



प्रधान आयुक्तका कार्यालय, सीमाशुल्क, अहमदाबाद

"सीमाशुल्कभवन", पहलीमंजिल, पुरानेहाईकोर्टकेसामने, नवरंगपुरा, अहमदाबाद – 380 009.
दूरभाष: (079) 2754 4630 फैक्स: (079) 2754 2343 ई-मेल: cus-ahmd-adj@gov.in

SHOW CAUSE NOTICE

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

Shri Narendra Singh, (hereinafter referred to as the said "passenger/ Noticee") residing at 148, Nadoli Ka Rasta, VPO Gailsar, The Makarna Nagaur, Rajasthan, India Pin-341517, holding an Indian Passport Number No. N9562586, arrived from Kuwait to Ahmedabad by Kuwait Flight No. KU 345 and his boarding pass bearing Seat No. 29C, at Sardar Vallabhbhai Patel International Airport (SVPIA), Terminal-2, Ahmedabad. On the basis of passenger profiling one passenger who arrived by Kuwait Flight No. KU 345 on 22.01.2024 came from Kuwait to Ahmedabad at Terminal-2 of Sardar Vallabhbhai Patel International Airport (SVPI), Ahmedabad and on suspicious movement of passenger, the passenger was intercepted by the Air Intelligence Unit (AIU) officers, SVPI Airport, Customs, Ahmedabad under Panchnama proceedings dated 22.01.2024 (**RUD-01**) in presence of two independent witnesses for passenger's personal search and examination of his baggages.

2. The AIU Officers asked about identity of Shri Narendra Singh by his passport no. N9562586 travelled by Kuwait Flight No KU345 from Kuwait to Ahmedabad and his boarding pass bearing Seat No. 29C, after he had crossed the Green Channel at the Ahmedabad International Airport. In the presence of the panchas, the AIU Officers asked Shri Narendra Singh if he has anything to declare to the Customs, to which he denied the same politely. The officers offered their personal search to the passenger, but the passenger denied and said that he had full trust on them. Now, the officers asked the passenger whether he wanted to be checked in front of an Executive Magistrate or Superintendent of Customs, in reply to which he gave the consent to be searched in front of the Superintendent of Customs.

2.1 The Officers, in presence of the panchas, along with the officers observed that Shri Narendra Singh had carried one backpack and a trolley bag. The officers, in presence of the panchas carried out scanning of the hand bags and trolley bag in the scanner installed near the exit gate of the arrival hall of SVPI Airport, Ahmedabad, however, nothing suspicious was observed.

2.2 The Officers, in presence of the panchas, asked Shri Narendra Singh to pass through the Door Frame Metal Detector (DFMD) machine; prior to passing through the said DFMD, the passenger was asked to remove all the metallic objects he was wearing on their body/ clothes. Thereafter, the passenger readily removed the metallic substances from his body such as belt, mobile, wallet etc. and kept it on the tray placed on the table and after that officer asked him to pass through the Door Frame Metal Detector (DFMD) machine and while he passed through the DFMD Machine, no beep sound/ alert was generated. Then, the officers, in presence of the panchas, interrogated the passenger and on sustained interrogation and repeated questioning the passenger confessed that he was carrying two TT Bars weighing 233.280 grams which was concealed in his wallet.

2.3 The officers, then took out the two TT Bars from his pocket, which required to be confirmed and also to be ascertained its purity and weight. For the same, the Officers of AIU contacted Shri Soni Kartikey Vasantrai, the Government Approved Valuer and he reached the Airport for valuation of the said Gold TT Bars, and after testing and valuation he submitted valuation report. As per the said valuation report, the said two TT Bars having purity of 999.00 recovered from the passenger Shri Narendra Singh, is totally weighing 233.280 grams. The Officers took the photograph of the same which is as under:



2.4 Thereafter, the Government approved valuer, submitted the Valuation Certificate No. 1200/2023-24 dated 22.01.2024. As per the valuation report, two Gold TT Bars having purity of 999.00 grams recovered from the passenger Shri Narendra Singh, it totally weighing **233.280** grams, having Tariff Value of **Rs.12,98,768/-** and Market value of **Rs.15,00,690/-**. The value of the gold TT bars has been calculated as per the Notification No.02/2024-Customs (N.T.) dated 15.01.2024 (gold) and Notification No.04/2024-Customs (N.T.) dated 18.01.2024 (exchange rate). The photograph of the same is as under:



2.5 The method of purifying, testing and valuation used by Shri Kartikey Vasantrai Soni was done in presence of the independent panchas the passenger and officers. All were satisfied and agreed with

the testing and valuation Certificate No. 1200/2023-24 dated 22.01.2024 (**RUD-02**) given by Shri Kartikey Vasantrai Soni and in token of the same, the Panchas and the Passenger put their dated signature on the said valuation certificates.

3. The following documents produced by the passenger Shri Narendra Singh were withdrawn under the Panchanama dtd. 22.01.2024 :

- (i) Copy of Stamped pages of Passport No. N9562586 issued at Jaipur on 27.04.2016 valid up to 26.04.2026.
- (ii) Boarding pass dated 21.01.2024 showing seat no.29C of Flight No. KU345 from Kuwait to Ahmedabad.

4. Accordingly, the two gold TT bars having purity 999.0/24 Kt. weighing **233.280** grams, recovered from Shri Narendra Singh having market value of **Rs.15,00,690/-** (Rupees Fifteen Lacs Six Hundred and Ninety only) and having tariff value of **Rs.12,98,768/-** (Rupees Twelve Lacs Ninety eight Thousand Seven Hundred Sixty Eight only) which were attempted to smuggle gold into India with an intent to evade payment of Customs duty which is a clear violation of the provisions of the Customs Act, 1962, was seized vide Panchnama dtd. 22.01.2024, vide Seizure Memo dtd. 22.01.2024 issued from F. No. VIII/10-264/AIU/B/2023-24 Date: 22.01.2024, under the provisions of Section 110(1) & (3) of the Customs Act, 1962 and accordingly the same was liable for confiscation as per the provisions of the Customs Act, 1962 read with Rules and Regulation made thereunder.

5. A Statement of the passenger, Shri Narendra Singh, was recorded on 22.01.2024 under Section 108 of the Customs Act, 1962, (**RUD-03**), where he inter-alia stated that -

- (i) His name, age and address stated above is true and correct. He is involved in agricultural work at my native place.
- (ii) He lives with his family having his father, mother, Wife and one Son. His father is a farmer. His mother and wife are a house wife.
- (iii) He has studied upto 10th standard. His monthly income is approx Rs. 25,000/-.

- (iv) He worked in Kuwait as a driver for a long time. He came back to India after one year gap. As the gold price in Kuwait is cheaper as compared to the India, he has planned to come India. He has brought two Gold TT-Bars weighing 233.280 grams from Kuwait and the same is imported by him into India in an illegal way.
- (v) He is working as driver in Kuwait.
- (vi) He know bringing of gold or handing and taking over of the gold in an illegal way is an offense.
- (vii) He stated that he never indulged in any smuggling activity in the past. This is the first time, he carried this kind of gold Bars.
- (viii) On arrival at SVPI Airport at Ahmedabad at about 03:15 AM, he was intercepted by AIU Officers when he tried to exit through green channel with one backpack and two cartons. During my personal search and interrogation by the AIU Officers, he confessed that he has hidden 02 gold TT bars having net weight 233.280 grams. The said TT bars was taken by the officers to the govt. approved Valuer, who in his presence tested and reported that the gold bar is having weight 233.280 grams, having market value of Rs.15,00,690/- (Rupees Fifteen Lacs Six Hundred and Ninety only) and having tariff value of Rs.12,98,768/- (Rupees Twelve Lacs Ninety eight Thousand Seven Hundred Sixty Eight only). The said gold bars were seized by the officers under Panchnama dated 22.01.2024 under the provision of Customs Act, 1962. He stated that he was present during the entire course of the Panchnama dated 22.01.2024 and he confirmed the events narrated in the said panchnama drawn on 22.01.2024 at Terminal-2, SVPI Airport, Ahmedabad. In token of its correctness, he put his dated signature on the said Panchnama.
- (ix) He stated that he is aware that smuggling of gold without payment of customs duty is an offence. Since, he was aware of the 02 Gold TT-bars hidden in his wallet but he did not made any declarations in this regard. He confirmed the recovery of 233.280 grams of Gold having purity 999.0/24 KT having market value of Rs.15,00,690/- (Rupees Fifteen Lacs Six Hundred and Ninety only) and having tariff value of Rs.12,98,768/- (Rupees Twelve Lacs Ninety-Eight Thousand Seven Hundred Sixty Eight only) of the said 02 gold TT bars recovered from him hidden in the wallet under the Panchnama dated 22.01.2024. He opted for green channel so that he can attempt to smuggle the gold without paying customs duty.
- (x) As he stated above, this 02 gold TT bars are belong to him so he was not going to hand over this to any other person.

6. The above said gold bar with a net weighment of 233.280 grams having purity of 999.0/24 Kt. involving market value of Rs.15,00,690/-

(Rupees Fifteen Lacs Six Hundred and Ninety only) and having tariff value of Rs.12,98,768/- (Rupees Twelve Lacs Ninety eight Thousand Seven Hundred Sixty Eight only) recovered from the said passenger, was attempted to be smuggled into India with an intent to evade payment of Customs duty by way of concealing in his Wallet, which was clear violation of the provisions of the Customs Act, 1962. Thus, on a reasonable belief that the said Gold bar totally weighing 233.280 Grams which were attempted to be smuggled by Shri Narendra Singh, liable for confiscation under the provisions of Section 111 of the Customs Act, 1962; hence, the above said 02 gold TT bars weighing 233.280 grams recovered from the wallet, were placed under seizure under the provision of Section 110 of the Customs Act, 1962, vide Seizure Memo Order dated 22.01.2024, issued from F. No. VIII/10-264/AIU/B/2023-24, under Section 110 (1) & (3) of Customs Act, 1962 (**RUD - 04**).

7. RELEVANT LEGAL PROVISIONS:

A. THE CUSTOMS ACT, 1962:

I) Section 2 - Definitions.—*In this Act, unless the context otherwise requires,—*

(22) "goods" includes-

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

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

(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;

(39) "smuggling", in relation to any goods, means any act or omission which will render such goods liable to confiscation under section 111 or section 113;"

II) Section 11A – Definitions -*In this Chapter, unless the context otherwise requires,*

(a) "illegal import" means the import of any goods in contravention of the provisions of this Act or any other law for the time being in force;"

III) "Section 77 – Declaration by owner of baggage.—The owner of any baggage shall, for the purpose of clearing it, make a declaration of its contents to the proper officer."

IV) "Section 110 – Seizure of goods, documents and things.— (1) If the proper officer has reason to believe that any goods are liable to confiscation under this Act, he may seize such goods:"

V) "Section 111 – Confiscation of improperly imported goods, etc.—The following goods brought from a place outside India shall be liable to confiscation:-

- (d) any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;
- (f) any dutiable or prohibited goods required to be mentioned under the regulations in an arrival manifest or import manifest or import report which are not so mentioned;
- (i) any dutiable or prohibited goods found concealed in any manner in any package either before or after the unloading thereof;
- (j) any dutiable or prohibited goods removed or attempted to be removed from a customs area or a warehouse without the permission of the proper officer or contrary to the terms of such permission;
- (l) any dutiable or prohibited goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77;
- (m) any goods which do not correspond in respect of value or in any other particular with the entry made under this Act or in the case of baggage with the declaration made under section 77 in respect thereof, or in the case of goods under transshipment, with the declaration for transshipment referred to in the proviso to sub-section (1) of section 54;"

VI) "Section 119 – Confiscation of goods used for concealing smuggled goods—Any goods used for concealing smuggled goods shall also be liable to confiscation."

VII) "Section 112 – Penalty for improper importation of goods, etc.— Any person,-

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

B. THE FOREIGN TRADE (DEVELOPMENT AND REGULATION) ACT, 1992:

I) "Section 3(2) - *The Central Government may also, by Order published in the Official Gazette, 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."*

II) "Section 3(3) - *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."*

III) "Section 11(1) - *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."*

C. THE CUSTOMS BAGGAGE DECLARATIONS REGULATIONS, 2013:

I) Regulation 3 (as amended) - *All passengers who come to India and having anything to declare or are carrying dutiable or prohibited goods shall declare their accompanied baggage in the prescribed form.*

Contravention and violation of laws:

8. It therefore appears that:

(a) The passenger had dealt with and actively indulged himself in the instant case of smuggling of gold into India. The passenger had improperly imported two gold TT bars weighing 233.280 Grams having purity 999.0/24 Kt., recovered from the wallet, involving market value of Rs.15,00,690/- (Rupees Fifteen Lacs Six Hundred and Ninety only) and having tariff value of Rs.12,98,768/- (Rupees Twelve Lacs Ninety-Eight Thousand Seven Hundred Sixty-Eight only), not declared to the Customs. The passenger opted green channel to exit the Airport with deliberate intention to evade the payment of Customs Duty and fraudulently circumventing the restrictions and prohibitions imposed under the Customs Act, 1962 and other allied Acts, Rules and Regulations. Thus, the element of *mens rea* appears to

have been established beyond doubt. Therefore, the improperly imported 233.280 Grams of two gold TT bars of purity 999.0/24 Kt. by the passenger, which was recovered from the wallet of the passenger, without declaring it 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.

- (b)** By not declaring the value, quantity and description of the goods imported by him, the said passenger violated the provision of Baggage Rules, 2016, read with the Section 77 of the Customs Act, 1962 read with Regulation 3 of the Customs Baggage Declaration Regulations, 2013.
- (c)** The improperly imported 02 gold TT bars by the passenger, Shri Narendra Singh, which was recovered from the wallet, without declaring it to the Customs is thus liable for confiscation under Section 111(d), 111(f), 111(i), 111(j), 111(l) and 111(m) read with Section 2 (22), (33), (39) of the Customs Act, 1962 and further read in conjunction with Section 11(3) of the Customs Act, 1962.
- (d)** Shri Narendra Singh by his above-described acts of omission and commission on his part has rendered himself liable to penalty under Section 112 of the Customs Act, 1962.
- (e)** As per Section 123 of the Customs Act, 1962, the burden of proving that the gold bar weighing 233.280 Grams having purity 999.0/24 Kt. and having market value of Rs.15,00,690/- (Rupees Fifteen Lacs Six Hundred and Ninety only) and having tariff value of Rs.12,98,768/- (Rupees Twelve Lacs Ninety eight Thousand Seven Hundred Sixty Eight only), which was recovered from wallet weighing 233.280 grams without declaring it to the Customs, are not smuggled

goods, is upon the passenger and Noticee, Shri Narendra Singh.

9. Now, therefore, **Shri Narendra Singh**, residing at 148, Nadoli Ka Rasta, VPO Gailasar, Teh. Makarna, Nagaur, Rajasthan - 341517 holding an Indian Passport Number No. N9562586, is hereby called upon to show cause in writing to the show cause in writing to the Additional Commissioner of Customs, having his office located at 2ndFloor, 'Custom House' Building, Near All India Radio, Navrangpura, Ahmedabad-380 009, as to why:

- (i) The Two Gold TT Bars weighing **233.280** Grams having purity 999.0/24 Kt. and having market value of **Rs.15,00,690/-** (Rupees Fifteen Lacs Six Hundred and Ninety only) and having tariff value of **Rs.12,98,768/-** (Rupees Twelve Lacs Ninety eight Thousand Seven Hundred Sixty Eight only), which was recovered from the wallet, was placed under seizure under panchnama proceedings dated 22.01.2024 and Seizure Memo Order dated 22.01.2024, should not be confiscated under the provision of Section 111(d), 111(f), 111(i), 111(j), 111(l) and 111(m) of the Customs Act, 1962;
- (ii) Penalty should not be imposed upon the passenger, under Section 112 of the Customs Act, 1962, for the omissions and commissions mentioned hereinabove.

10. Shri Narendra Singh, is further required to state specifically in the written reply as to whether he wishes to be heard in person before the case is adjudicated. If no specific mention is made about this in the written reply, it shall be presumed that he does not wish to be heard in person. He should produce at the time of showing cause, all the evidences which he intends to reply upon in defense.

11. Shri Narendra Singh, is further required to note that the reply should reach within 30 (thirty) days or within such extended period as may be allowed by the adjudicating authority. If no cause is shown against the action proposed above within 30 days from the receipt of

this show cause notice or if anyone does not appear before the adjudicating authority as and when the case is posted for hearing, the case is liable to be decided ex-parte on the basis of facts and evidences available on record.

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

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

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


(Vishal Malani)
 Additional Commissioner,
 Customs, Ahmedabad

F. No. VIII/10-88/SVPIA-B/O&A/HQ/2024-25
 DIN: 20240671MN000021262A

Date : 05.06.2024

BY SPEED POST:

To,
Shri Narendra Singh,
 148, Nadoli Ka Rasta, VPO-Gailsar,
 The.Makarna, Nagaur, Rajsathan,
 India Pin-341517.

Copy to :

- (i) The Deputy Commissioner of Customs (AIU), SVPIA, Ahmedabad
- (ii) The System In-Charge, Customs, HQ., Ahmedabad for uploading on the official web-site.
- (iii) Guard File.

Annexure 'A'

Documents relied upon in the notice to show cause bearing against Shri Narendra Singh, residing at 148, Nadoli Ka Rasta, VPO-Gailsar, Teh. Makarna, Nagaur, Rajsathan, India Pin-341517, holding Indian Passport No. N9562586 for attempting to smuggle Two TT Gold Bars having net weighment of 233.280 Grams:

Sr. No	Document	Remarks
1	Panchnama drawn on 22.01.2024 at SVP International Airport, Ahmedabad	Copy enclosed
2.	Valuation certificate N.1200/2023-24 dated 22.01.2024 issued by Shri Karitkey Soni, Government Approved Valuer.	Copy enclosed
3.	Statement dated 22.01.2024 of Shri Narendra Singh.	Copy enclosed
4.	Seizure memo Order dated 22.01.2023 issued under Section 110(1) & (3) of the Customs Act, 1962.	Copy enclosed