



प्रधान आयुक्त का कार्यालय, सीमाशुल्क, अहमदाबाद

“सीमा शुल्क भवन,” पहली मंजिल, पुराने हाईकोर्ट के सामने, नवरंगपुरा, अहमदाबाद – 380 009.
दूरभाष : (079) 2754 4630 फैक्स : (079) 2754 2343 ई-मेल: cus-ahmd-adj@gov.in

SHOW CAUSE NOTICE

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

Two black coloured plastic wrapped capsule shape items were found by Shri Jignesh K Parmar, BVG Staff. (AEP No. AMD0240511) (Mobile No. 9727432565), who is engaged to clean toilets, situated at near baggage Belt No.6 at SVPI Airport, Ahmedabad, informed to Batch officer, Customs, SVPIA, Ahmedabad. Subsequently, the said Batch Officer informed this to the Officers of Customs, AIU, SVPIA, Ahmedabad for further investigation.

2. As the Information received, Shri Himanshu Garg, Deputy Commissioner, Shri Rakesh Kumar, Shri Suresh Allena, Shri Ravi Shankar Kumar, all three Superintendents of AIU, SVPI Airport, Ahmedabad and Shri Sumit Saxena, Inspector of Customs, SVPI Airport, Ahmedabad along with two panchas entered in the men's toilet which was totally/ completely vacant. The officers also took assistance of Shri Jignesh K. Parmar, BVG cleaning staff present at the spot on duty. In presence of the panchas the AIU officers and BVG staff Shri Jignesh K. Parmar, emptied the garbage bins kept inside the toilets cabin and also looked for any suspicious item inside the toilets at various spots. During the said search, two black coloured capsules were found lying behind the toilet seat cover of one of the toilet cabin by the BVG staff viz. Shri Jignesh K. Parmar. The same was handed over to the AIU officers.

3. Then the AIU officers came back to the AIU office located at the baggage Belt No.1 and 2 Arrival Hall of Terminal 2, SVPI Airport, Ahmedabad. The AIU officers noticed that the capsules were inexplicably heavy and informed to panchas, it appears that the capsules contains some semi solid material which appears to be suspicious. Hence, the

AIU officers called the Govt. Approved Valuer, Shri Kartikey Soni for testing of the said suspicious capsules. In reply the Govt. approved Valuer informed that the procedure of the testing is only possible at his workshop only as the gold is extracted from the semi-solid substance by melting it and he has given address of his workshop.

4. Thereafter, at around 11.30 AM on 14.12.2023, the AIU officers and panchas leave the Airport premises and reached the premises of Govt. approved Valuer viz. Shri Kartikey Soni located at 301, Golden Signature, Behind Ratnam Complex, Nr. National Handloom, C.G. Road, Ahmedabad 380006. Shri Kartikey Soni, Government Approved Valuer, after examining the said capsules put on the weighing scale and informed that the capsules wrapped with black coloured adhesive tape is having gross weight of 432.830 grams.

Before the removal of black coloured plastic wrapping.



5. Thereafter, the Govt. Approved Valuer removes the covering from the said capsules containing semi-solid substances and lead us to furnace which is nearby. Here, Shri Kartikey Soni starts the process of melting to convert semi solid substance to gold bar. So, he kept the capsules into furnace and upon heating the same, it turns into liquid material. Here, Shri Kartikey Soni informed that during this process of heating, the chemical substance evaporates and the metal portion is only left in the furnace. The said substance in liquid state is now taken out of furnace and poured in a bar shaped plate and after cooling for some time it turned into yellow coloured solid metal in form of bar. After completion of the procedure, Shri Kartikey Soni kept on weighing scale and informed that the gold bar derived from the semi solid substance comes to **381.490** grams and having purity of 999.00 (24 Kt.). The photograph is as under :



Shri Kartikey Soni, the Government Approved Valuer submitted Valuation Report (Annexure - A) Certification no. 985/2023-24 dated 14.12.2023 (**RUD-2**) the details of which are as under:

| Sr. No | Details of Items | PCS | Gross Weight in Grams | Net Weight in Grams | Purity | Market value (Rs) | Tariff Value (Rs) |
|--------|------------------------|-----|-----------------------|---------------------|---------------|-------------------|-------------------|
| 1 | GOLD BAR 999.0" | 1 | 432.830 | 381.490 | 999.0 24Kt | 24,60,611 | 21,19,318 |

6. As per the said Valuation Report, the Market Value of the said gold bar totally weighing 381.490 grams, having purity 999.0 (24Kt) is **Rs.24,60,611/-** (Rupees Twenty-Four Lakhs Sixty Thousand Six Hundred Eleven only) and total Tariff Value is **Rs.21,19,318/-** (Rupees Twenty One Lakhs, Nineteen Thousand, Three Hundred and Eighteen only), which has been calculated as per the Notification No. 89/2023-Customs (N.T.) dated 28-11-2023 (gold) and Notification No. 90/2023- Customs (N. T.) dated 07-12-2023 (exchange rate).

7. As the said Gold Bar found behind the seat cover of toilets situated at near baggage belt No. 6, Terminal -2, SVPIA Ahmedabad, it is not possible to identify as to who is the owner of the said gold bar and therefore as there was no claimant for the said Gold Bar and unable to identify any proper and legitimate claimant of the same and therefore the recovered **Gold Bar is termed as 'Unclaimed'**.

8. The recovered gold Bar totally weighing 381.490 Grams found to be "Unclaimed" and recovered without any legitimate Import documents inside the Customs Area, therefore, the same falls under the category of Smuggled Goods and stands liable for confiscation under the Customs Act, 1962. The Market value of the said gold Bar totally weighing 381.490 grams having purity 999 is Rs.24,60,611/- (Rupees Twenty Four Lakhs, Sixty Thousand Six Hundred Eleven only) and Tariff Value is Rs.21,19,318/- (Rupees Twenty One Lakhs, Nineteen Thousand, Three Hundred and Eighteen only), and the black tapes are placed under seizure under the reasonable belief that the subject unclaimed Gold is liable for confiscation under the Customs Act, 1962.

The Baggage Rules, 1998, as amended, states that gold or silver in any form, other than ornaments is not allowed free of duty. In the instant case, the Gold Bar derived from the semi-solid substance (02 capsules) totally weighing 381.490 Grams having purity of 24 KT/999.0 were recovered from the toilet cabin at Terminal -2, SVPIA Ahmedabad on 14.12.2023. It 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 1998. 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, no passenger had declared the said Gold Bar weighing 381.490 Grams having purity of 24 KT/999.0 because of malafide intention and thereby contravened the provision of Section 77 of the Customs Act, 1962. It therefore, appears that the said one Gold bar weighing 381.490 Grams having purity of 24 KT/999.0 derived from the capsules consisting gold and chemical mix paste weighing 432.830 grams is attempted to be smuggled into India with an intention to clear the same without discharging duty payable thereon. It, therefore, appears that said gold bar totally weighing 381.490 Grams having purity of 24 KT/999.0 is liable for confiscation under the provision of Section 111(d) of the Customs Act, 1962. Consequently, the said one Gold bar totally weighing 381.490 Grams having purity of 24 KT/999.0 and Market value of Rs.24,60,611/- (Rupees Twenty Four Lakhs, Sixty

Thousand Six Hundred Eleven only) and total Tariff Value is Rs.21,19,318/- (Rupees Twenty One Lakhs, Nineteen Thousand, Three Hundred and Eighteen only), found behind the seat cover of toilet at Terminal -2, SVPIA Ahmedabad was placed under seizure vide Panchanama dated 14.12.2023 by the AIU Officers of Customs under the reasonable belief that the subject Unclaimed Gold is liable for confiscation.

9. Legal provisions relevant to the case:

- (a)** As per para 2.26 of Foreign Trade Policy 2015-20 Bona-fide household goods and personal effects may be imported as part of passenger baggage as per limits, terms and conditions thereof in Baggage Rules notified by Ministry of Finance.
- (b)** 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.
- (c)** 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.
- (d)** 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.
- (e)** As per Section 11(3) of the Customs Act, 1962 any prohibition or restriction or obligation relating to import or export of any goods or class of goods or clearance thereof provided in any other law for the time being in force, or any rule or regulation made or any order or notification issued thereunder, shall be executed under the provisions of that Act only if such prohibition or restriction or obligation is notified under the provisions of this Act, subject to such exceptions, modifications or adaptations as the Central Government deems fit.
- (f)** As per Section 2(3) – “baggage includes unaccompanied baggage but does not include motor vehicles.
- (g)** 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;

(h) As per Section 2(33) of Customs Act 1962, prohibited goods means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force.

(i) As per Section 2(39) of the Customs Act 1962 'smuggling' in relation to any goods, means any act or omission, which will render such goods liable to confiscation under Section 111 or Section 113 of the Customs Act 1962.

(j) As per Section 77 of the Customs Act 1962 the owner of baggage shall, for the purpose of clearing it, make a declaration of its contents to the proper officer.

(k) As per Section 110 of Customs Act, 1962 if the proper officer has reason to believe that any goods are liable to confiscation under this Act, he may seize such goods.

(l) Any goods which are imported or attempted to be imported or brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force shall be liable to confiscation under section 111 (d) of the Customs Act 1962.

(m) Any dutiable or prohibited goods found concealed in any manner in any conveyance is liable for confiscation under Section 111(e) of the Customs Act, 1962.

(n) Any dutiable or prohibited goods found concealed in any manner in any package either before or after the unloading thereof are liable to confiscation under Section 111 (i) of the Customs Act 1962.

(o) 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 are liable to confiscation under Section 111 (j) of the Customs Act 1962.

(p) 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 are liable to confiscation under Section 111(l) of the Customs Act 1962.

(q) 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 are liable to confiscation under

Section 111(m) of the Customs Act 1962.

(r) As per Section 112 of the Customs Act 1962 any person, (a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under Section 111, or abets the doing or omission of such an act, or (b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harboring, keeping, concealing, selling or purchasing or in any manner dealing with any goods which he know or has reason to believe are liable to confiscation under Section 111, shall be liable to penalty.

(s) As per Section 119 of Customs Act 1962 any goods used for concealing smuggled goods shall also be liable for confiscation.

(t) As per Section 123 of Customs Act 1962 , (1) where any goods to which this section applies are seized under this Act in the reasonable belief that they are smuggled goods, the burden of proving that they are not smuggled goods shall be-

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

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

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

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

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

(u) 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.

Contravention and violation of laws:

10. It therefore appears that:

(i) An unknown passenger(s)/person(s) had attempted to smuggle/ improperly import One Gold Bar weighing 381.490 Grams having purity 24KT /999.0 and having Tariff Value of Rs.21,19,318/- (Rupees Twenty-One Lakhs Nineteen Thousand Three Hundred Eighteen Only) and Market Value of Rs.24,60,611/- (Rupees Twenty-Four Lakhs Sixty Thousand Six Hundred and Eleven only) derived from the semi-solid substance consisting of Gold & Chemical mix totally weighing 432.830 grams in form of capsules covered with black

adhesive tapes, with a deliberate intention to evade the payment of customs duty and fraudulently circumventing the restrictions and prohibitions imposed under the Customs Act, 1962 and other allied Acts, Rules and Regulations. The unknown passenger(s)/ person(s) had knowingly and intentionally smuggled the said gold in semi-solid form concealed in his body i.e. rectum covered with black adhesive tapes which was found behind the toilet seat cover situated at Opp. Baggage belt No. 6, Terminal-2, SVPI, Airport, Ahmedabad to clear it illicitly to evade payment of the Customs duty. Therefore, the improperly imported gold by the unknown passenger(s)/ person(s) by way of concealment without declaring it to the Customs on arrival in India cannot be treated as bonafide household goods or personal effects. The unknown passenger(s)/ person(s) has/ have 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.

(ii) The unknown passenger(s)/ person(s) who is/ are claiming the ownership, by not declaring the contents of the baggage which included dutiable and prohibited goods to the proper officer of the Customs has contravened Section 77 of the Customs Act, 1962 read with Regulation 3 of Customs Baggage Declaration Regulations, 2013.

(iii) The improperly imported/smuggled gold by unknown passenger(s)/person(s) who is/are claiming the ownership, concealed in a capsules covered with black and adhesive tapes which was found behind the seat cover of the toilet situated at Opp. Baggage belt No. 6, Terminal-2, SVPI, Airport, Ahmedabad for the purpose of the smuggling without declaring it to the Customs is thus liable for confiscation under Section 111(d), 111(f), 111(i), 111(j), 111(l) and 111(m) read with Section 2 (22), (33), (39) of the Customs Act, 1962 and further read in conjunction with Section 11(3) of Customs Act, 1962.

(iv) The unknown passenger(s)/person(s) who is/are claiming the ownership, by the above-described acts of omission/commission and/or abetment has/have rendered themselves liable to penalty under Section 112 of Customs Act, 1962.

(v) As per Section 123 of Customs Act 1962, the burden of proving that the One Gold Bar weighing 381.490 Grams having purity 24KT /999.0 and having Tariff Value of Rs.21,19,318/- (Rupees Twenty-One Lakhs Nineteen Thousand Three Hundred Eighteen Only) and Market Value of Rs.24,60,611/- (Rupees Twenty Four Lakhs Sixty Thousand Six Hundred and Eleven only) derived from the semi-solid substance consisting of Gold & Chemical mix totally weighing 432.830 grams concealed in a capsules covered with black adhesive tapes which was found near seat situated at Opp. Baggage belt No. 6, Terminal-2 , SVPI, Airport, Ahmedabad is not smuggled goods, is upon the said unknown passenger(s)/person(s) who is/are claiming the ownership of the said gold, who are the Noticee(s) in this case.

11. Now, therefore, the Noticee(s) i.e. unknown passenger(s)/person(s) who is/ are claiming the ownership of the said gold, is/ are hereby called upon to show cause in writing to the Additional Commissioner of Customs, having his office located at 2nd Floor, 'Custom House' Building, Near All India Radio, Navrangpura, Ahmedabad-380 009, as to why:

(i) The One Gold Bar weighing 381.490 Grams having purity 24KT /999.0 and having Tariff Value of Rs.21,19,318/- (Rupees Twenty One Lakhs Nineteen Thousand Three Hundred Eighteen Only) and Market Value of Rs.24,60,611/- (Rupees Twenty Four Lakhs Sixty Thousand Six Hundred and Eleven only) derived from the semi solid substance consisting of Gold & Chemical mix totally weighing 432.83 grams concealed in the form of capsule covered with black adhesive tapes which was found near seat situated at Opp. Baggage belt No. 6, Terminal-2 , SVPI, Airport, Ahmedabad placed under seizure under panchnama proceedings dated 14.12.2023

and Seizure Memo Order dated 14.12.2023, should not be confiscated under the provision of Section 111(d), 111(f), 111(i), 111(j), 111(l) and 111(m), of the Customs Act, 1962;

(ii) Penalty should not be imposed upon the unknown passenger(s)/ person(s) who is/are claiming the ownership of the said gold, under Sections 112 of the Customs Act, 1962, for the omissions and commissions mentioned hereinabove.

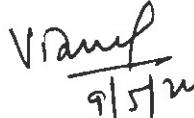
12. The unknown passenger(s)/ person(s) whoever is claiming ownership of the said Gold, is/ are further required to state specifically in the written reply as to whether he/she/they wish to be heard in person before the case is adjudicated. If no specific mention is made about this in the written reply, it shall be presumed that he/she/they do not wish to be heard in person in his/her submission, it would be presumed that he/she does not desire a personal hearing. The unknown passenger(s)/person(s) claiming ownership of the said Gold bar should produce at the time of showing cause, all the evidences which he/she/they intend to reply upon in defense.

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

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

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

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


(Vishal Malani)
Additional Commissioner
Customs, Ahmedabad.

DIN No. 20240571MN0000999AD9

F. No. : VIII/10-28/SVPIA-A/O&A/HQ/2024-25

Date :09.05.2024

To,

"Whom so ever it may concern"

- 1) To be pasted on the Notice Board of Custom House, Navrangpura, Ahmedabad-380009;
- 2) To be pasted on the Notice Board of Customs, SVPI Airport, Ahmedabad.

Copy to:

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