



प्रधान आयुक्त का कार्यालय, सीमा शुल्क ,अहमदाबाद
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DIN:20251271MN0000333C6C

PREAMBLE

A	फ़ाइल संख्या/ File No.	:	VIII/10-32/SVPIA-D/O&A/HQ/2025-26
B	कारण बताओ नोटिस संख्या-तारीख Show Cause Notice No. and Date	:	VIII/10-32/SVPIA-D/O&A/HQ/2025-26 Dated: 15.07.2025
C	मूल आदेश संख्या/ Order-In-Original No.	:	181/ADC/SRV/O&A/HQ/2025-26
D	आदेश तिथि/ Date of Order-In-Original	:	18.12.2025
E	जारी करने की तारीख/ Date of Issue	:	18.12.2025
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 Mohmed Ilyas Ibrahimbhai Indorwala 623/3, Astodiya, Kadva Sheri, Jamalpur, Ahmedabad, Gujarat-380001
1	यह प्रति उन व्यक्तियों के उपयोग के लिए निःशुल्क प्रदान की जाती है जिन्हें 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 इयूटी और जुर्माना विवाद में है या जुर्माना जहां इस तरह की दंड विवाद में है और अपील के साथ इस तरह के भुगतान का प्रमाण पेश करने में असफल रहने पर सीमा शुल्क अधिनियम, 1962 की धारा 129 के प्रावधानों का अनुपालन नहीं करने के लिए अपील को खारिज कर दिया जायेगा।		

BRIEF FACTS OF THE CASE:

On the basis of information received from officers at the Departure Hall of Terminal-2, SVPI Airport, Ahmedabad that one passenger namely **Shri Mohmed Ilyas Ibrahimbhai Indorwala** (hereinafter referred to as the “said pax”) holding Indian Passport bearing number C5364175 who was about to travel to Dubai from Ahmedabad by **Spice Jet** Flight No. **SG-15** on 22.01.2025 was carrying huge undeclared Foreign Currency by concealing the same in his baggage.

2. And, whereas, acting upon the aforesaid intelligence, the officers of Customs, Air Intelligence Unit (AIU), Sardar Vallabhbhai Patel International Airport (SVPIA), Ahmedabad intercepted the passenger Mohmed Ilyas Ibrahimbhai Indorwala in presence of two independent Panchas/witnesses and the proceedings thereof were recorded under the Panchnama dated 22.01.2025. Mohmed Ilyas Ibrahimbhai Indorwala S/o Ibrahimbhai Yusufbhai Indorwala, aged 62 years (DOB: 16/03/1963), was intercepted for further questioning at the Boarding Gate No. 08, First Floor of the departure hall of Terminal 2 after he has cleared Immigration and CISF security scanning and was waiting to board Spice Jet SG-15 to Dubai.

2.1 The passenger was asked if he had anything to declare to Customs, in reply to which he denied of anything. The AIU Officers carried out the personal search of the passenger in presence of the Panchas. The said pax was carrying one pouch shoulder bag of black colour and one small trolley bag and he has already given his one trolley bag in luggage as check in baggage with Spice Jet Airlines SG-15. Thereafter, the concerned airlines staff informs that the final scanning of check in baggage is performed at Level-04 located at ground floor of Terminal-02. Thereafter, the panchas along with AIU officers accompanied with Airlines staff and CISF officers visit to Level-04 where final scanning of check in baggage was performed.

2.2 Thereafter, all the Customs AIU officers offer their personal search to the passenger, however, the passenger denies politely saying that was having full trust/faith on the Customs AIU officers. Now, the AIU officer asks the passenger whether he wants to be checked in front of executive magistrate or Superintendent of Customs, in reply the said passenger gives his consent to be searched in front of the Superintendent of Customs.

2.3 Now, the AIU Officers thoroughly check the both trolley baggages of the said passenger but nothing objectionable found. However, while checking the shoulder pouch of the passenger, 3000 US dollars have been recovered. As per the specific intel received, brown-coloured sandals of the passenger were passed through the scanning machine located at Level-04 of Departure of Terminal-02, SVPIA, Ahmedabad. The image of which appears some concealment therein. The image is produced as under:



2.4 Thereafter, in presence of the panchas along with the AIU officers, brown-coloured sandals worn by the passenger are torn with the help of cutter, from

which 4 bundles wrapped in black polythene (2 bundles in each sandal) are recovered. The Image of which is as under:



2.5 Thereafter, in presence of the panchas, the currency in 04 bundles which were wrapped in black polythene, recovered from the brown-coloured sandals worn by passenger was counted and it was noticed that each bundle contains 4000 US dollars (40 USD currency notes of \$ 100/-), totally found 16000 USD Dollars. The total currency which was recovered from 04 bundles alongwith the currency recovered from shoulder pouch of the passenger, counted to 19000 USD. Now, the AIU Officers inform panchas that they were required to move to AIU Office located at the Arrival Hall of Terminal-2 of the SVPI Airport, Ahmedabad for the preparation of detailed inventory of the said foreign currency. Accordingly, the panchas, the passenger and AIU officers proceed to AIU Office located at the Arrival Hall of Terminal-2 of the SVPI Airport, Ahmedabad.

2.6 Then the AIU officers asked the passenger to remove all the metallic objects on his body and put them in a tray placed over there. Then he is requested to pass through the DFMD Machine installed near AIU Office. While passing through the DFMD machine, no beep sound was heard, indicating nothing objectionable with the passenger.

2.7 Now, the AIU Officers, in presence of panchas and the passenger Shri Mohmed Ilyas Ibrahimbhai Indorwala again counts the said foreign currency notes recovered from him and prepared a detailed inventory of the same which is as under:

Sr No	Foreign Currency	Foreign Currency Notes	Number of Notes	Total Amount	Exchange Rate of one unit of foreign currency equivalent to Indian Rupees as per (Noti. No. 15/2024-Customs (N.T.) dated 17.01.2025)	Value equivalent to Indian Currency	Net Total (In Rs)
1	US Dollar	\$100	190	\$19000	87.1	16,54,900	16,54,900

2.8 Now, the AIU officers take the photographs of above-mentioned foreign currency and prepared a statement showing the details of currency note number and denomination recovered from Shri Mohmed Ilyas Ibrahimbhai Indorwala which is annexed as Annexure-A. The photographs of said foreign currency are as below:



2.9 The foreign currency notes in form of 19000 US Dollars were recovered from the passenger. The value of the foreign currency in Indian Rupees amounted to **Rs.16,54,900/-** based on the exchange rate Notification No. 15/2024-Cus (N.T.) w.e.f. 17.01.2025 (@87.10Rs) issued by the CBIC. On being enquired, the passenger was unable to produce any document evidencing a legitimate procurement of the said foreign currency. The said foreign Currency 19000 US Dollars which is equivalent to Indian **Rs.16,54,900/-** (Rupees Sixteen Lakh Fifty Four Thousand Nine Hundred only), was placed under seizure under Panchnama dated 22.01.2025 under the provisions of Section 110 of the Customs Act, 1962 under reasonable belief that the same were liable for confiscation under the provisions of Section 113(d) of the Customs Act, 1962 as they were attempted to be smuggled/exported out of India in contravention of Notification No. FEMA – 6 (R)/RB-2015 dated 29/12/2015 {Foreign Exchange Management (Export and import of currency) Regulations, 2015}.

3. STATEMENT DATED 22.01.2025 OF MOHAMMAD ILIYAS INDOREWALA:

A statement of Shri Mohmed Ilyas Ibrahimbhai Indorwala S/o Shri Ibrahimbhai Yusufbhai Indorwala, Aged 62 years (DOB: 16/03/1963), resident of 623/3, Astodiya, Kadva Sheri, Jamalpur, Ahmedabad, Gujarat-380001 was recorded on 22.01.2025 at SVPI Airport, Ahmedabad under Section 108 of the Customs Act, 1962 wherein he *inter-alia* stated that: -

3.1 He was staying at the said address since last 20 years with his family, his father Shri Ibrahimbhai Yusufbhai Indorwala, his wife Mrs. Salma Mohmed Ilyas Indorwala & his younger brother Mr. Rizwan Ibrahimbhai Indorwala. He stated that he was doing business of travels for Haj/Umra at the said address since last 20 years but after lock-down crisis, he shut down his business of travelling. His Mobile No. is 8128374265 & E-mail Id is indorwalailyas9300@gmail.com. His Aadhar No. is 8028 3460 5387 & PAN No. is AAQPI8627P. He has studied upto 7th standards.

3.2 He stated that he was visited to Dubai from Ahmedabad on 22.01.2025 to re start his travel agency business. He stated that his ticket from Ahmedabad to Dubai was booked by travel agent namely Al-Hasnain and he made the payment in cash.

3.3 He stated that 19000 US Dollars which was recovered from him during Panchnama proceeding on 22.01.2025 were procured from market from various agents in piecemeal during last 01 month. He stated that he made payment in cash to purchased US Dollars from Irfanbhai and his Mobile No. is 8401569889. He further stated that he has no legitimate documents regarding procurement of foreign currency as he has not purchased it from any authorized agent or currency exchequer but procured illegally from market.

3.4 He stated that he has to purchase cosmetics, clothes, shoes and designer burkhas from Dubai in cash, and therefore, he carried more denomination in US Dollars than Indian Currency; therefore, he opted to carry US Dollars for the same.

3.5 He stated that he was aware that he could not carry unauthorized purchased Foreign Currency and hence, he concealed it in the sole of his sandals worn by him to mislead the security agencies as well as Customs department with intent to smuggle the same.

3.6 On being asked about the Bank details, he stated that he has Bank Account with Kotak Mahindra Bank & Bank of Baroda but he has not recalled the account details and not able to provide bank statement.

4. FURTHER STATEMENT DATED 19.02.2025 OF SHRI MOHAMMAD ILIYAS INDOREWALA: -

Further, a letter dated 24.01.2025 has been received from Shri Mohmed Ilyas Ibrahimbhai Indorwala, wherein he mentioned that he has studied upto 7th standard and he is not conversant to read & write English, so the statement taken in English on 22.01.2025 is not tenable. Therefore, Summons dated 25.01.2025, 29.01.2025 & 11.02.2025 had been issued to Shri Mohmed Ilyas Ibrahimbhai Indorwala to record his statement & to provide his Bank details/ Bank Statement.

4.1 Statement of Shri Mohmed Ilyas Ibrahimbhai Indorwala has been recorded on 19.02.2025 (in Hindi) at SVPI Airport, Ahmedabad under Section 108 of the Customs Act, 1962 wherein he *inter-alia* stated that:-

4.2 He was staying at the said address since last 20 years with his family including his father Shri Ibrahimbhai Yusufbhai Indorwala, his wife Mrs. Salma Mohmed Ilyas Indorwala & his younger brother Mr. Rizwan Ibrahimbhai Indorwala. He stated that he was doing business of travels for Haj/Umra from the said address since last 20 years but after lock-down crisis, he shut down his business of travelling. His Mobile No. is 8128374265 & E-mail Id is indorwalailyas9300@gmail.com. His Aadhar No. is 8028 3460 5387 & PAN No. is AAQPI8627P. He has studied upto 7th standard.

4.3 He stated that he was going to Dubai from Ahmedabad on 22.01.2025 to restart his travel agency business. He stated that his ticket from Ahmedabad to Dubai was booked by travel agent namely Al-Hasnain and he made the payment in cash.

4.4 He stated that 19000 US Dollars which was recovered from him during Panchnama proceeding on 22.01.2025 were procured from market from various agents in piecemeal during last 01 month. He stated that he made payment in cash for the purchased US Dollars from Irfanbhai and his Mobile No. is 8401569889. He further stated that he has no legitimate documents regarding procurement of foreign currency as he has not purchased it from any authorized agent or currency exchequer but procured illegally from market.

4.5 He stated that he was aware that he could not carry unauthorized purchased Foreign Currency and hence, he concealed it in the sole of his sandals worn by him to mislead the security agencies as well as Customs department with intent to smuggle out the same.

4.6 On being asked about the Bank details, he stated that he has Bank Account with Kotak Mahindra Bank & Bank of Baroda. He provided the Bank statement of Kotak Mahindra Bank Account No. 0445336047 for the period 01.08.2024 to 23.01.2025. Further, Shri Mohmed Ilyas Ibrahimbhai Indorwala has stated that the saving account in Bank of Baroda is not used by him for 01 year and hence he has no bank statement for the said period and he does not know any further details about the saving account in Bank of Baroda.

5. SUM UP OF INVESTIGATION:

5.1 From the Panchnama proceeding dated 22.01.2025 and statements of Mohmed Ilyas Ibrahimbhai Indorwala, it appears that he had hatched a plan to smuggle out foreign currency valued at Rs.16,54,900/- in Indian rupees, from SVPI Airport, Ahmedabad on 22.01.2025. The modus operandi adopted in the instant case to smuggle the said foreign currency out of India is enumerated step by step herein below:

- (i) Mohmed Ilyas Ibrahimbhai Indorwala has purchased the said foreign currency 19000 US Dollars equivalent to Indian Rupee Rs. 16,54,900/- from a person namely Irfanbhai from open market;
- (ii) Mohmed Ilyas Ibrahimbhai Indorwala had booked air ticket of Spice Jet Flight No. SG-15 on 22.01.2025 which was scheduled from Ahmedabad to Dubai;
- (iii) Mohmed Ilyas Ibrahimbhai Indorwala has planned to visit Dubai and desired to purchase cosmetics, clothes, shoes and designer burkhas from Dubai in cash, and he could carry more amount in US Dollars than Indian Rupees; therefore, he opted to carry US Dollars for the same from Ahmedabad to Dubai;
- (iv) Mohmed Ilyas Ibrahimbhai Indorwala has carried the foreign currency of 3000 US Dollars by hiding/concealing in shoulder pouch and 16000 US Dollars by hiding/concealing in brown-coloured sandals worn by him in 04 bundles wrapped in black polythene alongwith with and was about to board the flight for Dubai;
- (v) The search of baggage of Mohmed Ilyas Ibrahimbhai Indorwala resulted into recovery of 19000 US Dollars equivalent to Indian Rupee Rs. 16,54,900/- under Panchnama dated 22.01.2025 drawn at SVPI Airport, Ahmedabad.

5.2 Mohmed Ilyas Ibrahimbhai Indorwala was unable to produce any legal documents as proof of purchase of foreign currency from any authorized agent or currency exchequer which was recovered from him at airport under panchnama dated 22.01.2025, therefore, it appears that the same was not purchased from any authorized agent or currency exchequer but procured illegally from a person named as Irfanbhai from open market;

6. SUMMATION:

6.1 During the search of passenger alongwith his baggage, at SVPI Airport on 22.01.2025, **190 notes of 100 US Dollars (Total 19000 USD) were recovered from Mohmed Ilyas Ibrahimbhai Indorwala**, which were concealed by him in his shoulder pouch and in brown-coloured sandals worn by him (under which 04 bundles wrapped in black polythene (2 bundles in each sandal contains \$4000 US Dollars). The said recovered foreign currency was later seized under panchnama dated 22.01.2025. It appears that Shri Mohmed Ilyas Ibrahimbhai Indorwala has carried the said seized Foreign Currency which was illegally possessed by him and he tried to smuggle it out of India to Dubai and the foreign currency seized from Shri Mohmed Ilyas Ibrahimbhai Indorwala was purchased by him from a person named as Irfanbhai from open market and the same was meant to be smuggled out of India in violation of the provisions of Customs Act, 1962. The above act of carrying the foreign currency without supporting documents in contravention of Customs Provisions, has been accepted by Shri Mohmed Ilyas Ibrahimbhai Indorwala in his statements recorded under Section 108, of the Customs Act, 1962 on 22.01.2025 and 19.02.2025.

6.2 Total 190 notes of 100 US Dollars (Total \$19000 USD) were recovered from Shri Mohmed Ilyas Ibrahimbhai Indorwala under Panchnama dated 22.01.2025 was seized vide seizure memo dated 22.01.2025 under the provisions of Section 110 of the Customs Act, 1962.

6.3 The fact that the total recovered and seized foreign currency Total 190 notes of 100 US Dollars (Total \$19000 USD) equivalent to Indian **Rs.16,54,900/-** was purchased by Shri Mohmed Ilyas Ibrahimbhai Indorwala from a person named as Irfanbhai from open market, which was disclosed by him in their statement dated 22.01.2025 and 19.02.2025.

7. BANK STATEMENTS:

7.1 Shri Mohmed Ilyas Ibrahimbhai Indorwala has provided Bank statement of Kotak Mahindra Bank Account No. 0445336047 for the period 01.08.2024 to 23.01.2025. On verification it was noticed that Shri Mohmed Ilyas Ibrahimbhai Indorwala has deposited total amount of Rs.79,493/- and withdrawn of Rs.79,400/- by various withdrawal (63 withdrawal) during the said period.

7.2 Letters dated 27.03.2025 & 14.05.2025 have been issued to the Bank of Baroda, Naroda GIDC Branch to provide Bank details & Bank statement of Shri Mohmed Ilyas Ibrahimbhai Indorwala for last 01 year. Bank of Baroda vide their mail dated 31.05.2025 has provided Bank statement of Shri Mohmed Ilyas Ibrahimbhai Indorwala for the period from 01.06.2024 to 30.05.2025. On verification it was noticed that there was no transaction in this Bank account except lien amount of Rs. 2746.31/- as on 31.05.2025,

7.3 On verification of both the Bank Accounts of Shri Mohmed Ilyas Ibrahimbhai Indorwala, it was noticed that there was no transaction evidencing the purchase of \$19000 US Dollars from Irfanbhai.

8. Mohmed Ilyas Ibrahimbhai Indorwala in his statements dated 22.01.2025 & 19.02.2025 had stated that he had purchased the US Dollars totally \$19000 USD equivalent to Indian **Rs.16,54,900/-**, from a person namely Irfanbhai residing in Jamalpur having mob. No. 8401569889. Therefore, letters dated 27.03.2025, 14.05.2025 & 23.06.2025 have been written to the Deputy Commissioner (Prev), HQ, Customs, Ahmedabad to investigate about the person namely Irfanbhai residing in Jamalpur having mob. No. 8401569889.

8.1 The Assistant Commissioner (Prev), HQ, Customs, Ahmedabad vide letter dated 04.07.2025 has informed that they have visited premises of Irfankhan i.e. House No. 1658, Jambudi Ni Pole, Sindhiwad, Jamalpur, Ahmedabad, Gujarat-380001 and drawn Panchnama dated 03.07.2025 and provided the copy of the Panchnama to this office.

8.2 Shri Irfankhan Ayubkhan Pathan has informed vide Panchnama dated 03.07.2025 that he knew Shri Mohmed Ilyas Ibrahimbhai Indorwala and he is residing at Jamalpur, Ahmedabad. On being asked about the Foreign Exchange dealing with Shri Mohmed Ilyas Ibrahimbhai Indorwala, Shri Irfankhan Ayubkhan Pathan informed that as some persons come with reference from Shri Mohmed Ilyas Ibrahimbhai Indorwala, then he contacted the Foreign Exchange shop i.e. M/s. Apsara Forex, Relief Road, Maharaja Complex, Ahmedabad for conversion. He always deals in Saudi Riyal on commission basis, but he has never done any Foreign Exchange business in US Dollars.

9. STATEMENT DATED 04.07.2025 OF IRFANKHAN AYUBKHAN PATHAN:

A statement of Shri Irfankhan Ayubkhan Pathan S/o Shri Ayubkhan Pathan, Aged 42 years (DOB: 22/04/1983), resident of House No. 1658, Jambudi Ni Pole, Sindhiwad, Jamalpur, Ahmedabad, Gujarat-380001 was recorded on 04.07.2025 under Section 108 of the Customs Act, 1962 wherein he *inter-alia* stated that: -

9.1 He was staying at the said address. He stated that he has readymade garment shop M/s. Arsh Trading, Behind Riyaz Hotel in Jamalpur, Ahmedabad. He also doing Foreign Exchange business with Foreign Exchange shop i.e. M/s. Apsara Forex, Relief Road, Maharaja Complex, Ahmedabad on commission basis. His Mobile No. is 8401569889, 8160589889 & E-mail Id is ik9631133@gmail.com. His Aadhar No. is 7522 8583 5218. He knows English & Hindi very well.

9.2 Statement dated 19.02.2025 of Shri Mohmed Ilyas Ibrahimbhai Indorwala has been shown to Shri Irfankhan Ayubkhan Pathan, after read the Statement dated 19.02.2025, Shri Irfankhan Ayubkhan Pathan has made his dated signature on Statement dated 19.02.2025 in token to read and understand the same.

9.3 On being asked about the Foreign Exchange business with Shri Mohmed Ilyas Ibrahimbhai Indorwala, Shri Irfankhan Ayubkhan Pathan informed that as some persons come with reference from Shri Mohmed Ilyas Ibrahimbhai Indorwala, then he contacted the Foreign Exchange shop i.e. M/s. Apsara Forex, Relief Road, Maharaja Complex, Ahmedabad for conversion. He always deals in Saudi Riyal on commission basis, but he has never done any Foreign Exchange business in US Dollars.

9.4. He also stated that he deals in Saudi Riyal on commission basis with the Haj/Umra customers/passengers came from reference of Shri Mohmed Ilyas Ibrahimbhai Indorwala. But he never gave any US Dollars to Shri Mohmed Ilyas Ibrahimbhai Indorwala or his customers and he has never done any Foreign Exchange business in US Dollars. He further stated that he didn't give US Dollars to Mohmed Ilyas Ibrahimbhai Indorwala.

10. LEGAL PROVISIONS RELEVANT TO THE CASE

- a)** 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."
- b)** 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."
- c)** 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."
- d)** 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."
- e)** As per Section 2(3) – "baggage" includes unaccompanied baggage but does not include motor vehicles.

- f)** As per Section 2(22), of Customs Act, 1962 definition of 'goods' includes-
- vessels, aircrafts and vehicles;
 - stores;
 - baggage;
 - currency and negotiable instruments; and
 - any other kind of movable property;
- g)** 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.
- h)** 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.
- i)** As per Section 11H(a) of the Customs Act 1962- “illegal export” means the export of any goods in contravention of the provisions of this Act or any other law for the time being in force;
- j)** 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.
- k)** As per Section 113 of the Customs Act 1962, the following export goods shall be liable to confiscation: -
- any goods attempted to be exported or brought within the limits of any customs area for the purpose of being exported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;*
 - any goods found concealed in a package which brought within the limits of a Customs area for the purpose of exportation;*
 - any ¹ [***] 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](#);*
- l)** As per Section 114 of the Customs Act 1962, any person who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 113, or abets the doing or omission of such an act, shall be liable, -
- in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty not exceeding three times the value of the goods as declared by the exporter or the value as determined under this Act, whichever is the greater;*
- m)** As per Section 119 of the Customs Act 1962- “any goods used for concealing smuggled goods shall also be liable for confiscation.”
- n)** 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.”
- o)** As per Rule 7 of the Baggage Rules, 2016,-“the import and export of currency under these rules shall be governed in accordance with the provisions of the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015, and the notifications issued thereunder.”

p) Foreign Trade Policy 2015-20

Para 2.45- Export of Passenger Baggage

- (a) Bona-fide personal baggage may be exported either along with passenger or, if unaccompanied, within one year before or after passenger's departure from India. However, items mentioned as restricted in ITC (HS) shall require an Authorization. Government of India officials proceeding abroad on official postings shall, however, be permitted to carry along with their personal baggage, food items (free, restricted or prohibited) strictly for their personal consumption. The Provisions of the Para shall be subject to Baggage Rules issued under Customs Act, 1962.

q) The Foreign Exchange Management Act, 1999;

Section 2. Definitions- In this Act, unless the context otherwise requires,-
(m) "foreign currency" means any currency other than Indian currency;

Section 3. Dealing in foreign exchange, etc.- Save as otherwise provided in this Act, rules or regulations made thereunder, or with the general or special permission of the Reserve Bank, no person shall (a) deal in or transfer any foreign exchange or foreign security to any person not being an authorised person;

Section 4. Holding of foreign exchange, etc.—Save as otherwise provided in this Act, no person resident in India shall acquire, hold, own, possess or transfer any foreign exchange, foreign security or any immovable property situated outside India.

- r) Notification No. FEMA-6 (R)/RB-2015 dated 29.12.2015 {Foreign Exchange Management (Export and import of currency) Regulations, 2015} [Earlier Notification No. FEMA 6 /RB-2000 dated 3rd May 2000 {Foreign Exchange Management (Export and Import of Currency) Regulations, 2000}] :-**

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

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

Import of foreign exchange into India: -

Regulation 6: Import of foreign exchange into India: -

A person may -

- a. send into India without limit foreign exchange in any form other than currency notes, bank notes and travellers' cheques;
 - b. bring into India from any place outside India without limit foreign exchange (other than unissued notes),
- provided that bringing of foreign exchange into India under clause (b) shall be subject to the condition that such person makes, on arrival in India, a declaration to the Custom authorities in Currency Declaration Form (CDF) annexed to these Regulations;
- provided further that it shall not be necessary to make such declaration where the aggregate value of the foreign exchange in the form of currency notes, bank notes or traveller's cheques brought in by such person at any one time does not exceed US \$ 10,000 (US Dollars ten thousand) or its equivalent and/or the aggregate value of foreign currency notes brought in

by such person at any one time does not exceed US \$ 5,000 (US Dollars five thousand) or its equivalent.

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

- (1) An authorised person may send out of India foreign currency acquired in normal course of business,
- (2) Any person may take or send out of India, -
 - a. Cheques drawn on foreign currency account maintained in accordance with Foreign Exchange Management (Foreign Currency Accounts by a person resident in India) Regulations, 2000;
 - b. foreign exchange obtained by him by drawal from an authorised person in accordance with the provisions of the Act or the rules or regulations or directions made or issued thereunder ;
 - c. currency in the safes of vessels or aircrafts which has been brought into India or which has been taken on board a vessel or aircraft with the permission of the Reserve Bank;
- (3) Any person may take out of India, -
 - a. foreign exchange possessed by him in accordance with the Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulations, 2015;
 - b. unspent foreign exchange brought back by him to India while returning from travel abroad and retained in accordance with the Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulations, 2015;
- (4) Any person resident outside India may take out of India unspent foreign exchange not exceeding the amount brought in by him and declared in accordance with the proviso to clause (b) of Regulation 6, on his arrival in India.

- s) **Notification No. FEMA 11(R)/2015-RB Dated 29.12.2015: Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulations, 2015.**

Regulation 3: Limits for possession and retention of foreign currency or foreign coins: -

For the purpose of clause (a) and clause (e) of Section 9 of the Act, the Reserve Bank specifies the following limits for the possession or retention of foreign currency or foreign coins, namely:

- i) Possession without limit of foreign currency and coins by an authorised person within the scope of his authority;
- ii) Possession without limit of foreign coins by any person;
- iii) Retention by a person resident in India of foreign currency notes, bank notes and foreign currency travellers' cheques not exceeding US\$ 2000 or its equivalent in aggregate, provided that such foreign exchange in the form of currency notes, bank notes and travellers cheques;
 - a. was acquired by him while on a visit to any place outside India by way of payment for services not arising from any business in or anything done in India; or
 - b. was acquired by him, from any person not resident in India and who is on a visit to India, as honorarium or gift or for services rendered or in settlement of any lawful obligation; or
 - c. was acquired by him by way of honorarium or gift while on a visit to any place outside India; or

- d. represents unspent amount of foreign exchange acquired by him from an authorised person for travel abroad.

11. DELIBERATE ACTION OF ATTEMPTED SMUGGLING OF FOREIGN CURRENCY:

From the records and evidences, it appears that in the instant case 190 notes of 100 US Dollars (Total \$19000 USD) equivalent to Indian **Rs.16,54,900/-** were seized which was recovered from **Mohmed Ilyas Ibrahimbhai Indorwala** and he was trying to smuggle out the same without having any legal procurement documents. Further, **Mohmed Ilyas Ibrahimbhai Indorwala** was unable to produce any legal documents during search and seizure, showing procurement of seized foreign currency from any legal source i.e. authorized person. During the course of investigation **Mohmed Ilyas Ibrahimbhai Indorwala** was unable to produce the documents showing legal procurement of seized foreign currency.

12. In terms of Foreign Exchange Management (Export and import of currency) Regulations, 2015 issued by Reserve Bank of India under Notification No. FEMA 6 (R)/RB-2015 dated 29/12/2015, it appears that in terms of Regulation 3 *“any person resident in India, may take outside India (other than to Nepal and Bhutan) currency notes of Government of India and Reserve Bank of India notes up to an amount not exceeding Rs.25000/- (Rupees Twenty Five Thousand Only) per person or such amount and subject to such conditions as notified by Reserve Bank of India from time to time.”* Further, in terms of Regulation 5 no person shall, without the general or special permission of the Reserve Bank, export or send out of India, any foreign currency. Similarly, Regulation 7 *ibid deals with export of foreign exchange and currency notes. Regulation 7 inter alia states that “Any person may take or send out of India, - foreign exchange obtained by him by drawal from an authorised person in accordance with the provisions of the Act or the rules or regulations or directions made or issued thereunder.* On the basis of Regulation 7 *ibid*, a person is entitled to take or send out foreign exchange drawn from an Authorised Person in accordance with the provisions of the Act or the rules or regulations or directions made or issued thereunder. Also on the basis of Regulation 3 *ibid* a person is entitled to take or send out currency notes of Government of India and Reserve Bank of India notes up to an amount not exceeding Rs.25000/-. Whereas, during the search in person and of the baggage of Mohmed Ilyas Ibrahimbhai Indorwala, no documents whatsoever were found which could prove the legal purchase of Foreign Currency from any authorized person in terms of Regulation 7 *ibid*. Further, he was unable to produce any document evidencing a legitimate procurement of the said seized foreign currency. On the basis of the above it emerges that Mohmed Ilyas Ibrahimbhai Indorwala carried the foreign currency seized from him vide Panchnama 22.01.2025 and attempted to export the same illegally in violation of the extant rules/regulations in force. Regulation 7(3) and 7(4) would come into force only when a proper declaration before the Customs Officer had been made. Therefore, it appears that the foreign currency was acquired by **Mohmed Ilyas Ibrahimbhai Indorwala** through unauthorized persons and attempted to be exported by him in violation of Regulation 7(2) of Foreign Exchange Management (Export and import of currency) Regulations, 2015.

13. In view of the discussions in forgoing paras it appears that the seized foreign currency cannot be cleared as a part of personal baggage without proper legal and licit documents. Therefore, the attempt of carry currency in his baggage in violation of the restrictions imposed under Foreign Exchange Management (Export and import of currency) Regulations, 2015, appears to fall under the ambit of “prohibited goods” as defined under Section 2(33) of the Customs Act, 1962. Further, in terms of Section 11H (a) of the Customs Act, 1962 the act again

amounts to “Illegal export” of foreign currencies by Shri Mohmed Ilyas Ibrahimbhai Indorwala in as much as he failed to produce any legal document in support of purchase of foreign currency from an authorized person at the time of interception, seizure and during the course of investigation. He had admitted in his statement dated 22.01.2025 and 19.02.2025 recorded under Section 108 of the Customs Act, 1962 that he had attempted to export the seized foreign currency. The seized foreign currency collectively equivalent to Rs.16,54,900/- is therefore liable to confiscation under section 113(d), 113(e) & 113(h) of the Customs Act, 1962 read with the FEMA Regulations and Rule 7 of the Baggage Rules.

14. CONTRAVENTION AND VIOLATION OF LAWS:

Whereas, it therefore appeared that:

- (i) The passenger, Shri Mohmed Ilyas Ibrahimbhai Indorwala, attempted to improperly export/smuggle the seized foreign currency (USD 19,000) by concealing the same in his shoulder pouch and in brown-coloured sandals worn by him. The passenger had not declared the same before the Customs. He was also unable to produce document evidencing legitimate procurement of the said seized foreign currency in terms of Regulation 7(2) & 7(3) of the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015. He also failed to produce any declaration, if any, made in compliance with the provisions of Section 77 of the Customs Act, 1962. He violated Regulations 5 and 7 of the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015, by attempting to illegally export the foreign currency seized from his possession. The passenger illegally dealt with, acquired, held and possessed the seized foreign currency and attempted to improperly export or physically transfer the same at a place outside India. He had thus contravened Sections 3 and 4 of the Foreign Exchange Management Act, 1999. The amount of foreign currency found in his possession was not as per the prescribed regulations for a resident in India under the Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulations, 2015. The passenger thus had violated the Regulations of the Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulations, 2015. It appeared that by virtue of restrictions on the export of foreign currency and non-compliance with the statutory requirements, the seized foreign currency appeared to be “prohibited goods” in terms of Section 2(33) of the Customs Act, 1962. Therefore, it appeared that the passenger had indulged in smuggling as defined under Section 2(39) of the Customs Act, 1962, and the attempted export constituted an act of “illegal export” as defined under Section 11H(a) of the Customs Act, 1962. The passenger had thus violated Para 2.45 of the Foreign Trade Policy 2023, read with Section 3(2), 3(3) and 11(1) of the Foreign Trade (Development and Regulation) Act, 1992, further read in conjunction with Section 11(3) of the Customs Act, 1962.
- (ii) The seized foreign currency (USD \$19000) equivalent to India **Rs.16,54,900/-** (Rupees Sixteen Lakh Fifty Four Thousand Nine Hundred only) as per Notification No. 40/2024-Customs (NT) dated 06.06.2024, which was attempted to be improperly and illegally exported by the passenger by concealing it in his shoulder pouch and in his brown coloured sandals in violation of the Customs Act, 1962, Baggage Rules, 2016 and other laws in force appeared liable for confiscation under Section 113(d) and 113(e) of the Customs Act, 1962 alongwith the shoulder pouch and brown coloured sandals under Section 119 of Customs Act, 1962. The said act of the

passenger appeared to be an act of “smuggling” as defined under Section 2(39) of the Customs Act, 1962. The passenger, by his above-described acts of omission and commission, had rendered the seized foreign currency liable for confiscation under Section 113 of the Customs Act, 1962. Therefore, he also appeared liable for a penalty under Section 114(i) of the Customs Act, 1962.

15. Hon'ble Supreme Court in the case of Om Prakash Bhatia reported at 2003 (155)-ELT-423-(SC) has held that if importation and exportation of goods are subject to certain prescribed conditions, which are to be fulfilled before or after clearance of goods, goods would fall within the ambit of 'prohibited goods' if such conditions are not fulfilled. In the instant case, the foreign currencies were kept undeclared, concealed and were being carried by the passenger, are to be treated as "goods" prohibited in nature.

16. Accordingly, a SCN was issued to the passenger i.e. **Shri Mohmed Ilyas Ibrahimhai Indorwala**, resident of 623/3, Astodiya, Kadva Sheri, Jamalpur, Ahmedabad, Gujarat-380001, as to why:

- i.** 190 Notes of US Dollars of 100 denomination (Total \$19000 USD) having equivalent value in Indian **Rs.16,54,900/- (Rupees Sixteen Lakh Fifty Four Thousand Nine Hundred Only)** attempted to smuggle out of India by way of concealing the same in the shoulder pouch and in brown coloured sandals worn by him, contrary to the prohibition imposed in terms of Notification No. FEMA-6(R)/RB-2015 dated 29.12.2015 [Foreign Exchange Management (Export and Import Currency) Regulations, 2015 read with Customs Act, 1962 and Baggage Rules, 2016 which were seized vide Panchnama dated 22.01.2025 and Seizure Memo dated 22.01.2025, should not be confiscated under Section 113(d),113(e) & 113(h) of the Customs Act, 1962 read with the FEMA Regulations and Rule 7 of the Baggage Rules, 2016;
- ii.** One Black Coloured shoulder pouch bag and Brown coloured sandals worn by the pax, which were used to conceal the foreign currency of \$19000 USD seized vide seizure order dated 22.01.2025 under *Panchnama* dated 22.01.2025 should not be confiscated under Section 119 of the Customs Act, 1962.
- iii.** Penalty under Section 114(i) of the Customs Act, 1962 should not be imposed upon him.

DEFENCE REPLY AND PERSONAL HEARING:

17. Noticee has not submitted any defence reply to the Show Cause Notice.

18. Noticee was given opportunity to appear for personal hearing on 30.08.2025, 16.09.2025, 25.09.2025 and 05.12.2025. However, noticee or his authorised representative not appear in personal hearing.

DISCUSSION AND FINDINGS:

19. I have carefully gone through the facts of this case and found that the noticee has neither submitted reply to show cause notice nor appear in personal hearing. The noticee was given opportunity for personal hearing on 30.08.2025, 16.09.2025, 25.09.2025 and 05.12.2025 but he or his authorised representative

failed to appear and represent his case. In the instant case, the noticee has been granted sufficient opportunities of being heard in person for Four times but he failed to appear. In view of above, it is obvious that the Noticee is not bothered about the ongoing adjudication proceedings and he do not have anything to say in his defense. Hence, sufficient opportunities have been offered to the noticee in keeping with the principle of natural justice and there is no prudence in keeping the matter in abeyance indefinitely. I therefore proceed to decide the instant case ex-parte on the basis of evidences and documents available on record.

20. The sole issue for consideration is the proposal for confiscation of foreign currency equivalent to Indian **Rs.16,54,900/-**-(Rupees Sixteen Lakh Fifty Four Thousand Nine Hundred only) attempted to be exported out of India in contrary to the provisions of Foreign Exchange Management (Export and Import of Currency) Regulations, 2000 and Rule 7 of the Baggage rules read with Customs Act, 1962 placed under seizure vide Panchnama drawn on 22.01.2025. The seizure was made under Section 110 of Customs Act, 1962 on the reasonable belief that the said foreign currency was liable for confiscation under the Customs Act, 1962 and FEMA Regulations, 2016.

21. I find that the Panchnama dated 22.01.2025 clearly draws out the fact that the passenger was intercepted by the officers of Air Intelligence Unit (AIU), SVPIA, Customs Ahmadabad, from the Boarding Gate No. 08, first floor of the departure hall of the Terminal-2 of SVPIA, was detected carrying Foreign Currency who was about to fly to Dubai (DXB) from Ahmadabad (AMD) on 22.01.2025 via Spice Jet Flight No. SG 15. As per the Panchnama, the passenger's personal search and examination of his baggage was conducted in presence of two independent witnesses, Airlines staff and CISF officers when the passenger was waiting to board the Spice Jet flight No.15, which was scheduled to depart to Dubai, by the Custom Officers. Thereafter, Customs officers asked the said passenger if he is having anything to declare before Customs, in reply to which he denied. Whereas during personal search of the passenger **Shri Mohmed Ilyas Ibrahimhai Indorwala**, the officers recovered \$3000 US dollars while checking the shoulder pouch of the passenger. As per the specific intel received, brown-coloured sandals of the passenger were passed through the scanning machine located at Level-04 of Departure of Terminal-02, SVPIA, Ahmedabad. Thereafter, in presence of the panchas along with the AIU officers, brown-coloured sandals worn by the passenger were torn with the help of cutter, from which 4 bundles wrapped in black polythene (2 bundles in each sandal) were recovered. Thereafter, in presence of the panchas, the currency in 04 bundles which were wrapped in black polythene, recovered from the brown-coloured sandals worn by passenger was counted and it was noticed that each bundle contains 4000 US dollars (40 USD currency notes of \$100/-), totally found \$16000 USD Dollars. The total currency which was recovered from 04 bundles alongwith the currency recovered from shoulder pouch of the passenger, counted to \$19000 USD. The value of the foreign currency in Indian Rupees amounted to **Rs.16,54,900/-** based on the exchange rate Notification No. 15/2024-Cus (N.T.) w.e.f. 17.01.2025 (@87.10Rs) issued by the CBIC. On being enquired, the passenger was unable to produce any document evidencing a legitimate procurement of the said foreign currency. The said foreign Currency \$19000 US Dollars which was equivalent to Indian **Rs.16,54,900/-**-(Rupees Sixteen Lakh Fifty Four Thousand Nine Hundred only), was placed under seizure under Panchnama dated 22.01.2025 under the provisions of Section 110 of the Customs Act, 1962 under reasonable belief that the same were liable for confiscation under the provisions of Section 113(d), 113(e) and 113(h) of the Customs Act, 1962 as they were attempted to be smuggled/exported out of India in contravention of Notification No. FEMA-6(R)/RB-2015 dated 29.12.2015 {Foreign

Exchange Management (Export and import of currency) Regulations, 2015}. The passenger had accepted the correctness of the Panchnama in his deposition dated 22.01.2025. Further, every procedure conducted during the panchnama by the officers is well documented and is made in the presence of the panchas /witnesses. Therefore, it is conclusively established that the passenger had neither voluntarily come forward to declare to the Customs about possession of the said foreign currency nor had any document evidencing a legitimate procurement of the said foreign currency and it came to light only after by the officers of Air Intelligence Unit (AIU), SVPIA, Customs Ahmedabad intercepted the passenger during X-ray screening of his checked-in baggage. This act of the passenger establishes his *mens rea* beyond doubt that he tried to smuggled out the said foreign currency out of India by illegal and mala fide manner.

22. I find that the said passenger **Shri Mohmed Ilyas Ibrahimbhai Indorwala** in his statement dated 22.01.2025 inter alia stated that he was doing business of travels for Haj/Umra since last 20 years but after lock-down crisis, he shut down his business of travelling. He stated that he was visited to Dubai from Ahmedabad on 22.01.2025 to re start his travel agency business. He stated that his ticket from Ahmedabad to Dubai was booked by travel agent namely Al-Hasnain and he made the payment in cash. He further stated that \$19000 US Dollars which was recovered from him during Panchnama proceeding on 22.01.2025 were procured from market from various agents in piecemeal during last 01 month. He stated that he made payment in cash to purchased US Dollars from Irfanbhai. He further stated that he has no legitimate documents regarding procurement of foreign currency as he has not purchased it from any authorized agent or currency exchequer but procured illegally from market. He stated that he has to purchase cosmetics, clothes, shoes and designer burkhas from Dubai in cash, and therefore, he carried more denomination in US Dollars than Indian Currency; therefore, he opted to carry US Dollars for the same. He further admitted that he was aware that he could not carry unauthorized purchased Foreign Currency and hence, he concealed it in the sole of his sandals worn by him to mislead the security agencies as well as Customs department with intent to smuggle the same. He was fully aware that carrying foreign currency in huge amount without any legitimate documents and without declaring before Customs is an offence under the provisions of the Customs Act, 1962 and that he neither filed any Declaration form for declaring foreign currency to Customs nor produced any legitimate documents regarding procurement of foreign currency from any authorized currency exchanger. He also knew if the concealed foreign currency is detected by the Customs Officers, the same is liable for seizure and confiscation under the Customs Act, 1962. From above it is very much clear that the said passenger had not declared the said foreign currency before the Customs Authorities on his departure from at SVPI Airport, Ahmedabad, voluntarily/ 'suo-moto' as he wanted to clear it illicitly.

23. Further, I find that Shri Mohmed Ilyas Ibrahimbhai Indorwala requested vide letter dated 24.01.2025 for further statement. Therefore, Summons dated 25.01.2025, 29.01.2025 & 11.02.2025 had been issued to Shri Mohmed Ilyas Ibrahimbhai Indorwala to record his statement & to provide his Bank details/ Bank Statement. Thereafter, statement of Shri Mohmed Ilyas Ibrahimbhai Indorwala was recorded on 19.02.2025 (in Hindi) at SVPI Airport, Ahmedabad under Section 108 of the Customs Act, 1962 wherein, he *inter-alia* stated that he was staying at the said address since last 20 years with his family. He stated that he was doing business of travels for Haj/Umra from the said address since last 20 years but after lock-down crisis, he shut down his business of travelling. He stated that he was going to Dubai from Ahmedabad on 22.01.2025 to restart his travel

agency business. He stated that his ticket from Ahmedabad to Dubai was booked by travel agent namely Al-Hasnain and he made the payment in cash. He stated that \$19000 US Dollars which was recovered from him during Panchnama proceeding on 22.01.2025 were procured from market from various agents in piecemeal during last 01 month. He stated that he made payment in cash for the purchased US Dollars from. He further stated that he has no legitimate documents regarding procurement of foreign currency as he has not purchased it from any authorized agent or currency exchequer but procured illegally from market. He stated that he was aware that he could not carry unauthorized purchased Foreign Currency and hence, he concealed it in the sole of his sandals worn by him to mislead the security agencies as well as Customs department with intent to smuggle out the same. He further stated that he has Bank Account with Kotak Mahindra Bank & Bank of Baroda. He provided the Bank statement of Kotak Mahindra Bank Account No. 0445336047 for the period 01.08.2024 to 23.01.2025. Further, Shri Mohmed Ilyas Ibrahimbhai Indorwala has stated that the saving account in Bank of Baroda is not used by him for 01 year and hence he has no bank statement for the said period and he does not know any further details about the saving account in Bank of Baroda.

24. Further, I find from the Panchnama proceeding dated 22.01.2025 and statements of the passenger, Shri Mohmed Ilyas Ibrahimbhai Indorwala, that he had hatched a plan to smuggle out foreign currency valued at **Rs.16,54,900/-** in Indian rupees, from SVPI Airport, Ahmedabad on 22.01.2025. I find that, Shri Mohmed Ilyas Ibrahimbhai Indorwala purchased the said foreign currency \$19000 US Dollars equivalent to Indian Rs.16,54,900/- from a person namely Irfanbhai from open market. I find that, Shri Mohmed Ilyas Ibrahimbhai Indorwala had booked air ticket of Spice Jet Flight No. SG-15 on 22.01.2025 which was scheduled from Ahmedabad to Dubai. Shri Mohmed Ilyas Ibrahimbhai Indorwala had planned to visit Dubai and desired to purchase cosmetics, clothes, shoes and designer burkhas from Dubai in cash, and he could carry more amount in US Dollars than Indian Rupees; therefore, he opted to carry US Dollars for the same from Ahmedabad to Dubai. He had carried the foreign currency of \$3000 US Dollars by hiding/concealing in shoulder pouch and \$16000 US Dollars by hiding/concealing in brown-coloured sandals worn by him in 04 bundles wrapped in black polythene alongwith with and was about to board the flight for Dubai. I find that the search of baggage of Mohmed Ilyas Ibrahimbhai Indorwala resulted into recovery of **\$19000** US Dollars equivalent to Indian **Rs.16,54,900/-** under Panchnama dated 22.01.2025 drawn at SVPI Airport, Ahmedabad. I find that Shri Mohmed Ilyas Ibrahimbhai Indorwala was unable to produce any legal documents as proof of purchase of foreign currency from any authorized agent or currency exchequer, but procured illegally from a person named as Irfanbhai residing in Jamalpur having mob. No. 8401569889, which was disclosed by him in their statements dated 22.01.2025 and 19.02.2025.

25. Further, I find that a statement of Shri Irfankhan Ayubkhan Pathan S/o Shri Ayubkhan Pathan, Aged 42 years (DOB: 22/04/1983), resident of House No. 1658, Jambudi Ni Pole, Sindhiwad, Jamalpur, Ahmedabad, Gujarat-380001 was recorded on 04.07.2025 under Section 108 of the Customs Act, 1962 wherein he *inter-alia* stated that he had readymade garment shop M/s. Arsh Trading, Behind Riyaz Hotel in Jamalpur, Ahmedabad. He also stated that he had a business of Foreign Exchange with Foreign Exchange shop i.e. M/s. Apsara Forex, Relief Road, Maharaja Complex, Ahmedabad on commission basis. On being asked about the Foreign Exchange business with Shri Mohmed Ilyas Ibrahimbhai Indorwala, Shri Irfankhan Ayubkhan Pathan informed that as some persons come with reference

from Shri Mohmed Ilyas Ibrahimbhai Indorwala, then he contacted the Foreign Exchange shop i.e. M/s. Apsara Forex, Relief Road, Maharaja Complex, Ahmedabad for conversion. He stated that he always deals in Saudi Riyal on commission basis, but he has never done any Foreign Exchange business in US Dollars. He also stated that he deals in Saudi Riyal on commission basis with the Haj/Umra customers/passengers came from reference of Shri Mohmed Ilyas Ibrahimbhai Indorwala, but he never gave any US Dollars to Shri Mohmed Ilyas Ibrahimbhai Indorwala or his customers and he had never done any Foreign Exchange business in US Dollars. He further stated that he didn't give US Dollars to Mohmed Ilyas Ibrahimbhai Indorwala. I, also find on verification of both the Bank Accounts of the noticee, that there was no transaction evidencing the purchase of \$19000 US Dollars from Irfanbhai. In view of the above, it is cleared that Mohmed Ilyas Ibrahimbhai Indorwala was failure to provide supporting documents and this conduct further strengthens the findings of the investigation that the noticee was knowingly involved in the act of smuggling out of foreign currency in violation of Customs laws.

26. I find that the legal provision for taking foreign currency out of India is very clear and does not leave any scope for any ambiguity. If the whole set of incidents is examined, first it is seen that the passenger was international passenger in a sense that he was to travel Dubai (DXB) from Ahmadabad (AMD) on 22.01.2025 via Spice Jet Flight No. SG 15. The passenger was intercepted by the officers of Air Intelligence Unit (AIU), SVPIA, Customs Ahmadabad which enables a passenger to board international flight. Thus, the passenger was bound by the Baggage Rules, 2016 framed under the Customs Act, 1962. There cannot be any denial for the applicability of Baggage Rules, 2016 in respect of the passenger.

27. Now, I find that Rule 7 of the Baggage Rules, 2016 is about currency and it lays down that the import or export of currency is governed by the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015 and notifications issued there under. Thus, I find that there cannot be any denial in respect of the fact that regulations and notifications framed under the said Foreign Exchange Management (Export and Import of Currency) Regulations, 2015 were applicable to the passenger as he was primarily bound to follow Baggage Rules, 2016.

28. The Regulation 5 read with Regulation 7 of Foreign Exchange Management (Export and Import of Currency) Regulations, 2015 in very clear terms "prohibits" export and import of "any" foreign currency without general or special permission of the Reserve Bank of India. I find that the passenger has not come forward with any document issued by any authorized authority which can establish that the passenger was granted special permission by the Reserve Bank of India to carry foreign currencies he was carrying with them to take out of India. This in other words means that the passenger was governed by general permission or in case of non-applicability of general permission was absolutely prohibited to carry the foreign currencies outside India. I find regulation 7(2)(b) of Foreign Exchange Management (Export and Import of Currency) Regulations, 2015 is the general permission which is applicable to the passenger in the facts and circumstances of the case before me. According to this general permission, any person can take out of India foreign exchange obtained by him or her by drawl from an authorized person. In the case before me, again, the passenger has failed to come forward or produce any document which can establish that the foreign currencies found and recovered from him were drawn from an authorized source. These acts of omission or commission of offence on his part was clear violation of Rules 7 of Baggage

Rules read with regulations 5 and 7 of Foreign Exchange Management (Export and Import of Currency) Regulations, 2015.

29. I also find that there is a plethora of judgments in favour of release as well as against release of goods on payment of duty, redemption fine and penalty, once it is established that the goods in question comes under the ambit of “prohibited goods” as defined under Section 2(33) of Customs Act, 1962 and the act of malafide intention in relation to subject items fall within the meaning of “smuggling”, as defined under Section 2(39) of Customs Act, 1962. I find that it is a settled legal position that ratio of one case law should not be blindly applied to another case without examining the facts & circumstances of each case. The Hon’ble Supreme Court in the case of CCE, Calcutta Vs. Alnoori Tobacco Products [2004 (170) ELT 135 (SC)] has stressed the need to discuss how the facts of decision relied upon first factual situation of a given case and to exercise caution while applying the ration of one case to another. This has been reiterated in judgment in the case of Escort ltd. Vs. CCE, Delhi [2004 (173) ELT 113 (SC)] and in case of CC (Port), Chennai Vs Toyota Kirloskar [2007 (213) ELT 4 (SC)]. In the instant case it has been established beyond doubt that the foreign currency was kept undeclared and concealed in his shoulder pouch and in brown-coloured sandals worn by him, falls within the meaning of “prohibited goods” and the act of malafide intention in relation to attempting to export concealed foreign currency falls within the meaning of “smuggling”. It is also seen that the passenger admitted that he has not bought this foreign currency i.e. US Dollars from any authorized dealer and have no legitimate documents regarding procurement of foreign currency. He further admitted that he attempted to carry foreign currency illegally to Dubai, therefore, he had not disclosed and declared the foreign currency which was majorly concealed in his shoulder pouch and in brown-coloured sandals worn by him to smuggle the same out of India. He was fully aware that carrying foreign currency in huge amount without any legitimate documents and without declaring before Customs is an offence under the provisions of the Customs Act, 1962 and that he neither filed any Declaration form for declaring foreign currency to Customs nor produced any legitimate documents regarding procurement of foreign currency from any authorized currency exchanger. He also knew if the concealed foreign currency is detected by the Customs Officers, the same is liable for seizure and confiscation under the Customs Act, 1962. Hon’ble Supreme Court in case of Dropti Devi & Anr reported in [(2012)6 S.C.R. 307] has observed and taken a serious view of smuggling activities. The smugglers by flouting the regulations and restrictions by their misdeeds directly effect the national economy and thereby endanger the security of the country. I think their citation of various judgments have been answered.

30. 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).*

In the case before me, as I have recorded hereinabove, the foreign currencies were illegally procured and were attempted to be smuggled out in clear violation of Foreign Exchange Management (Export and Import of Currency) Regulations, 2015 which required the passenger to obtain foreign currencies from authorized dealers only. The condition contained in the regulation itself has thus been violated by the passenger in the case before me which in turn makes the foreign currencies very much prohibited. I am therefore the view that the foreign currencies seized is liable for absolute confiscation.

31. Further, I find that in the case of *Samynathan Murugesan* [2009 (247) ELT 21(Mad)], the High Court upheld the absolute confiscation, ordered by the adjudicating authority and thereby allowed the departmental appeal. While upholding absolute confiscation, it was observed by the Hon'ble High Court t as under:

"....From the aforesaid definition, it can be stated that (a) if there is any prohibition of import or export of goods under the Act or any other law for the time being in force, it would be considered to be prohibited goods; and (b) this would not include any such goods in respect of which the conditions, subject to which the goods are imported or exported, have been complied with. This would mean that if the conditions prescribed for import or export of goods are not complied with, it would be considered to be prohibited goods. This would also be clear from Section 11 which empowers the Central Government to prohibit either 'absolutely' or 'subject to such conditions' to be fulfilled before or after clearance, as may be specified in the notification, the import or export of the goods of any specified description. The notification can be issued for the purposes specified in Sub-section (2). Hence, prohibition of importation or exportation could be subject to certain prescribed conditions to be fulfilled before or after clearance of goods. If conditions are not fulfilled, it may amount to prohibited goods...."

In the case before me, the export of foreign currencies is conditional, applying the ratio of the decision cite above, I do not have any qualms to hold that noncompliance of such conditions make foreign currencies prohibited for the purpose of export. I am therefore the view that the foreign currencies in the present case are liable for absolute confiscation.

32. From the facts discussed above, it is evident that the passenger has carried foreign currency notes and attempted to export/ smuggle the same out of India i.e. to Dubai. The passenger had attempted to export/ smuggled out the foreign currency notes outside India without having legitimate documents from authorized sources, as mandated in Regulations 5 & 7 of the FEMA Regulations. Needless to mention that Section 2(22) of the Act defines 'goods' which also includes currencies among other things. By attempting to export foreign currency without legitimate documents, it is established that the passenger had a clear intention to export/ smuggled out the foreign currency undetected in contravention to the Regulations 5 & 7 of the FEMA Regulations. I further find that his act of carrying the foreign currency notes without legitimate purchase documents amount to "illegal export", as per the provisions of Section 11H(a) of the Act. Further, Section 2(33) of the Act defines 'prohibited goods' means any goods for import or export of which is subject to any prohibition under this Act or any other law for the timed being in force but does not include any such goods in respect of which the conditions subjects to which the goods are permitted to be imported or exported have been complied with. These acts of omission in relation to the subject currencies falls within the ambit of 'smuggling' as defined under Section 2(39) of the Act. Thus, the foreign currency recovered from the passenger is liable for absolute confiscation.

33. Hon'ble Supreme Court in the case of *Om Prakash Bhatia* reported at 2003 (155) ELT 423 (SC) has held that if importation and exportation of goods are subject to certain prescribed conditions, which are to be fulfilled before or after

clearance of goods, goods would fall within the ambit of 'prohibited goods' if such conditions are not fulfilled. In the instant case, the foreign currencies were kept undeclared, concealed and were being carried by the passenger, are to be treated as "goods" prohibited in nature.

34. In 2014 (310) E.L.T. 231 (Mad.) the High Court of Judicature at Madras in the matter of Commissioner of Customs, Chennai Versus Xavier Poonolly (Civil Miscellaneous Appeal No. 514 of 2006 & C.M.P. No. 1941 of 2006) decided on 4-9-2014, it was held that Absolute confiscation of currency was justified for violation of Regulation 5 of Foreign Exchange Management (Export and Import of Currency) Regulations, 2000, read with Section 113 of Customs Act, 1962 - Though Clause 8 of Schedule III of Foreign Exchange Management (Current Account Transactions) Rules, 2000, allows release of foreign exchange, exceeding \$25,000 US for specified purposes, said drawal of foreign currency should be only from authorized person in terms of Rule 2(b) *ibid* hence, it cannot be said that amount not exceeding \$25,000 US may be freely taken out of India and the order of the Tribunal setting aside the absolute confiscation was set aside and the absolute confiscation ordered by the Original Authority was restored.

In the present case, it is seen that **Shri Mohmed Ilyas Ibrahimbhai Indorwala** admitted that he has not bought said foreign currency i.e. US Dollars from any authorized dealer/ agent and have no legitimate documents regarding procurement of foreign currency. He stated that, he attempted to carry foreign currency illegally to Dubai, therefore, he had not disclosed and declared the foreign currency which was majorly concealed in his shoulder pouch and in brown-coloured sandals worn by him, to smuggle the same out of India. He was fully aware that carrying foreign currency in huge amount without any legitimate documents and without declaring before Customs is an offence under the provisions of the Customs Act, 1962 and that he neither filed any Declaration form for declaring foreign currency to Customs nor produced any legitimate documents regarding procurement of foreign currency from any authorized currency exchanger. He also knew if the concealed foreign currency is detected by the Customs Officers, the same is liable for seizure and confiscation under the Customs Act, 1962. Hence, I am the view that the foreign currencies recovered from the passenger would be liable to absolute confiscation. I am therefore, not inclined to use my discretion to give an option to redeem the foreign currency on payment of a redemption fine, as envisaged under Section 125 of the Customs Act.

35. Given the above findings, it gets evident that **Shri Mohmed Ilyas Ibrahimbhai Indorwala** in blatant violation of Baggage Rules, 2016 framed under the Customs Act, 1962 and Foreign Exchange Management (Export and Import of Currency) Regulations, 2015 attempted to smuggle out a huge amount of foreign currency. Further, I find that the said passenger Shri Mohmed Ilyas Ibrahimbhai Indorwala on being asked, stated that the said foreign currency recovered from his shoulder pouch and brown-coloured sandals worn by him belongs to him. An act of smuggling out foreign currency results into serious repercussion on the Indian economy. Shri Mohmed Ilyas Ibrahimbhai Indorwala showed his apparent and utter disregard to the law of the land. In the present case "*mens rea*" on part of the passenger is very much evident. By the aforesaid acts Shri Mohmed Ilyas Ibrahimbhai Indorwala violated the proviso 113(d), 113(e) and 113(h) of Customs Act, 1962, read with Rule 7 of foreign exchange management (Export and Import of Currency) regulation, 2015 issued by Reserve bank of India under Notification no. FEMA 6 (R)/ RB-2015 dated 29.12.2015, and Rule 7 of the baggage Rules, 2016 (earlier baggage rules, 1998 as amended from time to time) and therefore liable for penal action under Section 114(i) of the Customs Act, 1962. Accordingly, I find that

OIO No:181/ADC/SRV/O&A/2025-26
F. No: VIII/10-32/SVPI-D/O&A/HQ/2025-26

Shri Mohmed Ilyas Ibrahimbhai Indorwala is liable to penalty under Section 114(i) of the Customs Act, 1962.

36. Accordingly, I pass the following order;

O R D E R

- i I order absolute confiscation of 190 Notes of US Dollars of 100 denomination (Total \$19000 USD)** having equivalent value in Indian **Rs.16,54,900/-**-(Rupees Sixteen Lakhs Fifty Four Thousand Nine Hundred Only) attempted to smuggle out of India by way of concealing the same in the shoulder pouch and in brown coloured sandals worn by him, contrary to the prohibition imposed in terms of Notification No. FEMA 6 (R)/RB-2015 dated 29/12/2015 [Foreign Exchange Management (Export and Import Currency) Regulations, 2015 read with Customs Act, 1962 and Baggage Rules, 2016 which were seized vide Panchnama dated 22.01.2025 and Seizure Memo dated 22.01.2025, under the provisions of Section 113(d), 113(e) & 113(h) of the Customs Act, 1962 read with the FEMA Regulations and Rule 7 of the Baggage Rules,2016;
- ii I order absolute confiscation of the goods i.e. One Black Coloured Shoulder Pouch Bag and Brown Coloured Sandals worn by the pax,** which were used to conceal the foreign currency of **\$19000 USD** seized vide Seizure Order dated 22.01.2025 under Panchnama dated 22.01.2025 under the provisions of Section 119 of the Customs Act, 1962;
- iii I impose a penalty of Rs.4,00,000/- (Rupees Four Lakhs Only) on Shri Mohmed Ilyas Ibrahimbhai Indorwala,** under Section 114(i) of the Customs Act 1962.

37. Accordingly, the Show Cause Notice No. VIII/10-32/SVPIA-D/O&A/HQ/2025-26 dated 15.07.2025 stands disposed of.

(Shree Ram Vishnoi)
Additional Commissioner
Customs, Ahmedabad

DIN:20251271MN0000333C6C

F. No: VIII/10-32/SVPI-D/O&A/HQ/2025-26

Date:18.12.2025

By Speed Post Ad / E-Mail

To
Shri Mohmed Ilyas Ibrahimbhai Indorwala
623/3, Astodiya, Kadva Sheri,
Jamalpur, Ahmedabad, Gujarat-380001
Email. Id indorwalailyas9300@gmail.com

Copy to:

- (i) The Dy./Asstt. Commissioner of Customs,Ahmedabad. (RRA Section)
- (ii) The Dy. Commr. of Customs (AIU), SVPIA, Ahmedabad.
- (iii) The Dy. Commr. of Customs, SVPIA, Ahmedabad.
- (iv) The Dy./Asstt. Commissioner of Customs (TRC), Ahmedabad.
- (v) The System In charge, Customs HQ, Ahmedabad for uploading on official web-site i.e. <http://www.ahmedabadcustoms.gov.in>
- (vi) Guard File.