F. No. VIII/10-71/SVPIA-A/O&A/HQ/2025-26
OIO No.35 /ADC/SRV/O&A/HQ/2026-27

प्रधान आयुक्त का कार्यालय, सीमा शुल्क ,अहमदाबाद
"सीमाशुल्कभवन ,"पहलीमंजिल ,पुरानेहाईकोर्टकेसामने ,नवरंगपुरा ,अहमदाबाद – 380009
दूरभाष :(079) 2754 4630, **E-mail:** cus-ahmd-adj@gov.in, फैक्स :(079) 2754 2343

DIN: 20260671MN0000552905

PREAMBLE

A	फ़ाइल संख्या/ File No.	:	VIII/10-71/SVPIA-A/O&A/HQ/2025-26
B	कारण बताओ नोटिस संख्या-तारीख Show Cause Notice No. & Date	:	VIII/10-72/SVPIA-A/O&A/HQ/2025-26 Dated 23.02.2026
C	मूलआदेश संख्या/ Order-In-Original No.	:	**35/ADC/SRV/O&A/HQ/2026-27**
D	आदेश तिथि/ Date of Order-In-Original	:	**05.06.2026**
E	जारी करने की तारीख/ Date of Issue	:	**05.06.2026**
F	द्वारा पारित/ Passed By	:	**Shree Ram Vishnoi**, Additional Commissioner, Customs, Ahmedabad
G	आयातक का नाम और पता / Name and address of Importer/ Passenger	:	**Shri Amir Ali,** S/o Shri Asif Ali, R/o- House No. 88, Chak No. 15, Mohalla Seta Khera, Tehsil Tanda, Dist.-Rampur, Uttar Pradesh-244925

(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:

Intelligence developed by the officers of Air Intelligence Unit (AIU), SVPI Airport, Customs Ahmedabad through passenger profiling of Fly Dubai Flight No. FZ-437 from Dubai to Ahmedabad indicated suspicion of smuggling of contraband by one passenger namely Shri Amir Ali.

1.1. Acting upon the said intelligence, the officers of Air Intelligence Unit (AIU), accompanied by independent Panchas identified Shri Amir Ali at the Green Channel area of SVPI Airport by verifying his passport no. S4001271, his boarding pass bearing number 30F, arriving by Fly Dubai Flight No. FZ-437 from Dubai to Ahmedabad, when he attempted to exit through the Green Channel without making any declaration to the Customs Authorities at SVPI Airport, Ahmedabad.

1.2. The passenger was carrying one violet-coloured trolley bag having 'Swiss Rider' tag and one grey coloured trolley bag. The proceedings relating to personal search of the passenger and examination of his baggage were conducted in presence of the two independent witnesses and the same were recorded under the Panchnama dated 02.09.2025.

2. The AIU Officers inquired with the passenger as to whether he was carrying any contraband/dutiable goods in person or in baggage to which he denied. As regards the search of the passenger, the Officers asked/ informed the passenger that a search of his baggage as well his personal search was to be carried out and given him an option to carry out the search in presence of a Magistrate or any Gazetted Officer of Customs to which the passenger desired to be searched in presence of a Superintendent of Customs. Before commencing the search, the officers offered themselves to the said passenger for conducting their personal search, which was declined by the said passenger reposing faith in the Officers.

2.1 Thereafter, in the presence of the panchas, the AIU officers carried out scanning of both trolley bags one by one, in the X-Ray Bag Scanning Machine installed near the Green Channel at Terminal 2 of SVPI Airport, Ahmedabad. On scanning of his grey-coloured trolley bag in the X-ray machine, nothing suspicious was observed. However, upon scanning the violet-coloured trolley bag, suspicious images were detected, which necessitated a thorough examination of the bag. The detailed examination of baggage revealed that some cylindrical shaped metal pieces are concealed in the wheels of the violet-coloured trolley bag of Shri Amir Ali. Thereafter, the AIU officers extracted four (04) cylindrical-shaped solid pieces from the wheels of the violet-coloured trolley bag, which prima facie appeared to be gold pieces. Subsequently, the AIU officers asked the passenger to walk through the Door Frame Metal Detector (DFMD) machine. Before passing through the said DFMD machine, the said passenger was asked to remove all the metallic objects he was wearing on his body/clothes. Thereafter, the passenger removed metallic objects from his body/clothes such as mobile phone, wallet, etc. The AIU officers then asked him to pass through the DFMD machine. However, no beep sound was heard indicating nothing suspicious was hidden over his body. On being asked by the AIU officers about the reason for concealment of these four cylindrical-shaped metallic pieces in the violet-coloured trolley bag, the passenger informed that these four metal pieces are of gold which he had bought illegally from Dubai and did not declare the same before the Customs authorities at SVPI Airport, Ahmedabad with an intention to evade the applicable customs duty.

2.2 Thereafter, the officers called one Government-approved Valuer viz. Shri Kartikey Vasantrai Soni and informed him that some suspected gold articles were recovered from the passenger and the exact content and valuation of these gold articles is required to be ascertained. In reply, the Government-approved Valuer informed the officer that testing of these gold articles is possible to be carried out at his workshop. Thereafter, the AIU officers along with the panchas and Shri Amir Ali reached the premises of Govt. approved Valuer situated at 301, Golden Signature, B/h, Ratnam Complex, C.G Road, Ahmedabad-380006, in a Govt vehicle for testing of these gold articles.

2.3 Thereafter, Mr. Soni Kartikey Vasantrai, Government-approved Valuer informed that the said 04 cylindrical shaped pieces are of gold and the gross weight of these 04 articles is 152.49 grams. He converted the 04 cylindrical shaped pieces of gold into one gold bar weighing 151.91 grams (Net Weight) after melting them in his furnace. The photographs of the same as below:

2.5 Shri Soni Kartikey Vasantrai vide **Certificate No. 547/2025-26 dated 02.09.2025** certified that the gold bar is having purity 999.0/24Kt having Market Value of Rs.16,37,590/- and Tariff Value of Rs.14,64,812/-. The value of the gold bar has been calculated as per the Notification No. 52/2025-Customs (N.T.) dated 02.09.2025 (gold) and Notification No. 36/2025-Customs (N.T.) dated 22.08.2025 (Exchange rate). The details are as below:

Details of Items	Pcs.	Net Weight in Gram	Purity	Market Value (Rs)	Tariff Value (Rs)
01 Gold Bar (Derived after melting 04-Cylinder Piece of Gold Extracted from the Wheels of the Violet-Coloured Trolley Bag	01	151.910	999.0 24Kt	16,37,590/-	14,64,812/-
Total	**01**	**151.910**	999.0 /24Kt	**16,37,590**	**14,64,812**

<u>SEIZURE OF THE ABOVE GOLD AND PACKING MATERIAL:</u>

3. The above said gold bar weighing 151.910 grams derived from the 04 cylindrical shaped pieces of gold concealed in the wheels of the violet-coloured trolley bag of the passenger was carried by the passenger in a concealed manner and without declaring the same before Customs Authorities with intent to evade the Customs Duty in violation of provisions of Customs Act, 1962. Therefore, the said gold bar was falling under the category of smuggled goods and there was a reasonable belief that the same was liable for confiscation under the provisions of Section 111 of the Customs Act, 1962. Accordingly, the said gold weighing 151.910 grams (Net Weight) having purity 999.0/24kt having Market Value of Rs.16,37,590/- and Tariff Value of Rs.14,64,812/-recovered from the passenger was placed under Seizure vide Seizure Memo/Order dated 02.09.2025 issued under the provisions of Section 110(1) of the Customs Act, 1962. The Gold was placed in a transparent plastic box which was sealed and handed over to the Ware House In-charge, SVPI Airport, Customs Ahmedabad vide Ware House Entry No. 7650 dated 02.09.2025.

3.1 Further, the violet-coloured trolley bag of the passenger used for concealment of the aforesaid gold bar was also seized under the provisions of the Customs Act, 1962 under reasonable belief that they were used for packing and concealment of the said gold recovered from the passenger. The said trolley bag was sealed and handed over to the Ware House In-charge, SVPI Airport, Customs Ahmedabad vide Ware House Entry No. 7650A dated 02.09.2025.

STATEMENT OF PASSENGER SHRI AMIR ALI:

4. Statement of Shri Amir Ali, S/o Shri Asif Ali, was recorded under Section 108 of the Customs Act, 1962 on 02.09.2025 before the Superintendent of Customs (AIU), SVPI Airport, Ahmedabad, wherein he inter alia stated that he was born on 01.01.1994 and was residing at House No. 88, Chak No. 15, Mohalla Seta Khera, Tehsil Tanda, District Rampur, Uttar Pradesh. He stated that he was 5th class pass, could read, write and understand Hindi well and could also read, write and understand English. He stated that he was engaged in the business of trading of clothes, particularly ladies' suits and burkas, which he used to purchase from Dubai and sell in Delhi.

4.1 Shri Amir Ali further stated that on 30.08.2025, he travelled to Dubai by Air India flight from IGI International Airport, New Delhi for business purposes. He stated that his elder brother Anas was residing in Dubai and working as a taxi driver, and that he stayed with him at Deira, Dubai. He further stated that he returned to India from Dubai on 02.09.2025 by Fly Dubai Flight No. FZ-437 and arrived at SVPI Airport, Ahmedabad.

4.2 Shri Amir Ali stated that upon his arrival at SVPI Airport, Ahmedabad on 02.09.2025, he brought two trolley bags and concealed four cylindrical shaped solid pieces of gold of 24Kt purity, weighing approximately 150 grams, inside the wheels of one violet-coloured trolley bag by affixing the same therein so as to avoid detection by Customs or other enforcement agencies. He admitted that he did not declare the said gold before the Customs authorities and opted for the Green Channel.

4.3 Shri Amir Ali stated that during the examination of his baggage by officers of Air Intelligence Unit, Customs Ahmedabad, the violet-coloured trolley bag was found suspicious during scanning. He stated that all four wheels of the said trolley bag were removed and the concealed gold was recovered. He admitted that the said gold was illegally imported into India by him without declaration to Customs authorities.

4.4 Shri Amir Ali further stated that the recovered gold pieces were evaluated by a government approved valuer who melted the four cylindrical gold pieces having gross weight of 152.49 grams and converted the same into a gold bar. As per the **Valuation Certificate No. 547/2025-26 dated 02.09.2025**, the gold bar was purity of 999.0/24Kt with net weight of 151.91 grams and Market Value of Rs. 16,37,590/- and Tariff Value Rs.14,64,812/-. He stated that he had perused the said valuation certificate and signed the same in token of acceptance.

4.5 Shri Amir Ali further stated that the recovered gold had been purchased by him in Dubai in cash and that no bill or invoice was available with him in respect of the purchase of the said gold.

4.6 Shri Amir Ali further stated that after seizure of the said gold, the Customs officers seized the violet-coloured trolley bag used for concealment of the smuggled gold and deposited the seized goods in the Customs Warehouse in his presence after due sealing.

4.7 Shri Amir Ali admitted that he had deliberately opted for the Green Channel with the intention to smuggle the gold into India without declaring the same before Customs authorities and to evade payment of Customs duty.

4.8 Shri Amir Ali stated that he did not possess any immovable property and did not have any bank account. He further stated that he had perused the Panchnama dated 02.09.2025 and agreed with the contents thereof. He stated that his statement was given voluntarily, without any fear, threat or coercion, and that the same was true and correct.

LEGAL PROVISIONS:

5.1. According to the Customs Baggage Declaration (Amendment) Regulations, 2016 issued vide Notification 31/2016 (NT) dated 01.03.2016, all passengers who come to India and have anything to declare or are carrying dutiable or prohibited goods shall declare their accompanied baggage under Section 77 of the Customs Act, 1962.

5.2. All the dutiable articles imported into India by a passenger in his baggage are classified under CTH 9803. As per Section 77 of the Customs Act, 1962, the owner of any baggage shall for the purpose of clearing it, make a declaration of its contents to the proper officer. As per Section 11(1) of the Foreign Trade (Development and Regulation) Act,1992, no export or import shall be made by any person except in accordance with the provisions of Foreign Trade (Development and Regulation) Act, 1992, the Rules and Orders made there under and the Foreign Trade Policy for the time being in force.

5.3. In terms of Para 2.26 (a) of the Foreign Trade Policy 2015-2020, only bona fide household goods and personal effects are allowed to be imported as part of passenger baggage as per limits, terms and conditions thereof specified in the Baggage Rules notified by the Ministry of Finance. The gold can be imported by the banks (authorized by RBI) and the agencies nominated for the said purpose under Para 4.41 of Chapter-4 of Foreign Trade Policy or by "Eligible Passenger" as per the provision of Notification No. 50/2017- Customs dated 30.06.2017 (Sr. No. 356). As per Notification No. 50/2017- Customs dated 30.06.2017, the 'eligible passenger' means passenger of Indian origin or a passenger holding valid passport issued under the Passport Act, 1967 who is coming to India after a period of not less than 6 months of stay abroad.

The above said legal provisions are reproduced below:

5.4 As per Section 3(2) of the Foreign Trade (Development and Regulation) Act, 1992 the Central Government may by Order make provision for prohibiting, restricting or otherwise regulating, in all cases or in specified classes of cases and subject to such exceptions, if any, as may be made by or under the Order, the import or export of goods or services or technology.

5.5 As per Section 3(3) of the Foreign Trade (Development and Regulation) Act, 1992 all goods to which any Order under sub-section (2) applies shall be deemed to be goods the import or export of which has been prohibited under section 11 of the Customs Act, 1962 (52 of 1962) and all the provisions of that Act shall have effect accordingly.

5.6 As per Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 no export or import shall be made by any person except in accordance with the provisions of this Act, the rules and orders made thereunder and the foreign trade policy for the time being in force.

5.6.1.1 Para 2.26 (a) of the Foreign Trade Policy 2015-2020:
Bona-fide household goods and personal effects may be imported as part of passenger baggage as per limits, terms and conditions thereof in Baggage Rules notified by the Ministry of Finance.

5.6.1.2 Para 4.41 of the Foreign Trade Policy 2015-2020:
Nominated Agencies: -

(i) Exporters may obtain gold / silver / platinum from Nominated Agency. Exporter in EOU and units in SEZ would be governed by the respective provisions of Chapter-6 of FTP / SEZ Rules, respectively.

(ii) Nominated Agencies are MMTC Ltd, The Handicraft and Handlooms Exports Corporation of India Ltd, The State Trading Corporation of India Ltd, PEC Ltd, STCL Ltd, MSTC Ltd, and Diamond India Limited.

(iii) Notwithstanding any provision relating to import of gold by Nominated Agencies under Foreign Trade Policy (2015-2020), the import of gold by Four Star and Five Star Houses with Nominated Agency Certificate is subjected to actual user condition and are permitted to import gold as input only for the purpose of manufacture and export by themselves during the remaining validity period of the Nominated Agency certificate.

(iv) Reserve Bank of India can authorize any bank as Nominated Agency.

(v) Procedure for import of precious metal by Nominated Agency (other than those authorized by Reserve Bank of India and the Gems &Jewellery units operating under EOU and SEZ schemes) and the monitoring mechanism thereof shall be as per the provisions laid down in Hand Book of Procedures.

(vi) A bank authorized by Reserve Bank of India is allowed export of gold scrap for refining and import standard gold strips as per Reserve Bank of India guidelines.

5.7. Condition 41 of Sl. No. 356 of CBIC Customs Notification No. 50/2017 dated 30.06.2017 where the condition regarding import of gold by passenger is regulated in the following manner:
If,
1. (a) the duty is paid in convertible foreign currency;

(b) the quantity of import does not exceed ten kilograms of gold and one hundred kilograms of silver per eligible passenger; and

2. the gold or silver is, -

(a) carried by the eligible passenger at the time of his arrival in India, or

(b) the total quantity of gold under items (i) and (ii) of Sr. No. 356 does not exceed one kilogram and the quantity of silver under Sr. No. 357 does not exceed ten kilograms per eligible passenger; and

(c) is taken delivery of from a customs bonded warehouse of the State Bank of India or the Minerals and Metals Trading Corporation Ltd., subject to the conditions 1;

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

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

5.8 Baggage Rules, 2016–

5.8.1. 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 his bona fide baggage of Jewellery up to a weight, of twenty grams with a value cap of fifty thousand rupees if brought by a gentleman passenger, or forty grams with a value cap of one lakh rupees, if brought by a lady passenger".

5.8.2. A combined reading of the above-mentioned legal provisions under Foreign Trade Regulations, the Customs Act, 1962 and the notifications issued therein - clearly indicate that import of gold including gold Jewellery through Baggage is Restricted and conditions have been imposed on the said imports 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 those mandatory conditions can import gold as a part of their bona fide personal baggage and the same has to be declared to the Customs at the time of their arrival and applicable duty paid. These conditions are nothing but restrictions imposed on the import of gold through passenger baggage. Further, from the foregoing legal provisions of Foreign Trade Policy, 2015-2020 read with Reserve Bank of India circulars issued under Foreign Exchange Management Act (FEMA), Notifications issued by the Government of India and Circular issued by CBIC, it is evident that no one can import gold in any other manner as not explicitly stated/permitted above.

5.9. In exercise of powers conferred by Section 3 read with Section 5 of FT (D&R) Act, 1962, read with paragraph 1.02 and 2.01 of the Foreign Trade Policy, 2015-2020, as amended from time to time, the Central Government vide DGFT's Notification No. 49/2015-2020 dated 5th January, 2022 made amendment in import policy conditions of gold in any form Chapter 71 of ITC (HS), 2017, Schedule-1 (Import Policy) as under:

ITC(HS) Code	Item Description	Policy	Existing Policy Condition	Revised Policy Condition
71061000	Powder	Restricted	Import is allowed only through nominated agencies as notified by RBI (in case of banks) and DGFT (for other agencies).	No change in existing Policy Condition
71069110	Unwrought: Grains	Restricted	Import is allowed only through nominated agencies as notified by RBI (in case of banks) and DGFT (for other agencies). Silver dore can be imported by refineries against a license with AU condition.	No change in existing Policy Condition
71069190	Unwrought: Others			
71069210	Sheets, plates, strips, tubes and pipes	Restricted	Import is allowed only through nominated agencies as notified by RBI (in case of banks) and DGFT(for other agencies).	No change in existing Policy Condition
71069290	Other	Restricted	Import is allowed only through nominated agencies as notified by RBI (in case of banks) and DGFT(for other agencies).	No change in existing Policy Condition
71081100	Powder	Restricted	Import is allowed only through nominated agencies as notified by RBI (in case of banks) and DGFT (for other agencies).	No change in existing Policy Condition
71081200	Other unwrought forms	Restricted	Import is allowed only through nominated agencies as notified by RBI (in case of banks) and DGFT (for other agencies). Gold dore can be imported by refineries against a license with AU condition.	Import is allowed only through nominated agencies as notified by RBI (in case of banks), DGFT (for other agencies) and IFSCA(for qualified jewellers through India International Bullion Exchange) Gold Dore can be imported by refineries against an import license with AU condition.
71081300	Other semi-manufactured forms	Restricted	Import is allowed only through nominated agencies as notified by RBI (in case of banks) and DGFT (for other agencies).	No change in existing Policy Condition
71189000	Other	Restricted	Import is allowed only through nominated agencies as notified by RBI (in case of banks) and DGFT (for other agencies).	Import is allowed only through nominated agencies as notified by RBI (in case of banks), DGFT (for other agencies) and IFSCA(for qualified jewellers through India International Bullion Exchange).

5.9.1. As per the said Notification, the expression "*Gold in any form*" includes *gold in any form above 22 carats* under Chapter 71 of ITC (HS), 2017, Schedule-I (Import Policy).

5.10. Further, as per Section 2(33) of the Customs Act, 1962, 'prohibited goods' means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with, implying that any goods imported in violation of the conditions subject to which the goods are permitted to be imported are nothing but prohibited goods. Hence, smuggling of the Gold bar totally weighing 151.910 grams (Net Weight) having purity 999.0/24Kt. and Market Value of Rs.16,37,590/- and Tariff Value of Rs.14,64,812/- recovered from the trolley bag of the passenger Shri Amir Aliis in contravention of the Foreign Trade Policy 2015-20 read with the relevant notification issued under the Customs Act, 1962 & rules made thereunder, shall have to be treated as prohibited, by virtue of not being in conformity with the conditions imposed in the said Regulations. It is pertinent to note that any prohibition applies to every type of prohibition which may be complete or partial and even a restriction on import or export is to an extent a prohibition. Hence the restrictions imposed on the said imports are to an extent a prohibition and any violation of the said conditions/restrictions would make the impugned goods liable for confiscation under Section 111 of Customs Act, 1962.

5.11. Therefore, it appears that import of gold in contravention of the Foreign Trade Policy 2015-20 read with the Customs Act, 1962 and RBI circulars, as well as the Rules and regulations mentioned supra, shall have to be treated as prohibited, by virtue of not being in conformity with the conditions imposed in said Regulations.

5.12.1. As per Section 2(3)- "baggage includes unaccompanied baggage but does not include motor vehicles.

5.12.2 As per Section 2(22) of Customs Act, 1962 definition of 'goods' includes-

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

5.13 Section 2(33) of the Customs Act, 1962 -"Prohibited Goods" means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time 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.

5.14. 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.

5.15. Further, in terms of provisions under Section 123 of the Customs Act, 1962, it is the responsibility of the person who is in possession of the said gold/ silver or the person claiming ownership of the same, to prove that the same were not smuggled gold. Relevant provisions of Section 123 of the Customs Act, 1962 are as under:

Section 123: Burden of proof in certain cases. –			
(1)	*Where any goods to which this section applies are seized under this act in the reasonable belief that they are smuggled goods, the burden of proving that they are not smuggled goods shall be –*		
	(a)	*In a case where such seizure is made from the possession of any person, -*	
		(i)	*on the person from whose possession the goods were seized; and*
		(ii)	*if any person, other than the person from whose possession the goods were seized, claims to be the owner thereof, also on such other person.*
	(b)	*In any other case, on the person, if any, who claims to be the owner of the goods so seized.*	
(2)	*This section shall apply to gold and manufactures thereof, watches, and any other class of goods which the Central Government may by notification in the Official Gazette specify.*		

5.16. Section 111 of the Customs Act, 1962 provides for the confiscation of the goods which are imported improperly.

Section 111. Confiscation of improperly imported goods, etc. -
The following goods brought from a place outside India shall be liable to confiscation: -
(d) any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;

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

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

5.17. Section 112 of the Customs Act, 1962 provides the penalty on the persons for the improper import of the goods.

Section 112. Penalty for improper importation of goods, etc. -
Any person, -

(a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or

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

5.18. Section 119: Confiscation of goods used for concealing smuggled goods:
"Any goods used for concealing smuggled goods shall also be liable to confiscation".

6. From all the above paras, it appears that during the period relevant to this case, import of gold in any form (gold having purity above 22 carat) was restricted as per DGFT Notification and import was permitted only by nominated agencies. It clearly appears that import of goods whereof is allowed subject to certain conditions are to be treated as prohibited goods under Section 2(33) of the Customs Act, 1962 in case such conditions are not fulfilled. Gold is not allowed to be imported freely in baggage and it is permitted to be imported subject to fulfilment of certain conditions.

VIOLATION AND CONTRAVENTION OF THE VARIOUS PROVISIONS:

7.1. From the investigation conducted in the case, it appears that the aforesaid gold was imported into India in violation of the provisions of the Baggage Rules, 2016, as amended, in as much as gold or silver in any form, other than ornaments is not allowed to be imported free of duty. In the instant case, gold bar totally weighing 151.910 grams (Net Weight) having purity 999.0/24 Kt. and Market Value of Rs. 16,37,590/- and Tariff Value of Rs. 14,64,812/-, was brought to India as found concealed inside the trolley bag of the passenger Shri Amir Ali. Further, the said quantity of gold is more than the permissible limit allowed to a passenger under the Baggage Rules and for these reasons alone it cannot be considered as a Bonafide Baggage under the Customs Baggage Rules, 2016.

7.2. According to Section 77 of the Customs Act, 1962, the owner of any baggage, for the purpose of clearing it, is required to make a declaration of its contents to the proper Officer. In the instant case, the passenger had neither filed any such declaration, nor declared the said gold bar totally weighing 151.910

grams having purity of 24 Kt/999.0 because of mala fide intention and thereby contravened the provisions of Section 77 of the Customs Act, 1962. It therefore, appears that the said gold totally weighing 151.910 gms having purity of 24 Kt/999.0 recovered from the passenger Shri Amir Ali, was attempted to be smuggled into India with an intention to clear the same without discharging the Customs Duty payable thereon. It, therefore, appears that the said gold totally weighing 151.910grams having purity of 24 Kt/999.0 is liable for confiscation under the provisions of Section 111 of the Customs Act, 1962.

7.3. The seized goods, i.e. gold bar totally weighing 151.910 grams (Net Weight) having purity 999.0/24 Kt. and Market Value of Rs. 16,37,590/- and Tariff Value of Rs. 14,64,812/- recovered from the trolley bag of the passenger Shri Amir Ali has been attempted to be illegally smuggled into India without declaring before the Customs Authorities in violation of the provisions of the Customs Act, 1962 & FTP and Custom Baggage Rules in as much as no declaration was made under Section 77 of the Customs Act, 1962 in this case. Further, the said gold does not also appear to be allowed to be imported by the passenger keeping the restrictions on such import under the provisions of FTP and Customs Act, 1962. Hence, it appears that the said gold was brought into India with a motive to smuggle into India by way of fraudulently circumventing the restrictions and prohibitions imposed under the Customs Act 1962 and other allied Acts, Rules and Regulations. Therefore, the same prohibited goods may be treated as imported illegally into India and liable to confiscation under the provisions of Section 111(d) and (l) of the Customs Act, 1962.

7.4. In the instant case, one Gold bar totally weighing 151.910 grams (Net Weight) having purity 999.0/24 Kt. and Market Value of Rs. 16,37,590/- and Tariff Value of Rs. 14,64,812/- recovered from the trolley bag of the passenger Shri Amir Ali had been illegally smuggled into India without declaring before the Customs Authorities in violation of the provisions of the Customs Act, 1962 & FTP and Custom Baggage Rules. The said gold does not appear to be allowed to import by the passenger and aforesaid persons keeping the restrictions on such import under the provisions of FTP and Customs Act, 1962. Hence, it appears that the said gold had been brought into India with a motive to smuggle into India by way of fraudulently circumventing the restrictions and prohibitions imposed under the Customs Act 1962 and other allied Acts, Rules and Regulations. Therefore, the same prohibited goods may be treated as imported illegally into India and liable to confiscation under the provisions of Section 111(d) and (l) of the Customs Act, 1962.

7.5. Also, the passenger, Shri Amir Ali have failed to discharge their onus in terms of the provisions of Section 123 of the Custom Act,1962. These actions render the said gold quantity liable for confiscation and also rendered themselves liable for penal action under the Customs Act, 1962.

7.6. Further, the trolley bag used for concealing the above said is believed to be used for concealment is liable to confiscation under Section 119 of the Customs Act, 1962.

<u>ROLE OF SHRI AMIR ALI IN THE ABOVE SMUGGLING OF GOLD:</u>

8.1 From evidences gathered, both oral and documentary, available on records, Shri Amir Ali had attempted to smuggle Gold Bar having purity 999.0/24 Kt., totally weighing 151.910 grams (Net Weight) having purity 999.0/24 Kt. and

Market Value of Rs. 16,37,590/- and Tariff Value of Rs. 14,64,812/- found concealed inside his trolley bag, who had arrived from Dubai to Ahmedabad on 02.09.2025 via Fly Dubai flight no. FZ-437, at Terminal-2 of SVPIA Ahmedabad, with a deliberate intention to evade payment of Customs duty and fraudulently circumventing the restrictions and prohibitions imposed under the Customs Act, 1962 and other allied Acts, Rules and Regulations. The said passenger had knowingly and intentionally smuggled the said gold, and attempted to exit from the Green Channel of SVPI Airport, Ahmedabad with an intent to clear it illicitly to evade payment of Customs Duty. Therefore, the improperly imported gold by the passenger Shri Amir Ali, by way of concealment in trolley bag and without declaring it to Customs on arrival in India cannot be treated as Bonafide household goods or personal effects. Shri Amir Ali has thus contravened the Foreign Trade Policy 2015-20 and Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 read with Section 3(2) and 3(3) of the Foreign Trade (Development and Regulation) Act, 1992, as amended.

8.2 Shri Amir Ali by not declaring the gold brought by him totally weighing 151.910 gms having purity of 24Kt/999.0, found concealed inside his trolley bag, which included dutiable and prohibited goods to the proper officer of the Customs, contravened Section 77 of the Customs Act, 1962 read with Regulation 3 of Customs Baggage Declaration Regulations, 2013.

8.3 Shri Amir Ali deposed in his statement dated 02.09.2025 that he brought two trolley bags and concealed four cylindrical shaped solid pieces of gold of 24 Kt purity, weighing approximately 150 grams, inside the wheels of one violet coloured trolley bag by affixing the same therein so as to avoid detection by Customs or other enforcement agencies. He admitted that he did not declare the said gold before the Customs authorities and opted for the Green Channel.

8.4. Shri Amir Ali further stated that the recovered gold had been purchased by him in Dubai in cash and that no bill or invoice was available with him in respect of the purchase of the said gold.

8.5. From above, it appears that the passenger executed this smuggling operation, having prior knowledge of the concealment. The Gold was found concealed in his trolley bag for smuggling of gold. These activities were undertaken by the passenger with full awareness that such acts were illegal, unauthorized, and unsupported by proper documentation.

8.6. During the course of interception, the passenger Shri Amir Ali was enquired by the officers of Air Intelligence Unit, Customs Ahmedabad, whether, he wanted to declare any dutiable item before the Custom Authorities, to which he had denied. He did not have proper documents/purchase documents in respect of gold which was attempted to be smuggled. Hence, the passenger Shri Amir Ali appears to be main accused who conspired this smuggling.

8.7. The act of concealing the gold in the wheels of trolley bag ingeniously reveals that the act was done dodge the custom authority which itself suggests the mens-rea on the part of the passenger with a view to smuggled the gold avoided payment of Customs duty. It therefore, appears that the passenger Shri Amir Ali was not inclined to declare the goods viz. gold that he was carrying before the Customs Authorities. Thus, the gold bar recovered from the possession of the passenger Shri Amir Ali, was attempted to be smuggled by him into India illegally without declaration and payment of appropriate Customs duties.

8.8. In view of above, the smuggled gold by Shri Amir Ali, in the form gold bars totally weighing 151.910 gms having purity of 24Kt/999.0, found concealed inside his trolley bag, for the purpose of the smuggling/illegal import without declaring it to the Customs with intent to evade the Customs Duty and circumvent the restrictions and prohibitions imposed on the import of such Gold, have been thus rendered liable for confiscation under Section 111(d) and 111(l) read with Section 2 (22), (33), (39) of the Customs Act, 1962.By doing so, Shri Amir Ali has rendered himself liable to penalty under Section 112(a) of Customs Act, 1962.

8.9. Further, as per the facts discussed supra, the passenger Shri Amir Ali has concerned himself in the act of smuggling of gold which were recovered from his possession and knowingly violated the various provisions of Customs Act, 1962,Foreign Trade Policy 2015-20, Baggage Rules, 2016, Customs Notifications, etc., and also did not file the declaration under Section 77 of Customs Act, 1962 with respect to the subject gold with intend to evade the Customs Duty and to circumvent the restrictions and prohibitions imposed on import of subject gold which rendered the above goods liable to confiscation under Section 111(d) and 111(1) of the Customs Act, 1962. Shri Amir Ali was found concerned in carrying, keeping, concealing, illegally importing such gold which he knew are liable to confiscation under section 111 of Customs Act, 1962 and thereby rendered himself liable for penalty under Section 112(b) of Customs Act, 1962.

8.10. Shri Amir Ali has failed to discharge his onus in terms of the provisions of Section 123 of the Custom Act,1962. These actions render the said gold quantity liable for confiscation and also render penal action against him under the Customs Act, 1962.

8.11. As narrated above, Shri Amir Ali had not declared the gold before the customs authority and had not provided any legitimate document regarding purchase of the said gold. Further, Shri Amir Ali has also not provided the Bank account details to the customs authority. For these ommission and commission on his part, Shri Amir Ali has also rendered himself liable for penalty under Section 117 of Customs Act, 1962.

9. In view of the above, it appears that Gold Bar, having purity 999.0/24 Kt., totally weighing 151.910 grams (Net Weight) having purity 999.0/24 Kt. and Market Value of Rs. 16,37,590/- and Tariff Value of Rs. 14,64,812/- found concealed inside the trolley bag of Shri Amir Ali, who had arrived from Fly Dubai flight no. FZ 437 from Dubai to Ahmedabad, at Terminal-2 of SVPI Airport, Ahmedabad, placed under seizure under Panchnama proceedings dated 02.09.2025and Seizure Memo /Order dated 02.09.2025, are liable for confiscation under the provision of Section111(d) and 111(l) of the Customs Act, 1962; and the goods used for concealment of subject smuggled gold i.e. the violet-coloured trolley bag is liable for confiscation under Section 119 of the Customs Act, 1962. Further, the passenger Shri Amir Ali was found involved in the smuggling of the said Gold thereby violation of provisions of Customs Act, 1962, Foreign Trade Policy 2015-20, Baggage Rules, 2016, Customs Notifications, etc., is liable for penalty under the provisions of Section 112 and 117 of the Customs Act, 1962, for the omissions and commissions mentioned herein above.

10. Accordingly, a Show Cause Notice was issued to the noticees i.e. **Shri Amir Ali,** S/o Shri Asif Ali, R/o- House No. 88, Chak No. 15, Mohalla Seta Khera, Tehsil Tanda, Dist.-Rampur, Uttar Pradesh-244925, **as to why:**

(i) **01 Gold Bar totally weighing 151.910 grams,** having purity of 24 Kt/999.0 and Market Value of Rs.16,37,590/- and Tariff Value of Rs.14,64,812/-, derived after melting 04-Cylinder Piece of Gold Extracted from the Wheels of the Violet-Coloured Trolley Bag of Shri Amir Ali, who arrived from Dubai to Ahmedabad on 02.09.2025 via Fly Dubai Flight No. FZ-437, at Terminal-2 of SVPI Airport, Ahmedabad, placed under Seizure under Panchnama Proceedings dated 02.09.2025 and Seizure Memo Order dated 02.09.2025, should not be confiscated under the provision of Section 111(d) and 111(l) of the Customs Act, 1962;

(ii) **The Violet-Coloured Trolley Bag** used for concealment of the aforesaid gold Seized vide Seizure Memo dated 02.09.2025, should not be confiscated under the provision of Section 119 of the Customs Act, 1962

(iii) **Penalty should not be imposed** upon him under the provisions of Sections 112 of the Customs Act, 1962, for the omissions and commissions mentioned hereinabove.

(iv) **Penalty should not be imposed** separately upon him under the provisions of Sections 117 of the Customs Act, 1962, for the omissions and commissions mentioned hereinabove.

DEFENSE REPLY/ WRITTEN SUBMISSION:

11. **The Noticee i.e. Shri Amir Ali** has not submitted any Written Submission or Defense Reply against the allegations made against him in the Show Cause Notice issued.

RECORD OF PERSONAL HEARING:

12. **The Noticee i.e. Shri Amir Ali** was given opportunity for personal hearing on 10.04.2026, 21.04.2026 & 30.04.2026 but he failed to appear and represent the case. In the instant case, the noticee has been granted sufficient opportunity of being heard in person for three times but he failed to appear. In view of above, it is obvious that the Noticee is not bothered about the ongoing adjudication proceedings and he do not have anything to say in his defense. I am of the opinion that sufficient opportunities have been offered to the noticees in keeping with the principle of natural justice and there is no prudence in keeping the matter in abeyance indefinitely.

DISCUSSION AND FINDINGS:

13. I have carefully gone through the facts of the case. Though sufficient opportunity for filing reply and personal hearing had been given, the Noticee has not come forward to file reply/ submissions or to appear for the personal hearing opportunities offered to him. The adjudication proceedings cannot wait until the Noticee makes it convenient to file his submissions and appear for the personal hearing. I, therefore, take up the case for adjudication **ex-parte,** on the basis of evidences available on record.

13.1 Before, proceeding further, I would like to mention that Hon'ble Supreme Court, High Courts and Tribunals have held, in several judgments/decision, that ex-parte decision will not amount to violation of principles of Natural Justice. In support of the same, I rely upon some the relevant judgments/orders which are as under-

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;

"7. 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 <u>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.</u>

8. Having regard to the aforesaid discussions and admitted position with regard to non-submission of reply to the SCN, <u>we failed to appreciate the contention of the petitioner that principle of natural justice has not been complied in the instant case</u>. 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."

13.2 From the evidence available on record, including the Panchnama dated 02.09.2025, the statement of Shri Amir Ali recorded on 02.09.2025 under the provisions of Section 108 of the Customs Act, 1962, I find that Shri Amir Ali was engaged himself in the act of smuggling through Sardar Vallabhbhai Patel International (SVPI) Airport, Ahmedabad. He carried out with deliberate intention and prior planning to smuggle gold into India. It was also noted that he had failed to discharge the burden of proof regarding lawful possession under Section 123 of the Customs Act, 1962 and had not provided any supporting financial or purchase documents. Shri Amir Ali was liable for penal action for violating customs laws and attempting illegal import of gold.

14. **<u>Role Played by the Noticee Shri Amir Ali:</u>** I find from the Statement of the Noticee, Panchnama and other evidences available with records, the noticees Shri Amir Ali was actively involved in the smuggling of gold into India from Dubai and played a crucial role as a carrier in the illicit operation. It was observed from the oral and documentary evidence on record that Shri Amir Ali had allegedly attempted to smuggle a gold bar of 24Kt purity weighing 151.910 grams, valued at Rs.16,37,590/-, by concealing it in his trolley bag while arriving from Dubai to Ahmedabad on 02.09.2025 via Fly Dubai flight FZ-437. I find that he had tried to evade customs duty by passing through the Green Channel without declaring the gold, which was therefore not considered as bona fide household goods or personal effects. Accordingly, it was alleged that he had violated provisions of the Customs Act, 1962, as well as the Foreign Trade Policy and related laws governing import restrictions.

14.1 I further find that he had failed to declare the concealed gold before the proper customs officer, thereby allegedly violating Section 77 of the Customs Act, 1962 read with the Customs Baggage Declaration Regulations, 2013. In his statement recorded on the same day, he reportedly admitted that he had concealed four cylindrical pieces of gold inside the wheels of a violet-coloured trolley bag with the intention of avoiding detection, and that he had chosen the Green Channel deliberately without making any declaration. He also stated that the gold had been purchased in cash in Dubai without any invoice or supporting documents.

14.2 I find that during interception by the Air Intelligence Unit, he had denied carrying any dutiable goods but was later found in possession of the concealed gold, which was subsequently recovered and valued by a government-approved valuer. Based on these circumstances and his admissions, the authorities inferred that the act had been carried out with prior planning and deliberate intention to smuggle gold into India, demonstrating knowledge of its illegality and absence of lawful documentation.

14.3 I find that he had failed to discharge the burden of proof regarding lawful possession under Section 123 of the Customs Act, 1962 and had not produced any purchase records or financial details. Consequently, I find that the seized gold was liable for confiscation under Sections 111(d) and 111(l) of the Customs Act, 1962, and that the trolley bag used for concealment was also liable for confiscation under Section 119. It was further concluded that Shri Amir Ali had rendered himself liable for penalties under Sections 112(a), 112(b) and 117 of the Customs Act, 1962 for knowingly engaging in the alleged act of smuggling and violating customs regulations and allied laws.

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

(i) **01 Gold Bar** totally weighing 151.910 grams**,** having purity of 24Kt/999.0 and Market Value of Rs.16,37,590/- and Tariff Value of Rs.14,64,812/-, derived after melting 04-Cylinder Piece of Gold Extracted from the Wheels of the Violet-Coloured Trolley Bag of Shri Amir Ali, who arrived from Dubai to Ahmedabad on 02.09.2025 via Fly Dubai Flight No. FZ-437, at Terminal-2 of SVPI Airport, Ahmedabad, placed under Seizure under Panchnama Proceedings dated 02.09.2025 and Seizure Memo Order dated 02.09.2025, on a reasonable belief that the same is liable for confiscation under Section 111 of the Customs Act, 1962 or not;

(ii) **The Violet-Coloured Trolley Bag** used for concealment of the aforesaid gold Seized vide Seizure Memo dated 02.09.2025, on a reasonable belief that the same is liable for confiscation under Section 119 of the Customs Act, 1962 or not;

(iii) **The noticees Shri Amir Ali** is liable for penal action under the provisions of Section 112 and 117 of the Customs Act, 1962 or not.

16. I find that the Panchnama has clearly drawn out the fact, that, **Shri Amir Ali** was arrived from Dubai to Ahmedabad at the arrival Hall of the SVPIA, on dated 02.09.2025 and he was attempting to exit through green channel without making any declaration to the Customs. Therefore, the AIU officers questioned the said passenger that as to whether he was carrying any dutiable/contraband goods in person or in his baggage, to which he denied. Then, the officers informed him that a personal search to be carried out as well as his baggage. Accordingly, the AIU officers asked him to pass through the Door Frame Metal Detector (DFMD) installed at the arrival hall after removing all the metallic substances. The passenger passed through the DFMD machine, but no beep sound was heard in the DFMD machine and it was indicating that there was nothing objectionable/dutiable on his body/clothes.

16.1 However, the passenger was carrying one violet-coloured trolley bag bearing a "Swiss Rider" tag and one grey-coloured trolley bag, the officers scanned his trolley bags in the X-Ray Machine. While nothing suspicious was found in the grey-coloured trolley bag, suspicious images were detected in the violet-coloured trolley bag, which led to its detailed examination. During this examination, four cylindrical-shaped metallic pieces were recovered from the wheels of the bag, which appeared to be gold. Accordingly, the AIU officers questioned the said passenger about the concealed items, Shri Amir Ali reportedly admitted that the cylindrical pieces were gold which he had purchased illegally in Dubai and had concealed in the trolley bag to avoid detection. It was also stated that he had not declared the said gold to the customs authorities at Ahmedabad Airport with the intention of evading applicable customs duty. Thereafter, the officers contacted a Government-approved valuer, Kartikey Vasantrai Soni, for examination and valuation of the suspected gold items.

17. It is on record that Shri Kartikey Vasantrai Soni, the Government Approved Valuer, reportedly examined and informed that the said 04 cylindrical shaped pieces are of gold and the gross weight of these 04 articles is 152.49 grams. He converted the 04 cylindrical shaped pieces of gold into one gold bar weighing 151.91 grams (Net Weight) after melting them in his furnace. As per **Certificate No. 547/2025-26 dated 02.09.2025**, the gold bar was certified to have a purity of 999.0/24Kt, net weighing **151.910** grams with a total Market Value of **Rs.16,37,590/-**(Rupees Sixteen Lakhs Thirty-Seven Thousand Five Hundred Ninety Only) and Tariff Value of **Rs.14,64,812/-** (Rupees Fourteen Lakhs Sixty-Four Thousand Eight Hundred Twelve Only).

18. Accordingly, the said Gold Bar (Derived after melting 04-Cylinder Piece of Gold Extracted from the Wheels of the Violet-Coloured Trolley Bag) having purity 999.0/24Kt. weighing **151.910 Grams**, recovered from noticee was placed under seizure vide **Seizure Order dated 02.09.2025** issued under the provisions of Section 110(1) and 110(3) of the Customs Act, 1962, on the reasonable belief that the said gold had been carried and attempted to be cleared through Customs without any legitimate Import documents inside the Customs Area, therefore the same fall under the category of Smuggled Goods and smuggled into India by the said noticee with an intention to evade payment of Customs duty and accordingly the same was liable for confiscation under the Customs Act, 1962 read with Rules and Regulation made thereunder.

18.1 I also find that the said 01 Gold Bar (Derived after melting 04-Cylinder Piece of Gold Extracted from the Wheels of the Violet-Coloured Trolley Bag) weighing **151.910 Grams** (Net Weight), having Market Value of **Rs.16,37,590/-** and Tariff Value of **Rs.14,64,812/-** was carried by the passenger appeared to be "smuggled goods" as defined under Section 2(39) of the Customs Act, 1962. The offence committed is admitted by the passenger in his statement recorded on 02.09.2025 under Section 108 of the Customs Act, 1962.

19. I also find that the noticee had neither questioned the manner of the Panchnama proceedings at the material time nor controverted the facts detailed in the Panchnama during the course of recording his statement. Every procedure conducted during the Panchnama by the Officers was well documented and made in the presence of the Panchas as well as the noticee. In fact, Shri Amir Ali, in his statement recorded under Section 108 of the Customs Act, 1962 on 02.09.2025 before the Superintendent of Customs at SVPI Airport, Ahmedabad, disclosed that he was a resident of Rampur, Uttar Pradesh and had studied up to the 5th standard. He further stated that he was engaged in the business of trading ladies' garments such as suits and burkas, which he used to purchase from Dubai and sell in Delhi, and that he was able to read, write, and understand Hindi and English.

19.1 It was further stated that he had travelled to Dubai on 30.08.2025 from New Delhi via Air India flight for business purposes and had stayed with his elder brother, who was working as a taxi driver in Dubai. He also stated that he returned to India on 02.09.2025 by Fly Dubai Flight No. FZ-437 and arrived at SVPI Airport, Ahmedabad carrying two trolley bags. It was further reported that he admitted that, upon arrival, he had concealed four cylindrical pieces of 24 Kt gold weighing about 150 grams inside the wheels of a violet-coloured trolley bag with the intention of avoiding detection by customs authorities. He further stated that he had deliberately opted for the Green Channel and had not declared the gold to customs officials. It was also stated that the baggage was found suspicious during scanning by the Air Intelligence Unit, and upon detailed examination, the concealed gold was recovered and later refined by a government-approved valuer into a gold bar of 999 purity weighing 151.91 grams, valued at Rs. 16,37,590/-.

19.2 It was further stated that he had purchased the gold in Dubai using cash without any invoice or supporting document, and that the seized gold and trolley bag were taken into customs custody and deposited in the warehouse. He also admitted that he had intentionally used the Green Channel to smuggle the gold and evade customs duty, and confirmed that his statement was voluntary, true, and recorded without coercion, while also acknowledging the contents of the Panchnama dated 02.09.2025. I find from the content of the statement, that said smuggled gold was clearly meant for commercial purpose and hence do not constitute bonafide baggage within the meaning of Section 79 of the Customs Act, 1962. I find from the statement that the said goods were also not declared before Customs and he had to clear the gold without payment of Customs duty, he did not make any declarations in this regard. He admitted that he had opted for green channel so that he could attempt to smuggle the Gold without paying customs duty and thereby violated provisions of the Customs Act, the Baggage Rules, the Foreign Trade (Development & Regulations) Act, 1992 as amended, the Foreign Trade (Development & Regulations) Rules, 1993 as amended and the Foreign Trade Policy 2015-2020.

20. Further, the noticee has accepted that he had not declared the said gold concealed by him, on his arrival to the Customs authorities. It is clear case of non-declaration with an intent to smuggle the gold. Accordingly, there is sufficient evidence to say that the noticee had kept the said 01 Gold Bar (Derived after melting 04-Cylinder Piece of Gold Extracted from the Wheels of the Violet-Coloured Trolley Bag) having net weight **151.910 Grams**, having purity of 24Kt/999.0 was concealed in the trolley bag in form of 04-Cylinder Piece of Gold in order to conceal the same and failed to declare the same before the Customs Authorities on his arrival at SVPIA, Ahmedabad. The case of smuggling of gold recovered from him possession and which was kept undeclared with an intent of smuggling the same and in order to evade payment of Customs duty is conclusively proved. Thus, it is proved that the passenger 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 as amended, and para 2.26 of the Foreign Trade Policy 2015-20 as amended. 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.

21. From the facts discussed above, it is evident that noticee had carried the said gold weighing **151.910 Grams**, while arriving from Dubai to Ahmedabad (AMD), with an intention to smuggle and remove the same without payment of Customs duty, thereby rendering the said gold of 24Kt/999.00 purity totally weighing 151.910 Grams, liable for confiscation, under the provisions of Sections 111(d) and 111(l) of the Customs Act, 1962. By concealing the said 01 Gold Bar (Derived after melting 04-Cylinder Piece of Gold Extracted from the Wheels of the Violet-Coloured Trolley Bag) not declaring the same before the Customs, it is established that the noticee had a clear intention to smuggle the gold clandestinely with the deliberate intention to evade payment of Customs duty. The commission of above act made the impugned goods fall within the ambit of 'smuggling' as defined under Section 2(22), 2(33) and 2(39) of the Customs Act,1962.

22. It is seen that for the purpose of customs clearance of arriving passengers, a two-channel system is prescribed/adopted i.e. Green Channel for passengers not having dutiable goods and Red Channel for passengers having dutiable goods and all passengers have to ensure to file correct declaration of their baggage. *I find that the Noticee had not filed the baggage declaration form and had not declared the said gold which was in his possession, as envisaged under Section 77 of the Act read with the Baggage Rules and Regulation 3 of Customs Baggage Declaration Regulations, 2013* and he was tried to exit through Green Channel which shows that the noticee was trying to evade the payment of eligible customs duty. I also find that the definition of "eligible passenger" is provided under Notification No. 50/2017- Customs New Delhi, the 30th June, 2017 wherein it is mentioned as - *"eligible passenger" means a passenger of Indian origin or a passenger holding a valid passport, issued under the Passports Act, 1967 (15 of 1967), who is coming to India after a period of not less than six months of stay abroad; and short visits, if any, made by the eligible passenger during the aforesaid period of six months shall be ignored if the total duration of stay on such visits does not exceed thirty days*. I find that the noticee has not declared the gold before customs authority. It is also observed that the imports were also for non-bonafide purposes. Therefore, the said improperly imported gold weighing 151.910 grams concealed by him, without declaring to the Customs on arrival in India cannot be treated as bonafide household goods or personal effects. The noticee has thus contravened the Foreign Trade Policy 2015-20 as amended and Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 read with Section 3(2) and 3(3) of the Foreign Trade (Development and Regulation) Act, 1992.

23. It, is therefore, proved that by the above acts of contravention, the noticee has rendered the said gold weighing 151.910 grams, having Market Value of Rs.16,37,590/- (Rupees Sixteen Lakhs Thirty-Seven Thousand Five Hundred Ninety Only) and Tariff Value of Rs.14,64,812/-(Rupees Fourteen Lakhs Sixty-Four Thousand Eight Hundred Twelve Only) recovered from the noticee and placed under Seizure Under Panchnama Proceedings dated 02.09.2025 and Seizure Memo Order dated 02.09.2025 liable to confiscation under the provisions of Sections 111(d) and 111(l) of the Customs Act, 1962. By using the modus of concealing the 01 Gold Bar (Derived after melting 04-Cylinder Piece of Gold

Extracted from the Wheels of the Violet-Coloured Trolley Bag) concealed in the Wheels of the Violet-Coloured Trolley Bag in 04-Cylinder Piece of Gold form, it is observed that the noticee was fully aware that the import of said goods is offending in nature. It is, therefore, very clear that he has knowingly carried the gold and failed to declare the same on his arrival at the Customs Airport. *It is seen that he has involved himself in carrying, keeping, concealing, and dealing with the impugned goods in a manner which he knew or had reasons to believe that the same is liable to confiscation under the Act.* It is, therefore, proved beyond doubt that the Noticee has committed an offence of the nature described in Section 112 of the Customs Act, 1962 making him liable for penalty under Section 112 of the Customs Act, 1962.

24. I find that the Noticee confessed of carrying the said 01 Gold Bar (Derived after melting 04-Cylinder Piece of Gold Extracted from the Wheels of the Violet-Coloured Trolley Bag) of 151.910 grams concealed by him and attempted to remove the said gold from the Airport without declaring it to the Customs Authorities violating the Para 2.26 of the Foreign Trade Policy 2015-20 and Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 read with Section 3(2) and 3(3) of the Foreign Trade (Development and Regulation) Act, 1992 further read in conjunction with Section 11(3) of the Customs Act, 1962 and the relevant provisions of Baggage Rules, 2016 and Customs Baggage Declaration Regulations, 2013 as amended. As per Section 2(33) “prohibited goods” means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with. The improperly imported gold by the noticee without following the due process of law and without adhering to the conditions and procedures of import have thus acquired the nature of being prohibited goods in view of Section 2(33) of the Act.

25. It is quite clear from the above discussions that the 01 Gold Bar (Derived after melting 04-Cylinder Piece of Gold Extracted from the Wheels of the Violet-Coloured Trolley Bag) was concealed and not declared to the Customs with the sole intention to smuggle the same clandestinely and to evade payment of Customs duty. The record before me shows that the noticee did not choose to declare the prohibited/ dutiable goods with the willful intention to smuggle the impugned goods. The said 01 Gold Bar (Derived after melting 04-Cylinder Piece of Gold Extracted from the Wheels of the Violet-Coloured Trolley Bag) weighing **151.910 Grams**, having Market Value of **Rs.16,37,590/-** and Tariff Value of **Rs.14,64,812/-** recovered from the noticee and placed under Seizure Under Panchnama Proceedings dated 02.09.2025 and Seizure Memo Order dated 02.09.2025. Despite having knowledge that the goods had to be declared and such import without declaration and by not discharging eligible customs duty, is an offence under the Act and Rules and Regulations made under it, the noticee had attempted to remove the said 01 Gold Bar (Derived after melting 04-Cylinder Piece of Gold Extracted from the Wheels of the Violet-Coloured Trolley Bag) weighing 151.910 Grams, by deliberately not declaring the same by him on arrival at airport with the willful intention to smuggle the impugned gold into India. I, therefore, find that the passenger has committed an offence of the nature described in Section 112(a) & 112(b) of the Customs Act, 1962 making him liable for penalty under the provisions of Section 112 of the Customs Act, 1962.

26. I further find that the gold is not on the list of prohibited items but import of the same is controlled. The view taken by the Hon’ble Supreme Court in the case of Om Prakash Bhatia however in very clear terms lay down the principle that if importation and exportation of goods are subject to certain prescribed conditions, which are to be fulfilled before or after clearance of the goods, non-fulfilment of such conditions would make the goods fall within the ambit of 'prohibited goods' This makes the gold seized in the present case "prohibited goods" as the noticee, trying to smuggle it and was not eligible passenger to bring it in India or import gold into India in baggage as per the prescribed conditions. The said 01 Gold Bar (Derived after melting 04-Cylinder Piece of Gold Extracted from the Wheels of the Violet-Coloured Trolley Bag) weighing 151.910 Grams, was recovered from his possession, and was kept undeclared with an intention to smuggle the same and evade payment of Customs duty. Further, the noticee concealed the 01 Gold Bar (Derived after melting 04-Cylinder Piece of Gold Extracted from the Wheels of the Violet-Coloured Trolley Bag) in the trolley bag in order to conceal the same. By using this modus, it is proved that the goods are offending in nature and therefore prohibited on its importation. Here, conditions are not fulfilled by the passenger.

27. In view of the above discussions, I find that the manner of concealment, in this case clearly shows that the noticee had attempted to smuggle the seized gold to avoid detection by the Customs Authorities. ***Further, no evidence has been produced/ submitted to prove licit import of the seized* 01 Gold Bar (Derived after melting 04-Cylinder Piece of Gold Extracted from the Wheels of the Violet-Coloured Trolley Bag), *which shows that the noticee has nothing to submit in his defense and sole purpose of the noticee to smuggle the same into India and to avoid the payment of duty without declaring the same before customs authority at airport. Thus, the noticee has failed to discharge the burden placed on him in terms of Section 123.*** Further, from the SCN, Panchnama and Statement, I find that the manner of concealment of the gold is ingenious in nature, as the noticee concealed the 01 Gold Bar (Derived after melting 04-Cylinder Piece of Gold Extracted from the Wheels of the Violet-Coloured Trolley Bag) in order to conceal the same with intention to smuggle the same into India and evade payment of customs duty. Therefore, I hold that the said 01 Gold Bar (Derived after melting 04-Cylinder Piece of Gold Extracted from the Wheels of the Violet-Coloured Trolley Bag) weighing 151.910 grams, carried and undeclared by the Noticee with an intention to clear the same illicitly from Airport and evade payment of Customs duty is liable for absolute confiscation. Further, the Noticee in his statement dated 02.09.2025 stated that he had carried the said gold by concealment to evade payment of Customs duty. In the instant case, I find that the gold was carried by the Noticee for getting monetary benefit/ personal benefit and that too by concealment of the said 01 Gold Bar (Derived after melting 04-Cylinder Piece of Gold Extracted from the Wheels of the Violet-Coloured Trolley Bag) in the trolley bag in order to conceal the same. ***I am therefore, not inclined to use my discretion to give an option to redeem the gold on payment of redemption fine, as envisaged under Section 125 of the Act.***

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

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

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

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

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

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

28.4 The Hon'ble High Court of Madras in the matter of Commissioner of Customs (AIR), Chennai-I Versus P. Sinnasamy 2016 (344) E.L.T. 1154 (Mad.) held-

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

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

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

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

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

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

29. Given the facts of the present case before me and the judgments and rulings cited above, the said 01 gold bar (Derived after melting 04-Cylinder Piece of Gold Extracted from the Wheels of the Violet-Coloured Trolley Bag) weighing 151.910 grams, carried by the noticee is therefore liable to be confiscated absolutely. **I therefore hold in unequivocal terms that the said 01 Gold Bar (Derived after melting 04-Cylinder Piece of Gold Extracted from the Wheels of the Violet-Coloured Trolley Bag) weighing 151.910 grams, placed under seizure would be liable to absolute confiscation under Section 111(d) and 111(l) of the Customs Act, 1962**. **The Violet-Coloured Trolley Bag, having 'Swiss Rider' tag, used for concealment of the aforesaid Gold in the form of 04-Cylinder Piece of Gold, placed under seizure vide Seizure Memo dated 02.09.2025 were also liable for absolutely confiscation under the provisions of Section 119 of the Customs Act, 1962.**

30. As regard to imposition of penalty under Section 112 of Customs Act,1962 in respect of Noticee **Shri Amir Ali**, I find that in the instant case, the principle of mens-rea on behalf of noticee is established as the noticee has failed to follow the procedure and intentionally involved in smuggling of the gold and deliberately concealed the gold in form of 01 Gold Bar (Derived after melting 04-Cylinder Piece of Gold Extracted from the Wheels of the Violet-Coloured Trolley Bag) in the trolley bags in order to conceal the same, thus, established that the concealment of said gold is ingenious in nature. On deciding the penalty in the instant case, I also take into consideration the observations of Hon'ble Apex Court laid down in the judgment of M/s. Hindustan Steel Ltd Vs. State of Orissa; wherein the Hon'ble Apex Court observed that *<u>"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."</u>* In the instant case, the noticee was attempting to smuggled the 01 Gold Bar (Derived after melting 04-Cylinder Piece of Gold Extracted from the Wheels of the Violet-Coloured Trolley Bag) and attempting to evade the Customs Duty by not declaring the gold weighing 151.910 grams having purity of 999.0/24Kt. 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. I further find that the noticee had involved himself and abetted the act of smuggling of the said 01 Gold Bar (Derived after melting 04-Cylinder Piece of Gold Extracted from the Wheels of the Violet-Coloured Trolley Bag) weighing 151.910 grams, carried by him by concealment. He has agreed and admitted in his statement that he travelled from Dubai to Ahmedabad with the said 01 Gold Bar (Derived after melting 04-Cylinder Piece of Gold Extracted from the Wheels of the Violet-Coloured Trolley Bag) concealed in the trolley bag. Despite his knowledge and belief that the gold carried by him is an offence under the provisions of the Customs Act,1962 and the Regulations made under it, the noticee attempted to smuggle the said gold of 151.910 grams, having purity 999.0/24kt by concealment. Thus, it is clear that the noticee has concerned himself with carrying, removing, keeping, concealing and dealing with the smuggled gold which he knows very well and has reason to believe that the same are liable for confiscation under Section 111 of the Customs Act, 1962. Accordingly, I find that the noticee is liable for the penalty under Section 112(a) and Section 112(b) of the Customs Act,1962.

Accordingly, I hold that the noticee **Shri Amir Ali** is liable for penalty under **Sections 112(a) and 112(b) of the Customs Act, 1962** and impose the same.

31. Regarding imposition of penalty under Section 117 of Customs Act, 1962, I find that Section 117 of Customs Act, 1962 provide for imposition of penalty on any person who contravenes any provision of the said Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, to be liable to a penalty not exceeding four lakhs rupees. The maximum amount of penalty prescribed under Section 117 initially at Rs. One lakh was revised upwards to Rs. Four lakhs, with effect from 01.08.2019. The detailed discussions in the preceding paragraphs clearly prove that the noticees not only failed to fulfill the conditions but also failed to abide by the responsibilities reposed on them as per the provision of Customs Act. Hence, there are clear violations of the Section 77 & Section 79 of the Customs Act, 1962. Hence, it is, fit case for imposing penalty under Section 117 of Customs Act, 1962 on the Noticee **Shri Amir Ali.**

Thus, the noticee has thereby rendered the said goods liable for confiscation under Section 111(d) and 111(l) of the Customs Act, 1962. I also find that the noticee is liable for penalty under Section 112 and 117 of the Customs Act, 1962 for abovementioned acts of commission and omission.

32. Accordingly, given my above findings, I pass the following Order:

ORDER

i) **I order absolute confiscation of the 01 Gold Bar** (Derived after melting 04-Cylinder Piece of Gold Extracted from the Wheels of the Violet-Coloured Trolley Bag), having total weight 151.910 grams and having total **Market Value of Rs.16,37,590/-** (Rupees Sixteen Lakhs Thirty-Seven Thousand Five Hundred Ninety Only) and Tariff Value of Rs.14,64,812/-(Rupees Fourteen Lakhs Sixty-Four Thousand Eight Hundred Twelve Only) recovered from **Shri Amir Ali** who arrived on 02.09.2025 via Fly Dubai Flight No. FZ-437, at Terminal-2 of SVPI Airport, Ahmedabad, placed under Seizure Under Panchnama Proceedings dated 02.09.2025 and Seizure Memo Order dated 02.09.2025, under the provisions of Section 111(d) and 111(l) of the Customs Act, 1962;

ii) **I order absolute confiscation of the Violet-Coloured Trolley Bag** (having 'Swiss Rider' tag) carried by the noticee **Shri Amir Ali** and used for concealment of the aforesaid Gold in the form of 04-Cylinder Piece of Gold, placed under seizure vide Seizure Memo dated 02.09.2025, under the provisions of Section 119 of the Customs Act, 1962;

iii) **I impose a Penalty of Rs.4,00,000/-** (Rupees Four Lakh Only) on **Shri Amir Ali** under the provisions of Section 112(a) and 112(b) of the Customs Act, 1962;

iv) **I impose a Penalty of Rs.50,000/-** (Rupees Fifty Thousand Only) on **Shri Amir Ali** under the provisions of Section 117 of the Customs Act, 1962;

33. Accordingly, the Show Cause Notice No. VIII/10-71/SVPIA-A/O&A/HQ/2025-26 dated 23.02.2026 stands disposed of.

Digitally signed by
SHREE RAM VISHNOI
Date: 05-06-2026
16:42:00

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

DIN: 20260671MN0000552905
F. No. VIII/10-71/SVPIA-A/O&A/HQ/2025-26 **Date:05.06.2026**
By Post/ E-mail

To,
Shri Amir Ali,
S/o Shri Asif Ali R/o- House No. 88, Chak No. 15,
Mohalla Seta Khera, Tehsil Tanda,
Dist.-Rampur, Uttar Pradesh-244925

Copy to:

(i) The Principal Commissioner of Customs, Ahmedabad. (Kind Attn: RRA Section)
(ii) The Deputy Commissioner of Customs (AIU), SVPIA, Ahmedabad.
(iii) The Deputy Commissioner of Customs, SVPIA, Ahmedabad.
(iv) The Deputy Commissioner of Customs (TRC), Ahmedabad.
(v) The System In-Charge, Customs, HQ., Ahmedabad for uploading on the web-site.
(vi) Guard File.