuggling operation. Given his direct and knowing participation in smuggling activities, I find Shri Mohsinkhan Ahmedkhan Pathan liable for imposition of penalty under Section 112 (a) and 112 (b) of the Customs Act, 1962.

46.2 Under Section 114AA of the Customs Act, 1962, if a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods. The evidence at hand has clearly established that he was directly involved in the transportation and handling of smuggled 6kg gold from Dubai to Surat along with other known smugglers, actively coordinating with key operatives, to ensure the smooth execution of smuggling operations. He has knowingly participated in the transportation and handling grams of smuggled gold concealed in paste form, fully aware that the said goods were liable for confiscation under the Customs Act, 1962. Given his direct and knowing participation in smuggling activities, I find Shri Mohsinkhan Ahmedkhan Pathan liable for imposition of penalty under Section 114AA of the Customs Act, 1962.

NOTICEE NO.6- TUFEL HAJI UMAR SURYA

47. ROLE PLAYED BY SHRI TUFEL HAJI UMAR SURYA IN ENTIRE THE GOLD SMUGGLING SCHEME

47.1 I will now proceed further to examine the role of Shri Tufel Haji Umar Surya in light of the allegations made against him in the Show Cause Notice dated 06.07.2025.

47.2 As outlined earlier in the Show Cause Notice and the Brief facts of the case, it has been determined that Shri Tufel Haji Umar Surya was involved in gold smuggling. I find that various summons were given to record the statements, however all the summons were returned stating the remark as “address left”.

47.3 I will now proceed to examine the statements of **Shri Mohsin Shaikh**, was recorded under Section 108 of the Customs Act, 1962 on 11.07.2023, 17.07.2023 and 20.07.2023 where he stated that Salman Rafiqbhai Penwala had asked him if he could arrange any passenger for carrying Gold from Dubai to Surat; that he arranged one Shri Tufel Surya for smuggling of Gold for Shri Salman Rafiqbhai Penwala; that he forwarded passport of Shri Tufel Surya to Shri Salman Rafiqbhai Penwala for Dubai Visa; that Shri Salman Rafiqbhai Penwala then forwarded the Visa of Tufel Surya which he forwarded to him (Tufel Surya).

47.4 Further, after going through the evidence available before me in the form of the Call Records of Shri Rizwan Limbada, Shri Rizwan Limbada contacted Shri Tufel Suriya on 24.06.2023, Shri Tufel Suriya came with him from Sharjah via flight IX-172 and this corroborates the voice note of Shri Farhan Patel with Shri Mohsin Shaikh wherein Shri Farhan Patel was conveying to Shri Mohsin Shaikh to ask Shri Tufel to get Moulana's slippers which were with him. Shri Tufel Suriya remained in washroom with Shri Rizwan for a long time and when Shri Tufel Suriya came out of the washroom and crossed immigration counter, he was carrying black office bag which belonged to another passenger and his grey bag was not available with him during the time. Shri Tufel Haji Umar Suriya was involved in gold smuggling of 6 kgs.

47.5 Further, I find that from the details available on copies of tickets booked by aforesaid passengers (RUD-26), analysis of CCTV Footage and statements of their accomplices namely, Yasir Shaikh, Farhan Patel and Mohsin Shaikh recorded under Section 108 of Customs Act, 1962, it appears that the above passengers was deployed/hired by the key persons of the syndicate namely, Shri Salman Penwala and Shri Mahmed Rizvan Aiyubbhai Limbada for smuggling of gold in paste form through Surat Airport. On 05.07.2023 and 23.06.2023 respectively, Shri Salman Penwala and Shri Mahmed Rizvan Aiyubbhai Limbada have themselves along with their co-passengers mentioned above smuggled large quantity of gold from Sharjah, U.A.E. to Surat Airport. From the email id **penwalamohdazim@gmail.com** and mobile contact number 9228181206 used for booking the tickets of Shri Tufel Haji Umar Surya, it is seen that the email ID belonged to Shri Salman Penwala and his brother Shri Mohammed Azim Mohammed Rafiq Penwala and the contact nos. +971- 585156007, +971-544315007, +91-9228181206 belonged to Shri Salman Penwala as per Statement of Shri Mohammed Vasim Kapadia, Proprietor of M/s. Royal Travels and extracted WhatsApp Chat communication from Mobile phone of Shri Yasir Shaikh. Further, it appears that on 05.07.2023 and 23.06.2023 Shri Salman Penwala and Shri

Mahmed Rizvan Aiyubhai Limbada along with other co-passengers/carriers brought smuggled gold in paste form and as per their plan and modus, handed over smuggled Gold Paste carried by them to Shri Parag Dave, P.S.I. in the Men's washroom near the immigration counter at Surat International Airport for evading Customs Check and Scrutiny before the exit. It appears that Shri Salman Penwala had arranged booking of tickets, Visa and stay of these passengers at Dubai and successfully smuggled gold in connivance with Shri Parag Dave, P.S.I. who was posted at Immigration Department Surat Airport. From the statements of Shri Farhan Patel, it appears that the gold smuggled in the night of 23.06.2023 was handed over to him by Shri Shabbir Ismail Hatiya and he further carried and delivered the smuggled gold at Mumbai as per instructions of Tousique Siddique on 24.06.2023.

47.6 Despite multiple summons issued under Section 108 of the Customs Act, he deliberately refrained from appearing before the investigating his persistent non-cooperation and deliberate evasion of investigative proceedings highlight a conscious effort to obstruct justice and avoid accountability. The overwhelming evidence discredits his defence and conclusively establishes his involvement in the smuggling activities.

47.7 Thus, based on the foregoing discussion regarding the culpability of Shri Tufel Haji Umar Suriya in the present gold smuggling case, the statements recorded from Shri Mohsin Shaikh and along with corroborative evidence such as Call Records of Shri Rizwan Limbada, has conclusively established his involvement in a well-organized and coordinated gold smuggling syndicate. The evidence on record clearly demonstrates the nexus between Shri Tufel Haji Umar Suriya and other co-conspirators, highlighting his active participation in the illicit activities.

48. DETERMINATION OF CULPABILITY OF SHRI TUFEL HAJI UMAR SURYA IN ENTIRE THE GOLD SMUGGLING SCHEME

48.1 Under Section 112(a) and 112(b) of the Customs Act, 1962, any person who knowingly facilitates the improper importation of goods liable for confiscation under Section 111 or acquires, possesses, or deals with such goods while being aware of their smuggled nature is subject to penalty. His persistent non-cooperation and deliberate evasion of investigative proceedings highlight a conscious effort to obstruct justice and avoid accountability. The overwhelming evidence discredits his defence and conclusively establishes his involvement in the smuggling activities. The evidence at hand has clearly established that Shri Tufel Haji Umar Suriya was an active participant in the smuggling syndicate, directly involved in the transportation and handling of smuggled 6kg gold. He had travelled from Dubai to Surat along with other known smugglers, actively coordinating with key operatives, to ensure the smooth execution of smuggling operations. He has knowingly participated in the transportation and handling grams of smuggled gold concealed in paste form, fully aware that the said goods were liable for confiscation under the Customs Act, 1962. His actions establish a culpable mental state, as he actively engaged in both affirmative acts and deliberate omissions, integral to the execution of the smuggling operation. Given his direct and knowing participation

in smuggling activities, I find Shri Tufel Haji Umar Suriya liable for imposition of **penalty under Section 112 (a) and 112 (b)** of the Customs Act, 1962.

48.2 Under Section 114AA of the Customs Act, 1962, if a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods. The evidence at hand has clearly established that he was directly involved in the transportation and handling of smuggled 6kg gold from Dubai to Surat along with other known smugglers, actively coordinating with key operatives, to ensure the smooth execution of smuggling operations. He has knowingly participated in the transportation and handling grams of smuggled gold concealed in paste form, fully aware that the said goods were liable for confiscation under the Customs Act, 1962. Given his direct and knowing participation in smuggling activities, I find Shri Mohsinkhan Ahmedkhan Pathan liable for imposition of penalty under Section 114AA of the Customs Act, 1962.

NOTICEE NO. 7-SAMAR BISHWANATH SAMANTA

49. ROLE PLAYED BY SHRI SAMAR BISHWANATH SAMANTA IN THE ENTIRE GOLD SMUGGLING SCHEME

49.1 I will now proceed further to examine the role of Shri Samar Bishwanath Samanta in light of the allegations made against him in the Show Cause Notice dated 06.07.2025.

49.2 As outlined earlier in the Show Cause Notice and the Brief facts of the case, it has been determined that Shri Samar Bishwanath Samanta was involved in gold smuggling. I find that various summons were given to record the statements, however all the summons were returned stating the remark as “address left”.

49.3 I will now proceed with the personal hearing and defence reply given by Shri Samar Bishwanath Samanta, as per the hearing as well as submissions given he stated that he denies any involvement in smuggling activities, stating there is no evidence to prove he carried gold or abetted smuggling. The Noticee argues that the allegations are based on conjectures, surmises, and suspicion without direct evidence. He emphasized that the burden of proof lies with the revenue department, which has failed to provide material evidence to substantiate the claims. The Noticee highlights that penalties under Sections 112(a) and 112(b) of the Customs Act require specific evidence of omission or

commission during import or post-import actions, which is absent in this case. He further argues that Section 114AA penalties apply only to export transactions, not import transactions, and there is no evidence of false or fabricated documents used by him. The Noticee requests the show cause notice to be dropped, as it is legally unsustainable. He seeks exemption from penalties under Sections 112(a), 112(b), and 114AA of the Customs Act.

49.4 Further, on going through the defence submission, I find that the noticee has contended that no evidence to prove he carried gold or abetted smuggling which shows that he was not involved in such illegal activities. In this regard, I would like to argue that the mere fact that no goods recovered from him does not conclusively establish that the noticee was not involved in the alleged smuggling of gold/gold paste. The absence of direct involvement does not negate the overall findings of the investigation, which are based on other corroborative evidence, call detail records, statements of co-conspirators, passengers and of intermediaries recorded under Section 108 of the Customs Act, 1962, and other circumstantial evidence. The scope of the investigation extends beyond the search of the premises and includes electronic evidence, financial transactions, and linkages with known smuggling networks. Therefore, I firmly opine that the claim of non-involvement cannot be sustained solely based on the absence of smuggled gold.

49.5 Further, I have gone through the contention raised by the defence there is no documentary evidence to prove that he was involved in the smuggling of gold/gold paste. In this regard, I find that the evidence against the noticee is cumulative and comprises multiple factors, including the voluntary statement of Shri Farhan Patel recorded under Section 108 of the Customs Act, 1962, data received from digital devices, call detail records, and corroborative material gathered from the co-conspirators. The CDR and data retrieved have clearly proved beyond doubt that Shri Shabbir was in touch with Shri Dave, PSI. The statements of **Shri Mohammed Vasim Kapadia** Proprietor of M/s. Royal Travels, Yasir Shaikh, Farhan Patel and Mohsin Shaikh, made under Section 108 of the Customs Act, hold evidentiary value, as it was recorded in a legally admissible manner without the applicability of Section 25 of the Indian Evidence Act, which prohibits the admissibility of confessional statements made to police officers and the documentary evidences found in diaries of Shri Salman Penwala, video recordings of the of arrival area of Surat International Airport on the arrival date, tickets booked with email Ids of Salman Penwala and his phone numbers and travelling history with the co-conspirators who are involved in smuggling in collusion with the Shri Dave, PSI. Further, the noticee has failed to provide any cogent rebuttal or alternative explanation regarding his involvement with individuals engaged in smuggling activities.

49.6 Thus, based on the foregoing discussion regarding the culpability of Shri Samar Bishwanath Samanta in the present gold smuggling case, the statements recorded from Shri Firozkhan Ahmedkhan Pathan and Shri Mohsinkhan Ahmedkhan Pathan co-noticees, and other key individuals, along with corroborative evidence

such as CCTV recordings, has conclusively established his involvement in a well-organized and coordinated gold smuggling syndicate. The evidence on record clearly demonstrates the nexus between Shri Firozkhan Ahmedkhan Pathan, and other co-conspirators, highlighting his active participation in the illicit activities.

49.7 Further, upon going through the defence submission, I find that the defence has argued that he has never been involved in the improper importation of prohibited goods, nor any smuggled goods have been recovered from him. It has been also contended that, in the absence of documentary evidence linking him to the import or abetment of smuggling, he cannot be held liable under Section 112 of the Customs Act, 1962. I find that, based on these arguments, the defence has asserted that any penalty under Section 112(a) and (b) would be legally unsustainable. I find that the defence's argument, citing the non-recovery of smuggled goods from Shri Firozkhan Ahmedkhan Pathan's physical possession, is legally untenable in light of Section 112(a) and 112(b) of the Customs Act, 1962. These provisions enunciate to impose penalties not only on those who physically import or possess smuggled goods but also on those who aid, abet, or otherwise deal with goods they know or have reason to believe are liable for confiscation under Section 111. It is appropriate to point out that the language used in Section 112 of the Act is plain and unambiguous, and therefore, we are required to consider the same in their ordinary sense. Any interpretation that allows a person to benefit from their own wrongdoing or undermine the objectives of a statute should be rejected. I find it appropriate at this stage to refer to relevant case laws where the Hon'ble Courts have provided guidance on the interpretation of the statute.

- In *Poppatlal Shah v. State of Madras* reported in AIR 1953 SC 274, the Supreme Court held that,

— “It is settled rule of construction that to ascertain the legislative intent all the constituent parts of a statute are to be taken together and each word, phrase and sentence is to be considered in the light of the general purpose and object of the Act itself.”

- The observation of the Hon'ble Supreme Court in the case of *Raj Krishna v. Bonod Kanungo* reported in AIR 1954 SC 202, -

- “ It is well settled that a statute must be read as a whole and one provision of the Act should be construed with reference to other provisions in the same Act, so as to make a consistent enactment of the whole statute. Such a construction has the merit of avoiding any inconsistency or repugnancy either within the statute or between a Section or other parts of the statute.”

- In the *State of W.B. v. Union of India* reported in AIR 1963 SC 1241, the Apex Court held that in considering the expression used by the Legislature, the Court should have regard to the aim, object and scope of the statute to be read in its

entirety.

- In *Balram Kumawat v. Union of India* reported in (2003) 7 SCC 628, the Supreme Court held that,

— “Contextual reading is a well-known proposition of interpretation of statute. The classes of a statute should be construed with reference to the context vis-a-vis the other provisions so as to make a consistent enactment of the whole statute relating to the subject-matter. The rule of —*ex visceribus actus* should be resorted to in a situation of this nature.”

- In *A.N. Roy Commissioner of Police v. Suresh Sham Singh* reported in (2006) 5 SCC 745 : AIR 2006 SC 2677, the Apex Court held that,-

— “ It is now well settled principle of law that, the Court cannot change the scope of legislation or intention, when the language of the statute is plain and unambiguous. Narrow and pedantic construction may not always be given effect to. Courts should avoid a construction, which would reduce the legislation to futility. It is also well settled that every statute is to be interpreted without any violence to its language. It is also trite that when an expression is capable of more than one meaning, the Court would attempt to resolve the ambiguity in a manner consistent with the purpose of the provision, having regard to the great consequences of the alternative constructions.”

A plain reading of the above is sufficient to firmly establish the legal position that a law must be read in its entirety, ensuring that each provision is understood in harmony with the others. I find it legally imperative to underscore that the phrase “*or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under Section 111*”, as stated in Section 112 of the Customs Act, 1962, must be interpreted in a broad and purposive manner to uphold the objectives of the statute. The legislative intent behind this provision is to penalize not only those who are found in direct physical possession of smuggled goods but also those who knowingly engage in handling, facilitating, or in any way dealing with goods that are liable for confiscation. The term “*dealing with*” extends beyond mere possession and includes activities such as receiving, storing, transporting, financing, or assisting in the movement of such goods. (*emphasis supplied*).

In the present case, the noticee squarely falls within the ambit of this provision, as there is substantial evidence demonstrating his involvement in the smuggling operation. The statements of the co-accused, corroborated by material facts, establish that the noticee was actively engaged in the receipt and onward transmission of smuggled gold. However, in the present case, the penalty under Section 112(a) & (b) and Section 114AA is proposed based on concrete evidence derived from the investigation. I find that the legal position is well settled that direct possession of smuggled goods is not a prerequisite for imposing a penalty under Section 112 of the Customs Act, 1962. The section clearly states that *any person* who aids, abets, or is

in any way concerned with improper importation of goods is liable to penalty. The Hon'ble Supreme Court has held in multiple rulings that penalties under customs laws can be imposed based on circumstantial and corroborative evidence, particularly in cases involving clandestine operations such as smuggling, where direct documentary evidence may not always be available. I am, therefore, of the view that the cumulative weight of evidence in the present case justifies the invocation of Section 112(a) & (b) and Section 114AA of the Customs Act, 1962, against the noticee. The plea of absence of direct documentary evidence is untenable when viewed in light of the overwhelming corroborative materials gathered during the investigation. Accordingly, I find that the noticee's claim for immunity from penalty under Section 112 and Section 114 is baseless and, hence, does not merit consideration.

49.8 Further, I find that from the details available on copies of tickets booked by aforesaid passengers (RUD-26), analysis of CCTV Footage and statements of their accomplices namely, Yasir Shaikh, Farhan Patel and Mohsin Shaikh recorded under Section 108 of Customs Act, 1962, it appears that the above passengers was deployed/hired by the key persons of the syndicate namely, Shri Salman Penwala and Shri Mahmed Rizvan Aiyubhai Limbada for smuggling of gold in paste form through Surat Airport. On 05.07.2023 and 23.06.2023 respectively, Shri Salman Penwala and Shri Mahmed Rizvan Aiyubhai Limbada have themselves along with their co-passengers mentioned above smuggled large quantity of gold from Sharjah, U.A.E. to Surat Airport. From the email id and mobile contact number used for booking the tickets, it is seen that the email ID **salman.bhai21@yahoo.co.in** belonged to Shri Salman Penwala and his brother Shri Mohammed Azim Mohammed Rafiq Penwala and the contact nos. **+971-544315007** belonged to Shri Salman Penwala as per Statement of Shri Mohammed Vasim Kapadia, Proprietor of M/s. Royal Travels and extracted WhatsApp Chat communication from Mobile phone of Shri Yasir Shaikh. Further, it appears that on 05.07.2023 and 23.06.2023 Shri Salman Penwala and Shri Mahmed Rizvan Aiyubhai Limbada along with other co-passengers/carriers brought smuggled gold in paste form and as per their plan and modus, handed over smuggled Gold Paste carried by them to Shri Parag Dave, P.S.I. in the Men's washroom near the immigration counter at Surat International Airport for evading Customs Check and Scrutiny before the exit. It appears that Shri Salman Penwala had arranged booking of tickets, Visa and stay of these passengers at Dubai and successfully smuggled gold in connivance with Shri Parag Dave, P.S.I. who was posted at Immigration Department Surat Airport. From the statements of Shri Farhan Patel, it appears that the gold smuggled in the night of

23.06.2023 was handed over to him by Shri Shabbir Ismail Hatiya and he further carried and delivered the smuggled gold at Mumbai as per instructions of Tousique Siddique on 24.06.2023.

49.9 Thus, based on the foregoing discussion regarding the culpability of Shri Samar Bishwanath Samanta in the present gold smuggling case, the statements recorded from Yasir Shaikh, Farhan Patel, Mohsin Shaikh and Shri Mohammed Vasim Kapadia , and other key individuals, along with corroborative evidence such as CCTV recordings, has conclusively established his involvement in a well-organized and coordinated gold smuggling syndicate. The evidence on record clearly demonstrates the nexus between Shri Mohsinkhan Ahmedkhan Pathan and other co-conspirators, highlighting his active participation in the illicit activities.

50. DETERMINATION OF CULPABILITY OF SHRI SAMAR BISHWANATH SAMANTA IN ENTIRE THE GOLD SMUGGLING SCHEME

50.1 As per the statement Under Section 112(a) and 112(b) of the Customs Act, 1962, any person who knowingly facilitates the improper importation of goods liable for confiscation under Section 111 or acquires, possesses, or deals with such goods while being aware of their smuggled nature is subject to penalty. The evidence at hand has clearly established that Shri Samar Bishwanath Samanta was an active participant in the smuggling syndicate, directly involved in the transportation and handling of smuggled 6kg gold. He had travelled from Dubai to Surat along with other known smugglers, actively coordinating with key operatives, to ensure the smooth execution of smuggling operations. He has knowingly participated in the transportation and handling grams of smuggled gold concealed in paste form, fully aware that the said goods were liable for confiscation under the Customs Act, 1962. His actions establish a culpable mental state, as he actively engaged in both affirmative acts and deliberate omissions, integral to the execution of the smuggling operation. Given his direct and knowing participation in smuggling activities, I find Shri Samar Bishwanath Samanta liable for imposition of penalty under Section 112 (a) and 112 (b) of the Customs Act, 1962.

50.2 Under Section 114AA of the Customs Act, 1962, if a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods. The evidence at hand has clearly established that he was directly involved in the transportation and handling of smuggled 6kg gold from Dubai to Surat along with other known

smugglers, actively coordinating with key operatives, to ensure the smooth execution of smuggling operations. He has knowingly participated in the transportation and handling grams of smuggled gold concealed in paste form, fully aware that the said goods were liable for confiscation under the Customs Act, 1962. Given his direct and knowing participation in smuggling activities, I find Shri Samar Bishwanath Samanta liable for imposition of penalty under Section 114AA of the Customs Act, 1962.

51. Accordingly, in the exercise of the powers vested in me as the Adjudicating Authority, I hereby issue the following order:

ORDER

- (i)** I order the **absolute confiscation** of the **smuggled gold** as detailed in para 7.1, having market value of Rs. 9,71,45,084/- (Nine Crore Seventy One Lakh Forty Five thousand and Eighty Four only), which were smuggled by the syndicate through various passengers/carriers travelling from Sharjah/Dubai to India and smuggled through imports in parcels/couriers at the Authorised Courier Terminals on multiple occasions between 2020 and 2022, under Section 111(d), 111(i) and 111(j), 111(l) and 111(m) of the Customs Act, 1962;
- (ii)** I order the **absolute confiscation** of the **smuggled gold weighing** 30,520 gms having value of Rs. 16,06,52,187/- (Sixteen Crore Six Lakh Fifty-Two thousand and One hundred and eighty-seven only), which were smuggled in the Month of May, June and July 2023 as detailed at Para 7.2 and 7.3, by hiring various passengers at Surat International Airport, under Section 111(d), 111(i) and 111(j), 111(l) and 111(m) of the Customs Act, 1962;
- (iii)** I order the **absolute confiscation** of foreign currency having value equivalent to Indian **Rs. 4,72,49,621/-** illegally exported out of India as detailed at para 7.1, on multiple occasions between 2020 and 2022 by various hired passengers for this act, under Section 113(d), 113(e) & 113(h) of the Customs Act, 1962 read with FEMA Act, 1999 and Rule 5 & 7 of the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015 issued by RBI under FEMA Act, 1999;
- (iv)** I impose a **penalty** of **Rs. 3,00,00,000/- (Rupees Three Crore Only)** upon **Shri Salman Rafiqbhai Penwala** under Section 112 (a) & (b) of the Customs Act, 1962.
- (v)** I impose a **penalty** of **Rs. 3,00,00,000/- (Rupees Three Crore Only)** upon **Shri Mahmed Rizvanbhai Aiyubbhai Limbada** under Section 112 (a) & (b) of the Customs Act, 1962.

- (vi) I impose a **penalty of Rs. 3,00,00,000/- (Rupees Three Crore Only)** upon **Shri Mohammed Tousique Siddique** under Section 112 (a) & (b) of the Customs Act, 1962.
- (vii) I impose a **penalty of Rs. 2,00,00,000/- (Rupees Two Crore Only)** upon **Shri Salman Rafiqbhai Penwala** under Section 114 (i) of the Customs Act, 1962.
- (viii) I impose a **penalty of Rs. 2,00,00,000/- (Rupees Two Crore Only)** upon **Shri Mahmed Rizvanbhai Aiyubhai Limbada** under Section 114 (i) of the Customs Act, 1962.
- (ix) I impose a **penalty of Rs. 50,00,000/- (Rupees Fifty Lakh Only)** upon **Shri Firozkhan Ahmedkhan Pathan** under Section 112 (a) & (b) of the Customs Act, 1962.
- (x) I impose a **penalty of Rs. 50,00,000/- (Rupees Fifty Lakh Only)** upon **Shri Mohsinkhan Ahmedkhan Pathan** under Section 112 (a) & (b) of the Customs Act, 1962.
- (xi) I impose a **penalty of Rs. 50,00,000/- (Rupees Fifty Lakh Only)** upon **Shri Tufel Haji Umar Surya** under Section 112 (a) & (b) of the Customs Act, 1962.
- (xii) I impose a **penalty of Rs. 50,00,000/- (Rupees Fifty Lakh Only)** upon **Shri Samar Bishwanath samanta** under Section 112 (a) & (b) of the Customs Act, 1962.
- (xiii) I impose a **penalty of Rs. 50,00,000/- (Rupees Fifty Lakh Only)** upon **Shri Firozkhan Ahmedkhan Pathan** under Section 114AA of the Customs Act, 1962.
- (xiv) I impose a **penalty of Rs. 50,00,000/- (Rupees Fifty Lakh Only)** upon **Shri Mohsinkhan Ahmedkhan Pathan** under Section 114AA of the Customs Act, 1962.
- (xv) I impose a **penalty of Rs. 50,00,000/- (Rupees Fifty Lakh Only)** upon **Shri Tufel Haji Umar Surya** under Section 114AA of the Customs Act, 1962.
- (xvi) I impose a **penalty of Rs. 50,00,000/- (Rupees Fifty Lakh Only)** upon **Shri Samar Bishwanath samanta** under Section 114AA of the Customs Act, 1962.

46. Accordingly, the Show Cause Notice F. No. DRI/35/2025-O/o DD/AD-DRI-RU-SURAT dated 06.07.2025 stands disposed of.

(Shree Ram Vishnoi)
Additional Commissioner,
Customs, Ahmedabad

BY SPEED POST A.D./EMAIL

F. No. GEN/ADJ/ADC/1644/2025-AIRPT-SRT-CUS-COMMRTE-AHMEDABAD

Date: 27.03.2026

DIN:

To,

1. **Shri SalmanRafiqbhai Penwala**, Flat No. 401, 7 Star Avenue, Near Sai Baba Mandir, Sodagarwad, Near Bank Of Baroda, Surat ((E mail - penwalamohdazim@gmail.com; salmanking1279@gmail.com)
2. **Shri Mahmed Rizvanbhai Aiyubhai Limbada**, 429, Vahorawad Faliyu, At-Po- Kondh, Bharuch. (E mail- naushu1999@gmail.com)
3. **Mohammed Tousique Siddique**, Zahida Mansion, Shaheen Street, Magdoom Colony, Bhatkal, Uttara Kannada – 581320, Karnataka (E mail- tousiquesiddqud@gmail.com)
4. **Shri Firozkhan Ahmedkhan Pathan**, 1/2114, Barahajari Mohallo Jafarshah Dargah Ni Gali, Nanpura, Surat-395001(Email: munaf.khan5577@gmail.com)
5. **Shri Mohsinkhan Ahmedkhan Pathan**, 365, Masjid Mohallo, Near Gujarat Gas Company, Adajan Gam Surat-395009 (Email: mohsinnn1984@gmail.com)
6. **Shri Tufel Haji Umar Surya**, B-19, Rabbani Complex, B/H DHNMORA, Gorat, Adajan Patiya Road, Surat-39500
7. **Shri Samar Bishwanath Samanta**, 403, Shree Sankalap CHS, Mahatma Phule Road, Maharashtra Nagar, Dombivili, Thane-421202

Copy to:

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

5. Guard File