



प्रधान आयुक्त का कार्यालय, सीमा शुल्क, अहमदाबाद

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

PREAMBLE

A	फाइल संख्या/ File No.	:	VIII/10-238/SVPIA-A/O&A/HQ/2023-24
B	कारणबताओनोटिससंख्या-तारीख / Show Cause Notice No. and Date	:	VIII/10-238/SVPIA-A/O&A/HQ/2023-24 dated: 04.03.2024
C	मूलआदेशसंख्या/ Order-In-Original No.	:	73/ADC/VM/O&A/2024-25
D	आदेशतिथि/ Date of Order-In-Original	:	25.06.2024
E	जारीकरनेकीतारीख/ Date of Issue	:	25.06.2024
F	द्वारापारित/ Passed By	:	Vishal Malani, Additional Commissioner, Customs, Ahmedabad.
G	आयातककानामऔरपता / Name and Address of Importer / Passenger	:	To, Ms. Naseem Mohammed Hanif Bhatti, 139-Haji Ismail Basar Building, 2nd Floor, Room No.7, Ghogari Mohalla, Mumbai-400003.
(1)	यह प्रति व्यक्ति के उपयोग के लिए निःशुल्क प्रदान किया जाता है जिन्हे यह जारी किया जाता है।		
(2)	कोई भी व्यक्ति इस आदेश से स्वयं को असंतुष्ट पाता है तो वह इस आदेश के विरुद्ध अपील इस आदेश की प्राप्त किया तारीख के ६० दिनों के भीतर आयुक्त कार्यालय, सीमा शुल्क (अपील), ४वीं मंजिल, हुड़को भवन, ईश्वर भुवन मार्ग, नवरंगपुरा, अहमदाबाद में कर सकता है।		
(3)	अपील के साथ केवल पांच (5.00) रुपये पे 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 साथकेवल पांच (5.00) रुपये पे न्यायालय शुल्क टिकिट लगा होना चाहिए।		
(4)	इस आदेश के विरुद्ध अपील करने इच्छुक व्यक्ति को ७.५% अधिकतम १० करोड़ शुल्क हम करना होगा जहां शुल्क या ड्रूटी 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, १९६२ के धरा १२९ के प्रावधानों का अनुपालन नहीं करने के लिए अपील को खारिज कर दिया जायेगा।		

Brief facts of the case: -

Mrs. Naseem Mohammed Hanif Bhatti Aged 54 years (DOB 27.12.1969) daughter of Shri Mehmoodbhai Shaikh, holding Indian Passport No. N3126373 address (as per passport): 139-Haji Ismail Basar Building, 2nd Floor, Room No. 7, Ghogari Mohalla, Mumbai-400003 India arrived from Dubai to Ahmedabad on 07.10.2023 by Flight No. Spice Jet SG16 at SVPI Airport, Ahmedabad between 00.03 to 00.45 hours. On the basis of passenger profiling and specific input that passenger was carrying dutiable/ contraband goods, the passenger was intercepted by the Air Intelligence Unit (AIU) officers, SVPIA, Customs, Ahmedabad, while passenger was attempting to exit through green channel without making any declaration to the Customs, under the panchnama proceedings dated 07.10.2023.

02. The pax was questioned by the AIU officers as to whether she was carrying any dutiable/ contraband goods in person or in her baggage, to which she denied. While the passenger passes through the DFMD machine, no beep sound was heard indicating there is an objectionable item on Biscuits. On checking her baggage, on baggage scanning machine, some suspicious /objectionable x-ray images were noticed/ observed by the Officers of AIU. Hence, the officers asked the passenger about the suspicious x-ray image, but she didn't give a satisfactory reply. The officers of AIU had a strong belief that the biscuits i.e. Nabil Digestive which shows suspicious x-ray image, so the officers of AIU tear/ opened the packet and checked one piece of biscuit containing cream between the biscuit. The officers noticed that the picture of the biscuits on wrapper is single, but actual biscuit is containing cream between the biscuits. Therefore, it needs to confirm whether there is gold inside the cream of biscuit or not.

03. The Government Approved Valuer melted the cream for testing purposes. After completion of the process of melting, the Government Approved Valuer confirmed vide his Valuation certificate No. 674/2023-24 dated 07.10.2023 that it was pure gold. Further, he informed that as per the total Market Value of the said recovered gold is

Rs.17,53,342/- (Rupees Seventeen Lakhs Fifty-Three Thousand Three Hundred and Forty-Two only) and Tariff Value is **Rs.15,15,143/-** (Rupees Fifteen Lakhs Fifteen Thousand One Hundred and Forty-Three Only). The value of the gold bar has been calculated as per the Notification No. 71/2023-Customs (N.T.) dated 29.09.2023 (gold) and Notification No. 73/2023-Customs (N.T.) dated 05.10.2023 (exchange rate).

Details of Items	Pieces	Purity	Net Weight (in Grams)	Market Value (In Rs.)	Tariff Value (In Rs.)
Gold Bar	02	24kt./ 999.0	298.950	17,53,342/-	15,15,143/-

04. A statement of the passenger Mrs. Naseem Mohammed Hanif Bhatti dated 07.10.2023 was recorded under Section 108 of the Customs Act, 1962 wherein he stated that -

- i. She is a housewife. Her mobile number is 8082395743;
- ii. On being asked regarding her overseas travels, she stated that she went to Dubai to purchase the dresses as she wants to started small business. The ticket fair of Dubai and hotel bills of his stay in Dubai paid by Shri Rehmanbhai. When she planned to return to India some unknown person was given this biscuit and told her to handover the person who will be received her after arriving in India at Ahmedabad Airport, she doesn't know his name and have his contact number;
- iii. She had never indulged in any smuggling activity in the past. This is the first time for her to brought gold from abroad.
- iv. On being asked why she had opted for green channel without declaring the dutiable goods, she stated that he knows she did not make any declaration at Ahmedabad Airport regarding concealment of gold done by her. She had full confidence that the gold concealed could not be found by the Customs. Hence, she had opted for a green channel without the declaration with an intent to clear the gold to evade the payment of Customs Duty.

05. In view of the above, 298.950 grams Gold in form of gold bar had been placed under Seizure on 07.10.2023 under panchnama

proceedings dated 07.10.2023 and Seizure Memo dated 07.10.2023 on the reasonable ground that the same are liable for confiscation under the Customs Act, 1962 in as much as the said act was an attempt to smuggle the said goods inside India illegally.

06. In view of the above, **Mrs. Naseem Mohammed Hanif Bhatti** Aged 54 years (DOB 27.12.1969) daughter of Shri Mehmoodbhai Shaikh, holding Indian Passport No. N3126373 address (as per passport): 139-Haji Ismail Basar Building, 2nd Floor, Room No.7, Ghogari Mohalla, Mumbai-400003 India was called upon to show cause vide show cause notice dated 04.03.2024 as to why :

- (i) Two gold bars totally weighing **298.950** grams having purity of 999.0 (24 Kt) having Market Value of **Rs.17,53,342/-** (Rupees Seventeen Lakhs Fifty Three Thousand Three Hundred and Forty Two only) and Tariff Value is **Rs.15,15,143/-** (Rupees Fifteen Lakhs Fifteen Thousand One Hundred and Forty Three Only), which has been calculated as per the Notification No. 71/2023-Customs (N.T.) dated 29.09.2023 (gold) and Notification No. 73/2023-Customs (N.T.) dated 05.10.2023 (exchange rate), should not be confiscated under the provisions of Sections 111(d), 111 (f), 111(i), 111 (j) and 111 (l) and 111(m)of the Customs Act, 1962;
- (ii) The packing material i.e. Nibel Biscuit used for concealment of gold paste seized under panchnama dated 24.10.2023 should not be confiscated under Section 119 of the Customs Act, 1962 and;
- (iii) Penalty should not be imposed upon the passenger under Section 112 of the Customs Act, 1962.

Defence Reply and Personal Hearing:

7. Mrs. Naseem Mohammed Hanif Bhatti has not submitted written reply to the Show Cause Notice.

8. Mrs. Naseem Mohammed Hanif Bhatti was given opportunity to appear for personal hearing on 19.06.2024; 21.06.2024 and

24.06.2024 but she did not appear for personal hearing on the given dates.

Discussion and Findings:

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

10. In the instant case, I find that the main issue to be decided is whether the 298.950 grams of gold bar, obtained from the paste of gold and chemical mixture weighing 671.680 grams, having Tariff Value of Rs.15,15,143/- (Rupees Fifteen Lakh Fifteen Thousand One Hundred Fourty-Three Only) and Market Value of Rs.17,53,342/- (Rupees Seventeen Lakhs Fifty-Three Thousand Three Hundred Fourty-Two Only), seized vide Seizure Memo/ Order under Panchnama proceedings both dated 07.10.2023, on a reasonable belief that the same is liable for confiscation under Section 111 of the Customs Act, 1962 (hereinafter referred to as 'the Act') or not; whether the goods used for packing and concealment of seized goods is liable for confiscation under the provisions of Section 119 of the Act and whether the passenger is liable for penal action under the provisions of Section 112 of the Act.

11. I find that the panchnama has clearly drawn out the fact that the passenger was intercepted on the basis of passenger profiling and specific input that the passenger was carrying dutiable/ contraband goods, the passenger was intercepted by the Air Intelligence Unit (AIU) officers, SVPIA, Customs, Ahmedabad, while the passenger was attempting to exit through green channel without making any declaration to the Customs. The pax was questioned by the AIU officers as to whether she was carrying any dutiable/ contraband goods in

person or in her baggage, to which she denied. While the passenger passes through the DFMD machine, no beep sound was heard indicating there is an objectionable item on Biscuits. On checking her baggage, on baggage scanning machine, some suspicious/objectionable x-ray images were noticed/ observed by the Officers of AIU. Hence, the officers asked the passenger about the suspicious x-ray image, but she didn't give a satisfactory reply. The officers of AIU had a strong belief that the biscuits i.e. Nabil Digestive which shows suspicious x-ray image, so the officers of AIU tear/ opened the packet and checked one piece of biscuit containing cream between the biscuit. The officers noticed that the picture of the biscuits on wrapper is single, but actual biscuit is containing cream between the biscuits. Therefore, it needs to confirm whether there is gold inside the cream of biscuit or not.

12. It is on record that the passenger had admitted that she was carrying the said gold paste with an intent to smuggle into India without declaring before the Customs Officers. It is also on record that the government approved valuer after weighing the gold paste and informed that the said semi-solid material was of 671.680 grams (gross weight). Thereafter, he began the process of extracting the gold from the paste and on completion of the procedure, Government Approved Valuer, issued Valuation Report vide Certificate No. 674/2023-24 dated 07.10.2023 and certified that a 24Kt gold bar weighing 298.950 grams is derived from the semi-solid substance/paste, having purity of 999.0 having Tariff Value of Rs.15,15,143/- and Market Value of Rs.17,53,342/-. The said gold bar was seized vide Seizure Memo under Panchnama proceedings both dated 07.10.2023, in the presence of the passenger and Panchas.

13. I also find that the said 298.950 grams of gold bar obtained from the 671.680 Grams of gold paste having Tariff Value of Rs.15,15,143/- and Market Value of Rs.17,53,342/- carried by the passenger Mrs. Naseem Mohammed Hanif Bhatti appeared to be "smuggled goods" as defined under Section 2(39) of the Customs Act, 1962. The offence committed is admitted by the passenger in her statement recorded on 07.10.2023 under Section 108 of the Customs Act, 1962.

14. I also find that the passenger had neither questioned the manner of the panchnama proceedings at the material time nor controverted the facts detailed in the panchnama during the course of recording her statement. Every procedure conducted during the panchnama by the Officers was well documented and made in the presence of the panchas as well as the passenger. In fact, in her statement, she has clearly admitted that she was aware that import of gold without payment of Customs duty was an offence but as she wants to save Customs duty, she had concealed the same in Biscuits with an intention to clear the gold illicitly to evade Customs duty and thereby violated provisions of the Customs Act, the Baggage Rules, the Foreign Trade (Development & Regulations) Act, 1992, the Foreign Trade (Development & Regulations) Rules, 1993 and the Foreign Trade Policy 2015-2020.

15. Further, the passenger has accepted that she had not declared the said gold paste concealed in Biscuits on her arrival to the Customs authorities. It is clear case of non-declaration with an intent to smuggle the gold. Accordingly, there is sufficient evidence to say that the passenger had kept the gold paste which was in her possession and failed to declare the same before the Customs Authorities on her arrival at SVPIA, Ahmedabad. The case of smuggling of gold paste recovered from her possession and which was kept undeclared with an intent of smuggling the same and in order to evade payment of Customs duty is conclusively proved. Thus, it is proved that passenger violated Section 77, Section 79 of the Customs Act for import/ smuggling of gold which was not for bonafide use and thereby violated Rule 11 of the Foreign Trade Regulation Rules 1993, and para 2.26 of the Foreign Trade Policy 2015-20. Further as per Section 123 of the Customs Act, 1962, gold is a notified item and when goods notified thereunder are seized under the Customs Act, 1962, on the reasonable belief that they are smuggled goods, the burden to prove that they are not smuggled, shall be on the person from whose possession the goods have been seized.

16. From the facts discussed above, it is evident that Mrs. Naseem Mohammed Hanif Bhatti had carried gold paste weighing 671.680

grams, (wherefrom 298.950 grams of gold bar having purity 999.0 recovered on the process of extracting gold from the said paste) while arriving from Dubai to Ahmedabad, with an intention to smuggle and remove the same without payment of Customs duty, thereby rendering the said gold derived of 24Kt/999.00 purity totally weighing 298.950 grams, liable for confiscation, under the provisions of Sections 111(d), 111(f), 111(i), 111(j), 111(l) & 111(m) of the Customs Act, 1962. By concealing the said gold paste in Biscuits and not declaring the same before the Customs, it is established that the passenger had a clear intention to smuggle the gold clandestinely with the deliberate intention to evade payment of Customs duty. The commission of above act made the impugned goods fall within the ambit of 'smuggling' as defined under Section 2(39) of the Act.

17. It is seen that the Noticee had not filed the baggage declaration form and had not declared the said gold paste which was in her possession, as envisaged under Section 77 of the Act read with the Baggage Rules and Regulation 3 of Customs Baggage Declaration Regulations, 2013. It is also observed that the imports were also for non-bonafide purposes. Therefore, the said improperly imported gold paste weighing 671.680 grams concealed in Biscuits (extracted gold bar of 298.950 grams) by the passenger without declaring to the Customs on arrival in India cannot be treated as bonafide household goods or personal effects. The passenger has thus contravened the Foreign Trade Policy 2015-20 and Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 read with Section 3(2) and 3(3) of the Foreign Trade (Development and Regulation) Act, 1992.

18. It is, therefore, proved that by the above acts of contravention, the passenger has rendered the gold bar weighing 298.950 grams (Derived from the gold paste, totally weighing 671.680 grams), having Tariff Value of Rs.15,15,143/- and Market Value of Rs.17,53,342/- recovered and seized from the passenger vide Seizure Order under Panchnama proceedings both dated 07.10.2023 liable to confiscation under the provisions of Sections 111(d), 111(f), 111(i), 111(j), 111(l) & 111(m) of the Customs Act, 1962. By using the modus of gold paste concealed in Biscuits, it is observed that the passenger was

fully aware that the import of said goods is offending in nature. It is therefore very clear that she has knowingly carried the gold and failed to declare the same on her arrival at the Customs Airport. It is seen that she has involved herself in carrying, keeping, concealing and dealing with the impugned goods in a manner which she knew or had reasons to believe that the same is liable to confiscation under the Act. It, is therefore, proved beyond doubt that the Noticee has committed an offence of the nature described in Section 112 of the Customs Act, 1962 making her liable for penalty under Section 112 of the Customs Act, 1962.

19. I find that the Noticee confessed of carrying the said gold paste of 671.680 grams concealed in Biscuits (extracted gold bar of 298.950 grams having purity 999.0) and attempted to remove the said gold from the Customs Airport without declaring it to the Customs Authorities violating the para 2.26 of the Foreign Trade Policy 2015-20 and Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 read with Section 3(2) and 3(3) of the Foreign Trade (Development and Regulation) Act, 1992 further read in conjunction with Section 11(3) of the Customs Act, 1962 and the relevant provisions of Baggage Rules, 2016 and Customs Baggage Declaration Regulations, 2013. As per Section 2(33) "prohibited goods" means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with. The improperly imported gold by the passenger without following the due process of law and without adhering to the conditions and procedures of import have thus acquired the nature of being prohibited goods in view of Section 2(33) of the Act.

20. It is quite clear from the above discussions that the gold was concealed and not declared to the Customs with the sole intention to evade payment of Customs duty. The record before me shows that the passenger did not choose to declare the prohibited/ dutiable goods and opted for green channel Customs clearance after arriving from foreign destination with the willful intention to smuggle the impugned goods.

The said gold bar weighing 298.950 grams, derived from the Semi Solid substance Material consisting of Gold & Chemical Mix, totally weighing 671.680 grams, having Tariff Value of Rs.15,15,143/- and Market Value of Rs.17,53,342/- recovered and seized from the passenger vide Seizure Order under Panchnama proceedings both dated 07.10.2023. Despite having knowledge that the goods had to be declared and such import is an offence under the Act and Rules and Regulations made under it, the passenger had attempted to remove the Semi Solid substance Material consisting of Gold & Chemical Mix, totally weighing 671.680 grams (Gold bar weighing 298.950 grams derived from the same) by deliberately not declaring the same by him on arrival at airport with the willful intention to smuggle the impugned gold into India. I, therefore, find that the passenger has committed an offence of the nature described in Section 112(a) & 112(b) of the Customs Act, 1962 making her liable for penalty under provisions of Section 112 of the Customs Act, 1962.

21. I further find that the gold is not on the list of prohibited items but import of the same is controlled. The view taken by the Hon'ble Supreme Court in the case of Om Prakash Bhatia however in very clear terms lay down the principle that if importation and exportation of goods are subject to certain prescribed conditions, which are to be fulfilled before or after clearance of goods, non-fulfilment of such conditions would make the goods fall within the ambit of 'prohibited goods'. This makes the gold seized in the present case "prohibited goods" as the passenger, trying to smuggle it, was not eligible passenger to bring it in India or import gold into India in baggage. Gold bar weighing 298.950 grams, derived from the Semi Solid substance Material consisting of Gold & Chemical Mix, totally weighing 671.680 grams, was recovered from his possession, and was kept undeclared with an intention to smuggle the same and evade payment of customs duty. Further, passenger concealed the gold paste in Biscuits. By using this modus, it is proved that the goods are offending in nature and therefore prohibited on its importation. Here, conditions are not fulfilled by the passenger.

22. In view of the above discussions, I hold that the gold bar weighing 298.950 grams, (derived from the Semi Solid substance Material consisting of Gold & Chemical Mix, totally weighing 671.680 grams), carried and undeclared by the Noticee with an intention to clear the same illicitly from Airport and evade payment of Customs duty are liable for absolute confiscation. Further, the Noticee in her statement dated 07.10.2023 stated that she has carried the gold by concealment in Biscuits to evade payment of Customs duty. In the instant case, I find that the gold was carried by the Noticee for getting monetary benefit and that too by concealment. I am therefore, not inclined to use my discretion to give an option to redeem the gold on payment of redemption fine, as envisaged under Section 125 of the Act.

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

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

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

25. 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).

26. The Hon'ble High Court of Madras in the matter of COMMISSIONER OF CUSTOMS (AIR), CHENNAI-I Versus P. SINNASAMY 2016 (344) E.L.T. 1154 (Mad.) held-

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

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

27. In 2019 (370) E.L.T. 1743 (G.O.I.), before the Government of India, Ministry of Finance, [Department of Revenue - Revisionary Authority]; Ms. Mallika Arya, Additional Secretary in Abdul Kalam Ammangod Kunhamu vide Order No. 17/2019-Cus., dated 7-10-2019 in F. No. 375/06/B/2017-RA stated that it is observed that C.B.I. & C. had issued instruction vide Letter F. No. 495/5/92-Cus. VI, dated 10-5-1993 wherein it has been instructed that "in respect of gold seized for non-declaration, no option to redeem the same on redemption fine under Section 125 of the Customs Act, 1962 should be given except in very trivial cases where the adjudicating authority is satisfied that there was no concealment of the gold in question".

28. Given the facts of the present case before me and the judgements and rulings cited above, gold bar weighing 298.950 grams, derived from the Semi Solid substance Material consisting of Gold & Chemical Mix, totally weighing 671.680 grams carried by the passenger is therefore liable to be confiscated absolutely. I therefore hold in unequivocal terms that gold bar weighing 298.950 grams, placed under seizure would be liable to absolute confiscation under Section 111(d), 111(f), 111(i), 111(j), 111(l) & 111(m) of the Customs Act, 1962; I also hold that the packing material i.e. Nibel Biscuit used for concealment of goods and seized would be liable to absolute confiscation under Section 119 of the Customs Act, 1962.

29. I further find that the passenger had involved herself and abetted the act of smuggling of gold bar weighing 298.950 grams, derived from the Semi Solid substance Material consisting of Gold & Chemical Mix, totally weighing 671.680 grams carried by her. She has agreed and admitted in her statement that she travelled with gold paste consisting of Gold & Chemical Mix, totally weighing 671.680 grams from Dubai to Ahmedabad. Despite her knowledge and belief that the gold paste carried by her is an offence under the provisions of the Customs Act, 1962 and the Regulations made under it, the Passenger attempted to smuggle the said gold paste of 671.680 grams by concealing in Biscuits (extracted gold bar of 298.950 grams having purity 999.0). Thus, it is clear that the passenger has concerned herself with carrying, removing, keeping, concealing and dealing with the smuggled gold which she knows very well and has reason to believe that the same are liable for confiscation under Section 111 of the Customs Act, 1962. Therefore, I find that the passenger is liable for penal action under Sections 112(a)(i) of the Act and I hold accordingly.

30. Accordingly, I pass the following Order:

ORDER

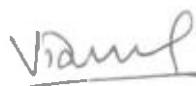
- i) I order absolute confiscation of the gold bar weighing **298.950** grams, of 24Kt/999.0 purity having Tariff Value of **Rs.15,15,143/-** (Rupees Fifteen Lakh Fifteen Thousand One Hundred Fourty-Three Only) and **Rs.17,53,342/-** (Rupees

Seventeen Lakhs Fifty-Three Thousand Three Hundred Fourty-Two Only) derived from the Semi Solid substance Material consisting of Gold & Chemical Mix, recovered and seized from the passenger Mrs. Naseem Mohammed Hanif Bhatti vide Seizure Order under Panchnama proceedings both dated 07.10.2023, under the provisions of Sections 111(d), 111(f), 111(i), 111(j), 111(l) & 111(m) of the Customs Act, 1962;

ii) I order absolute confiscation of the goods i.e. Nibel Biscuit, used for packing and concealment of seized goods, seized vide Seizure Order under Panchnama proceedings both dated 07.10.2023 under the provisions of Sections 119 of the Customs Act, 1962;

iii) I impose a penalty of **Rs.5,00,000/-** (Rupees Five Lakh Only) on Mrs. Naseem Mohammed Hanif Bhatti under the provisions of Section 112(a)(i) of the Customs Act, 1962.

28. Accordingly, the Show Cause Notice No. VIII/10-238/SVPIA-A/O&A/HQ/2023-24 dated 04.03.2024 stands disposed of.


25/6/24
(Vishal Malani)
Additional Commissioner
Customs, Ahmedabad

F. No: VIII/10-238/SVPIA-A/O&A/HQ/2023-24 Date: 25.06.2024

DIN: 20240671MN000000EBC1

BY SPEED POST AD

To,
Ms. Naseem Mohammed Hanif Bhatti,
139-Haji Ismail Basar Building,
2nd Floor, Room No.7,
Ghogari Mohalla, Mumbai-400003.

Copy to:

(i) The Principal Commissioner of Customs, Ahmedabad. (Kind Attn: RRA Section)

(ii) The Dy./Asstt. Commissioner of Customs (AIU), SVPIA, Ahmedabad.

(iii) The Dy./Asstt. Commissioner of Customs (TRC), Ahmedabad.

(iv) The System In charge, Customs HQ, Ahmedabad for uploading on official web-site i.e. <http://www.ahmedabadcustoms.gov.in>

(v) Guard File.

✓