



प्रधान आयुक्त का कार्यालय, सीमा शुल्क, अहमदाबाद  
सीमा शुल्क भवन, आल इंडीया रेडीओ के बाजु मे, नवरंगपुरा, अहमदाबाद 380009  
दूर भाष (079) 2754 46 30 फैक्स (079) 2754 23 43  
**OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, AHMEDABAD**  
**CUSTOMS HOUSE, NEAR ALL INDIA RADIO, NAVRANGPURA, AHMEDABAD 380009**  
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निबन्धित पावती डाक द्वारा / By SPEED POST A.D.

फा. सं./ **F. No.:VIII/10-01/Pr.Commr./O&A/2024-25**  
**DIN-20250571MN0000411651**

आदेशकीतारीख/Date of Order : 20.05.2025  
जारीकरनेकीतारीख/Date of Issue : 20.05.2025

द्वारापारित :- **शिव कुमार शर्मा, प्रधान आयुक्त**  
**Passed by :- Shiv Kumar Sharma, Principal Commissioner**

मूल आदेश संख्या :

**Order-In-Original No: AHM-CUSTM-000-PR.COM-08-25-26 Dated 20.05.2025 in the case of Shri Vipul Borad & Others.**

- 1 जिस व्यक्ति(यों) को यह प्रति भेजी जाती है, उसे व्यक्तिगत प्रयोग के लिए निःशुल्क प्रदान की जाती है।
1. This copy is granted free of charge for private use of the person(s) to whom it is sent.
2. इस आदेश से असंतुष्ट कोई भी व्यक्ति इस आदेश की प्राप्ति से तीन माह के भीतर सीमा शुल्क, उत्पाद शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण, अहमदाबाद पीठ को इस आदेश के विरुद्ध अपील कर सकता है। अपील सहायक रजिस्ट्रार, सीमा शुल्क, उत्पाद शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण, दुसरी मंज़िल, बहुमाली भवन, गिरिधर नगर पुल के बाजु मे, गिरिधर नगर, असारवा, अहमदाबाद-380 004 को सम्बोधित होनी चाहिए।
2. Any person deeming himself aggrieved by this Order may appeal against this Order to the Customs, Excise and Service Tax Appellate Tribunal, Ahmedabad Bench within three months from the date of its communication. The appeal must be addressed to the Assistant Registrar, Customs, Excise and Service Tax Appellate Tribunal, 2nd Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Girdhar Nagar, Asarwa, Ahmedabad – 380004.
3. उक्त अपील प्रारूप सं. सी.ए.3 में दाखिल की जानी चाहिए। उसपर सीमा शुल्क (अपील) नियमावली, 1982 के नियम 3 के उप नियम (2) में विनिर्दिष्ट व्यक्तियों द्वारा हस्ताक्षर किए जाएंगे। उक्त अपील को चार प्रतियों में दाखिल किया जाए तथा जिस आदेश के विरुद्ध अपील की गई हो, उसकी भी उतनी ही प्रतियाँ संलग्न की जाएँ (उनमें से कम से कम एक प्रति प्रमाणित होनी चाहिए)। अपील से सम्बंधित सभी दस्तावेज भी चार प्रतियों में अग्रेषित किए जाने चाहिए।

3. The Appeal should be filed in Form No. C.A.3. It shall be signed by the persons specified in sub-rule (2) of Rule 3 of the Customs (Appeals) Rules, 1982. It shall be filed in quadruplicate and shall be accompanied by an equal number of copies of the order appealed against (one of which at least shall be certified copy). All supporting documents of the appeal should be forwarded in quadruplicate.
4. अपील जिसमें तथ्यों का विवरण एवं अपील के आधार शामिल हैं, चार प्रतियों में दाखिल की जाएगी तथा उसके साथ जिस आदेश के विरुद्ध अपील की गई हो, उसकी भी उतनी ही प्रतियाँ संलग्न की जाएंगी (उनमें से कम से कम एक प्रमाणित प्रति होगी)।
4. The Appeal including the statement of facts and the grounds of appeal shall be filed in quadruplicate and shall be accompanied by an equal number of copies of the order appealed against (one of which at least shall be a certified copy.)
5. अपील का प्रपत्र अंग्रेजी अथवा हिन्दी में होगा एवं इसे संक्षिप्त एवं किसी तर्क अथवा विवरण के बिना अपील के कारणों के स्पष्ट शीर्षों के अंतर्गत तैयार करना चाहिए एवं ऐसे कारणों को क्रमानुसार क्रमांकित करना चाहिए।
5. The form of appeal shall be in English or Hindi and should be set forth concisely and under distinct heads of the grounds of appeals without any argument or narrative and such grounds should be numbered consecutively.
6. केंद्रीय सीमा शुल्क अधिनियम, 1962 की धारा 129 ऐ के उपबन्धों के अंतर्गत निर्धारित फीस जिस स्थान पर पीठ स्थित है, वहां के किसी भी राष्ट्रीयकृत बैंक की शाखा से न्यायाधिकरण की पीठ के सहायक रजिस्ट्रार के नाम पर रेखांकित माँग ड्राफ्ट के जरिए अदा की जाएगी तथा यह माँग ड्राफ्ट अपील के प्रपत्र के साथ संलग्न किया जाएगा।
6. The prescribed fee under the provisions of Section 129A of the Customs Act, 1962 shall be paid through a crossed demand draft, in favour of the Assistant Registrar of the Bench of the Tribunal, of a branch of any Nationalized Bank located at the place where the Bench is situated and the demand draft shall be attached to the form of appeal.
7. इस आदेश के विरुद्ध सीमा शुल्क, उत्पाद शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण में शुल्क के 7.5% जहां शुल्क अथवा शुल्क एवं जुर्माना का विवाद है अथवा जुर्माना जहां शीर्ष जुर्माना के बारे में विवाद है उसका भुक्तान करके अपील की जा सकती है।
7. An appeal against this order shall lie before the Tribunal on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute”.
8. न्यायालय शुल्क अधिनियम, 1870 के अंतर्गत निर्धारित किए अनुसार संलग्न किए गए आदेश की प्रति पर उपयुक्त न्यायालय शुल्क टिकट लगा होना चाहिए।
8. The copy of this order attached therein should bear an appropriate court fee stamp as prescribed under the Court Fees Act, 1870.

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Subject: Show Cause Notice NO. VIII/10-01/Pr.Commr./O&A/2024-25 dated 12.04.2024 issued issued by Principal Commissioner, Customs, Ahmedabad in case of Shri Vipul Borad & Others.

**BRIEF FACTS OF THE CASE**

An intelligence was received by DRI Surat indicated that a person carrying foreign origin gold, which had been smuggled without invoice, was going to sell that gold to CRV Jewels, G4, Maitri Building, Lambe Hanuman Road, Varachha, Surat, Gujarat. Acting on the said intelligence, a search was conducted at M/s CRV Jewels, G4, Maitri Building, Lambe Hanuman Road, Varachha, Surat (hereinafter referred to as 'M/s CRV Jewels') on 21.04.2022 under Panchnama dated 21.04.2022 in the presence of independent panchas, Shri Chetan Katharotiya & Shri Rambhai Maganbhai Suhagiya - both partners of M/s CRV Jewels.

**2.** During the course of panchnama, 135 pieces of yellow colored metal, wrapped in transparent plastic packing, having foreign origin markings on them, were found lying on the floor of the locker room of CRV Jewels. After due verification of purity and valuation of the said 135 pieces, the Gold Biscuits were found to be of foreign origin and of 10 tola each, weighing 15746.40 gm totally, valued at Rs. 8,58,17,880/- . The said gold biscuits, alongwith a Navy Blue colored bag having marking of HAIBOWY, used for carrying the gold, were seized vide Seizure Memo dated 25.04.2022 under the provisions of Section 110 of Customs Act, 1962, under reasonable belief that the same were liable to confiscation under the provisions of the Customs Act, 1962. After completion of investigation, a Show Cause Notice No. VIII/10-34-O&A/ADC/CRV/2022-23 dated 14.10.2022, restricted to seizure of 135 pieces of foreign origin Gold Biscuits of 10 tola each, weighing 15746.40 gm smuggled on 20.04.2022, was issued by the Additional Commissioner of Customs, Surat under Section 124 of Customs Act, 1962, to (i) Shri Vipul Dhirubhai Borad, R/o 156, Yamuna Darshan Society, Mota Varachha, Surat; (ii) Shri Rambhai Maganbhai Suhagiya, Partner of M/s CRV Jewels, G4, Maitri Building, Lambe Hanuman Rd, Varachha, Surat; (iii) Shri Baldev Sakhreliya, R/o A-103, Kaveri Habitat, V T Nagar Road, Sarthana, Surat; (iv) Shri Ankur Mansukhbhai Sakhreliya, R/o A-103, Kaveri Habitat, VT Nagar Road, Sarthana, Surat; (v) Shri Nilesh Dhirubhai Borad, R/o 99, Valkeshvar Society, Mota Varachha, Surat; (vi) Shri Navnit Dhirubhai Borad, R/o 156, Yamuna Darshan Society, Mota Varachha, Surat; and (vii) Shri Darshan Navinchandra Chhaswala, R/o 4/4418-19, Amlhi Sheri, Begaumpura, Surat-395003. The subject Show Cause Notice was adjudicated vide Order-in-Original No. 08/AR/ADC/SRT/2023 dated 29.09.2023 by the Additional Commissioner of Customs, Customs House, Surat.

**3.** A follow-up search was conducted at M/s Moon Star Inc., situated at Shop No.1/A &2, B Rangrej Tower, Jada Khadi, Mahidharpura, Surat by DRI Surat and panchnama dated 21.04.2022 was drawn in the presence of independent panchas and Shri Sagar M. Shah - proprietor of M/s Moon Star Inc. During the search, Smt. Ekta S Shah, Smt Nishaben Patel, Shri Hiren Patel, Shri Shailesh Savaliya, Shri Piyushbhai Navsariwala and Shri Saumit Shah were present at M/s Moon Star Inc. Shri Sagar M Shah informed the officers that Smt Ekta S Shah was his wife and that she helped in his business and other five persons i.e. Smt Nishaben Patel, Shri Hiren Patel, Shri Shailesh Savaliya, Shri Piyushbhai Navsariwala and Shri Saumit Shah were employees of his firm M/s Moon Star Inc. Shri Sagar M Shah also informed that M/s Moon Star Inc was involved in trading of precious metals like Gold and Silver; and that M/s Moon Star Inc. was dealing in Indian Origin and Foreign Origin Gold Bars/Biscuits/Pieces; that gold and silver were present in the office premises in various shapes and sizes. The officers, in the presence of panchas and Shri Sagar M Shah, segregated Foreign Origin Gold - Full Pieces/Cut Pieces from the stock available and made a detailed list of all the 27 Foreign Origin Gold (Full/Cut) Pieces, totally weighing 2466.45 Grams. The officers marked running Sr. No. 1 to 27 to each of Foreign Origin Gold Full Piece/Cut Piece and prepared the details of 27 Foreign Origin Gold Full Pieces/Cut Pieces. On being asked to produce valid documents such as purchase bills, packing list, Bills of Entry etc. in respect of the above said 27 Foreign Origin Gold Full Piece/Cut Piece, Shri Sagar M Shah, in

the presence of panchas, produced photocopy of following documents in respect of 11 Foreign Origin Gold Full Piece/Cut Piece bearing Marking 1 to 10 & 27:-

- Sale bill bearing number 56 dated 19.04.2022 issued by M/s Rupali Gold, Surat for 11 pieces of Gold mentioned at Sr. No.1 to 10 & 27
- Brinks Airway Bill No 341007173176 dated 19.04.2022
- Bill of Entry No 2000628 dated 03.02.2022 imported by M/s RBL Bank Limited, Ahmedabad through M/s Sri City SEZ, Chitoor, Andhra Pradesh from M/s Siddharth Logistics FWTZ Pvt Ltd (Foreign Client - M/s Standard Chartered Bank)
- Bar Serial List issued by M/s Standard Chartered Bank
- Invoice bearing No SCB Ref : B7083 dared 25<sup>th</sup> Jan 2022 – issued by M/s Standard Chartered Bank
- Shipment Order dated 25<sup>th</sup> Jan 2022 issued by M/s Standard Chartered Bank

**3.1** As only photocopy of the above listed documents had been produced, the genuineness of the documents produced was required to be verified and original documents were also called for. Thereafter, the DRI officers in presence of panchas and Shri Sagar M Shah detained the said 27 Foreign Origin Gold Full Pieces/Cut Pieces, totally weighing 2466.45 Grams, on a reasonable belief that the same were smuggled goods and hence, were liable to confiscation under the provisions of Customs Act, 1962.

**3.2** The details of 27 Foreign Origin Gold Full Piece/Cut Piece totally weighing 2466.45 Grams to the panchnama dated 21.04.2022 is as below:

**Table 1: Details of foreign origin gold detained from Moon Star Inc on 21.04.2022**

Sr. No.	Description on Foreign Origin Gold Full Piece/Cut Piece	Sr. No. inscribed on Foreign Origin Gold Full Piece/Cut Piece	Qty (in Gms)	Remarks
1	Rand Refinery 999.0 Fine Gold	B11554L21	100	Full piece
2	Rand Refinery 999.0 Fine Gold	B11557L21	100	Full piece
3	Rand Refinery 999.0 Fine Gold	B11553L21	100	Full piece
4	Rand Refinery 999.0 Fine Gold	B11558L21	100	Full piece
5	Rand Refinery 999.0 Fine Gold	B11555L21	100	Full piece
6	Rand Refinery 999.0 Fine Gold	B11559L21	100	Full piece
7	Rand Refinery 999.0 Fine Gold	B11556L21	100	Full piece
8	Rand Refinery 999.0 Fine Gold	B11560L21	100	Full piece
9	Rand Refinery 999.0 Fine Gold	B11551L21	100	Full piece
10	Rand Refinery 999.0 Fine Gold	B11552L21	100	Full piece
11	Suisse 100g 999.0	-	75	Cut Piece
12	Suisse 100g 999.0 Essayeur Fondeur	B814142	100	Full piece
13	Suisse 100g 999.0 Essayeur Fondeur	B814146	100	Cut Piece
14	Suisse 100g 999.0 Essayeur Fondeur	-	85	Cut Piece
15	Suisse 100g 999.0 Essayeur Fondeur	B814137	100	Full piece
16	Suisse 100g 999.0 Essayeur Fondeur	B814143	100	Full piece
17	Suisse 100g 999.0 Essayeur Fondeur	B814144	100	Full piece
18	Suisse 100g 999.0 Essayeur Fondeur	B814135	100	Full piece
19	Suisse 100g 999.0 Essayeur Fondeur	B814134	100	Full piece
20	Suisse 100g 999.0 Essayeur Fondeur	B814141	100	Full piece
21	Suisse 100g 999.0 Essayeur Fondeur	B814148	100	Full piece
22	Suisse 100g 999.0 Essayeur Fondeur	B814147	100	Full piece

23	Tigris Gold	-	69.35	Cut Piece
24	Valcambi Suisse 100g	-	49.15	Cut Piece
25	999.0 ARG Melter Assayer	-	37.99	Cut Piece
26	Tigris Gold	-	49.96	Cut Piece
27	Rand Refinery 999.0 Fine Gold	B11693L21	100	Full piece
<b>TOTAL (IN GRAMS)</b>			<b>2466.45</b>	

**3.3** M/s Moon Star Inc. vide letter dated 03.05.2022 addressed to the Deputy Director, DRI Surat requested to release the detained goods and submitted relevant documents. He stated that he had already submitted the supporting documents for items mentioned at S.No. 1 to 10 and 27 of Annexure 'A' to the panchnama dated 21.04.2022. Further, M/s Moon Star Inc. submitted that they had procured the goods mentioned at Sr. No. 11 to 23, 25 and 26 from M/s Augmont Enterprises Pvt Ltd, Surat vide Invoice No. SISURG22230038 dated 18.04.2022. It was further submitted that the goods at Sr no. 24 was a cut piece of the full piece purchased from M/s Augmont Enterprises Pvt Ltd during the routine course of business vide Invoice No. SISURG22230055 dated 21.04.2022.

**3.4** On scrutiny of documents submitted by M/s Moon Star Inc. vide letter dated 03.05.2022 and on the basis of serial numbers inscribed on foreign origin Gold pieces, it appears that out of total 2466.45 gm of detained gold, 1100 gm of Rand Refinery 999.0 Fine Gold was purchased from Rupali Gold, L.H. Road, Surat vide Invoice No. 67 dated 21.04.2022. As per the said documents, it appeared that the said 1100 gm of gold was imported by RBL Bank Limited through SRI CITY SEZ vide Bill of Entry No. 2000628 dated 03.02.2022. The gold imported vide Bill of Entry No. 2000628 dated 03.02.2022 was sold to Laljibhai Kanjibhai Soni vide Invoice No. OD22H99AHM9 dated 18.04.2022, who in turn sold 7000 gm to Rupali Gold, Surat. M/s Moon Star Inc purchased 1500 gm of Gold from Rupali Gold vide Invoice No. 67 dated 21.04.2022.

**3.5.** Further, it appeared that M/s Moon Star Inc. had submitted that they had purchased the goods mentioned at Sr. No. 11 to 23, 25 and 26 from M/s Augmont Enterprises Pvt Ltd, Surat vide Invoice No. SISURG22230038 dated 18.04.2022. It appeared that the goods at Sr no. 24 was a cut piece of the full piece purchased from M/s Augmont Enterprises Pvt Ltd vide Invoice No. SISURG22230055 dated 21.04.2022. From the statement of Shri Ramesh Bhawarlal Mehta, Delivery Head cum Authorized signatory of M/s Augmont Enterprises Pvt Ltd, Surat, it appeared that M/s Augmont Enterprises Pvt Ltd, Surat had sold 20 gold bars of 100 grams each having number AK810201 TO AK810220 to M/s Moon Star Inc. vide Tax-Invoice number SISURG22230055 dated 21.04.2022. The said gold bars which were originally imported by RBL Bank under the cover of Bill of Entry No. 2000599 dated 02.02.2022 were of Valcambi Suisse brand. It also appeared that M/s Augmont Enterprises Pvt Ltd had never dealt with "Suissee 100g 999 Essayeur Fondeur", "ARG Melter Assayer" and "Tigris Gold" brand Gold Bars.

**3.6.** It appeared that 1100 gm of Rand Refinery 999.0 Fine Gold and a cut piece of 49.15 gm Valcambi Suisse 100g were duty paid in nature. Thus, the competent authority accorded permission to release the said Gold. Accordingly, a letter F.No. DRI/AZU/SRU/B/INV-08(INT-09)/2022 dated 16.09.2022 was issued to Shri Sagar Shah, Proprietor of M/s Moon Star Inc. to collect the duty paid Gold biscuits on 20.09.2022. Shri Sagar Shah, Proprietor of M/s Moon Star Inc. authorized Shri Sahil Shah vide Authority letter dated 19.09.2022 to collect the duty paid Gold. A panchnama dated 20.09.2022 was drawn at DRI office Surat in the presence of independent panchas and Shri Sahil Shah, wherein 1149.15 gm Gold piece/ cut piece of total 2466.45 gm of detained gold were released and handed over to Shri Sahil Shah duly authorized by Shri Sagar Shah on 20.09.2022 under acknowledgment dated 20.09.2022. During panchnama the officer informed Shri

Sahil Shah that they were not releasing the remaining 15 pieces of Gold out of the 27 pieces of gold detained under Panchnama dated 21.04.2022 drawn at M/s Moon Star Inc., Shop No. 1A & 2, B-Rangrej Apartment, Jada Khadi, Mahidharpura, Surat as Shri Sagar Shah, Proprietor of M/s Moon Star Inc. failed to provide documents, which can establish its duty paid character. The details of the remaining 15 pieces of Gold out of the 27 pieces of gold are as under:-

Table 2: Details of remaining 15 pieces of foreign origin gold

Sr. No. as per panchnama dated 21.04.2022	Description on Gold/Yellow Metal	Sr. No. inscribed on Gold/Yellow Metal	Qty. (in Grams)	Remarks
11	Suisse 100g 999.0 AssayeurFondeur	-	75	Cut Piece
12	Suisse 100g 999.0 AssayeurFondeur	B814142	100	Full piece
13	Suisse 100g 999.0 AssayeurFondeur	B814146	100	Cut Piece
14	Suisse 100g 999.0 AssayeurFondeur	-	85	Cut piece
15	Suisse 100g 999.0 AssayeurFondeur	B814137	100	Full piece
16	Suisse 100g 999.0 AssayeurFondeur	B814143	100	Full piece
17	Suisse 100g 999.0 AssayeurFondeur	B814144	100	Full piece
18	Suisse 100g 999.0 AssayeurFondeur	B814135	100	Full piece
19	Suisse 100g 999.0 AssayeurFondeur	B814134	100	Full piece
20	Suisse 100g 999.0 AssayeurFondeur	B814141	100	Full piece
21	Suisse 100g 999.0 AssayeurFondeur	B814148	100	Full piece
22	Suisse 100g 999.0 AssayeurFondeur	B814147	100	Full piece
23	Tigris Gold	-	69.35	Cut Piece
25	ARG Melter Assayer	-	37.99	Cut Piece
26	Tigris Gold	-	49.96	Cut Piece
Total			1317.30	

**3.7** It appeared that the 1317.30 gm of Gold having foreign marking (Sr.No. 11 to 23, 25 & 26 of Annexure-A attached to panchnama dated 21.04.2022), detained from the premises of M/s Moon Star Inc., were smuggled goods and liable to confiscation under the provisions of Customs Act, 1962. Therefore, 15 pieces offoreign Origin Gold Full/Cut Pieces weighing 1317.30 gm in total valued at Rs.71,79,286/- were seized vide Seizure Memo dated 23.9.2022 under the provisions of Section 110 of the Customs Act, 1962, under the reasonable belief that the same were liable to confiscation under the provisions of Customs Act, 1962. After completion of relevant investigation, a Show Cause Notice No VIII/10-33/O&A/Moonstar/2022-23 dated 14.10.2022 was issued by the Additional Commissioner of Customs, Surat, to M/s Moon Star Inc. (Proprietor Shri Sagar Shah), Shop No. 1/A & 2, B-Rangrej Tower, Jada Khadi, Mahidarpura, Surat. The said Show Cause Notice No. VIII/10-33/O&A/Moonstar/2022-23 dated 14.10.2022 was adjudicated vide Order-In-Original No.5/AR/ADC/SRT/2023-24 dated 05.09.2023 passed by the Additional Commissioner of Customs, Surat.

**4.** Further, a search authorisation dated 27.04.2022 was issued for search of Harikala Bullion, No-323, Ground Floor, Plot, Lambe Hanuman Road, Varsha Society 1, Varachha, Surat, under the provisions of Customs Act, 1962 in connection with purchase of foreign origin smuggled Gold without invoice. During the panchnama dated 27.04.2022 drawn at Harikala Bullion, No-323, Ground Floor, Plot, Lambe Hanuman Road, Varsha Society 1, Varachha, Surat, the officers, in the presence of independent panchas, found that the said shop was closed; that the officers made enquiry from the neighbours and came to know that shop had been closed for the last 4/5 days; that the officers, in the presence of panchas, tried to contact the owner/authorised representative of M/s Harikala Bullion, Surat on mobile number 9978593937 & 9925478392 but no response was received; that even after waiting for 30 minutes, no call was received from any responsible person of the said firm; that officers informed the panchas that since the search proceedings of the said shop situated at No-323, Ground Floor, Plot, Lambe Hanuman Road, Varsha Society-1, Varachha, Surat could not be completed, they had no other option except to seal the said premises; that the officers, in the presence of panchas, wrapped one of the locks (out of three) placed on the iron channel of the shop of M/s Harikala Bullion, Surat with cloth and sealed it with DRI Lac seal no.5 in such a way that it could not be tampered; that the officers also pasted a Notice/Paper Seal at the gate of the shop stating that *“Any person who claims to be the owner and /or tenant of the said premises is directed to contact the office of the Directorate of Revenue Intelligence, Regional Unit Surat, 2<sup>nd</sup> Floor, Avalon Building, B/h S D Jain School, Piplod-Vesu Road, Surat; phone no. 0261-2229001/2 during the office hrs.”*

**4.1** Further, the premises of M/s Harikala Bullion, No-323, Ground Floor, Lambe Hanuman Road, Varsha Society 1, Varachha, Surat was searched on 30.04.2023 under Search Authorisation dated 30.04.2022 and panchnama dated 30.04.2022 was drawn in presence of independent panchas and Shri Nileshkumar Mansukhbhai Suhagiya and Shri Mansukhbhai Suhagiya - both partners of M/s Harikala Bullion, Surat. During the search proceedings, the panchas and the officers noticed that in the locker present in the office premises only 8 pieces of foreign origin gold and dust of silver and some cash were present; that the officers, in presence of panchas and Shri Mansukhbhai Suhagiya and Shri Nileshkumar Mansukhbhai Suhagiya, segregated 8 foreign origin Gold Piece of 100gm each, details of which were as below:

**Table 3: Details of 8 pieces of FO Gold found at M/s Harikala Bullion, Surat**

S. No.	S. No. marked of gold piece	Weight of the piece (in gm)	Any other marking of the gold piece
1	B 11813L21	100	RAND REFINERY 9990 FINE GOLD
2	B 11814L21	100	
3	B 11815L21	100	
4	B 11816L21	100	
5	B 11817L21	100	
6	B 11818L21	100	
7	B 11819L21	100	
8	B 11820L21	100	

**4.2** On being asked to produce valid documents such as purchase bills, packing list, Bills of Entry etc in respect of the above said 08 Foreign Origin Gold Full Piece, Shri Nileshkumar Mansukhbhai Suhagiya, in the presence of panchas, produced photocopy of Tax Invoice nos. 61 dated 20.04.2022, 70 dated 21.04.2022 and 79 dated 22.04.2022 issued by M/s Rupali Gold, L. H. Road, Surat; that the officers in the presence of panchas, Shri Nileshkumar M. Suhagiya and Shri Mansukhbhai Suhagiya detained the said 08 foreign origin Gold full piece totally weighing 800 Grams as detailed in table above, on a reasonable belief that the same appeared to be smuggled goods and hence liable for confiscation under the provisions of

Customs Act,1962 until the genuineness of the documents produced by the partners was verified.

## **5. INVESTIGATIONS IN RESPECT OF GOLD SMUGGLED IN PAST BY SHRI VIPUL DHIRUBHAI BORAD & OTHER:**

**5.1** During the investigation of seizure of 135 pieces of foreign origin Gold Biscuits of 10 tola each, weighing 15746.40 gm smuggled on 20.04.2022, it had emerged that the syndicate led by Shri Vipul Dhirubhai Borad & other had smuggled a number of consignments of foreign origin Gold of 10 tola each on various occasions during the month of April, 2022. A large number of evidences were gathered during the investigation of gold seized from the premises of M/s CRV Jewels, G4, Maitri Building, Lambe Hanuman Road, Varachha, Surat which were also relevant in investigation conducted for the past consignments.

## **6. FORENSIC ANALYSIS OF THE DVR TAKEN OVER DURING THE SEARCH UNDER PANCHANAMAS DATED 21.04.2022 DRAWN AT CRV JEWELS AND MOBILE PHONE OF SHRI VIPUL DHIRUBHAI BORAD AND SHRI RAMBHAIMAGANBHAI SUHAGIYA:**

**6.1** The DRI officers, during panchnama dated 21.04.2022 drawn at the premises of M/s CRV Jewels, G4, Maitri Building, Lambe Hanuman Road, Varachha, Surat, in the presence of panchas, seized a DVR of make "alhua technology 16 Ch Pentabrid 1080N/720p Compact 1U DVR DH-XVR4B16 12V-2A S/N: 5FC8B077PA505375 MAC:9C:14:63:8E:E9:D0 MADE IN INDIA" attached to CCTV installed in the said shop.

**6.2** During the recording of statement on 22.04.2022 and 23.04.2022, Shri Rambhai Maganbhai Suhagiya produced his mobile phone viz Samsung Galaxy M31 Model No SM-M315F/DS, Serial No. RZ8N306FTGH having IMEI 1 No 355457110028470 and IMEI 2 No 355459110028478 for its examination by the officer. On examination of the mobile phone, a few print outs of photos received in the whatsapp chats made with Shri Baldev (Vipul) (Mob: +91-9601347698) were taken out from his mobile under certificate issued by Shri Rambhai Maganbhai Suhagiya under Section 138C of Customs Act, 1962. As the data retrieved from his mobile was incriminating in nature, his mobile viz. Samsung Galaxy M31 Model No SM-M315F/DS, Serial No. RZ8N306FTGH having IMEI 1 No 355457110028470 and IMEI 2 No 355459110028478 was placed under seizure under the provisions of Customs Act, 1962 under reasonable belief that data from his mobiles may be useful for further investigation.

**6.3** During the recording of statement on 22.04.2022 and 23.04.2022, Shri Vipul Dhirubhai Borad produced his mobile phone viz Samsung Galaxy S8+ phone, Model SM-G955FD, Serial No. R58J603CV1E having IMEI 1 No 359116082638751 and IMEI 2 No 359117082638759 for its scrutiny/ examination by the officer. On examination of the Samsung mobile phone, few print outs of whatsapp were taken by the recording officer, given page no. 1 to 17 and after explanation by Shri Vipul Dhirubhai Borad, it appeared that the data retrieved from his mobile was incriminating in nature, thus, his mobile phone viz Samsung Galaxy S8+ phone, Model SM-G955FD, Serial No. R58J603CV1E having IMEI 1 No 359116082638751 and IMEI 2 No 359117082638759 was placed under seizure under the provisions of Customs Act, 1962 under reasonable belief that data from his mobiles may be useful for further investigation.

**6.4** The seized mobile phone of Shri Rambhai Maganbhai Suhagiya and Shri Vipul Dhirubhai Borad and DVR seized from the premises of CRV Jewels were forwarded for forensic analysis to the Deputy Director, Regional Forensic Science Laboratory, (RFSL), Surat vide letter F.No. DRI/AZU/SRU/B/INV-08(INT-09)/2022 dated 23.04.2022. The Deputy Director, RFSL, Surat submitted the part



examination report vide letter F.No.RFSL/EE/2022/CF/189 dated 13.05.2022 along with two Hard disks (one sealed and one unsealed).The result of examination submitted by the Deputy Director, RFSL, Surat was as below:

**Table 4: Details of examination of devices by RFSL, Surat**

Parcel /Exhibit details	Description of Item	Make & Model	Stamped & Marked as	Remarks
Parcel – Mark-A /Exh-A (Cell Phone)	Cell Phone	Make: Samsung Model: SM-G955FD IMEI:359116082638751 IMEI:359117082638759	Exh-A	This Cell Phone pertained to Shri Vipul Dhirubhai Borad which was seized under his statement recorded on 23.04.2022.
	SIM Card	Make:Jio; ICCID: 89918570500001783980	Exh-AS1	
	SIM Card	ABSENT	-	
	Memory Card	Make: Sandisk Model: MicroSDHC Capacity: 16GB	Exh-AM	
Parcel – Mark-B /Exh-B (Cell Phone)	Cell Phone	Make: Samsung Model: SM-M315F/DS IMEI:355458110028470 IMEI:355459110028478	Exh-B	This Cell Phone was pertained to Shri Rambhai M. Suhagiya which was seized under his statement recorded on 23.04.2022.
	SIM Card	Make:Jio; ICCID: 89918570400110101499	Exh-BS1	
	SIM Card	Make:BSNL; ICCID: 8991571192912491966	Exh-BS2	
	Memory Card	ABSENT	-	
Parcel – Mark-C /Exh-B (DVR)	DVR	Make: Dahua Model: DH-XVR4B16 S/N:5FC8B077PA505375	Exh-C	This DVR was seized from the premises of CRV Jewels under panchnama dated 21.04.2022
	Hard Disk	Make: WD; Model:WD40PURZ-85TTDY0; S/N:WCC7K5ATAE0C; Capacity: 4TB	Exh-CH	

**6.4.1** On scrutiny of working copy (unsealed Hard disk) of examination report submitted by the Deputy Director, RFSL, Surat it appeared that some WhatsApp group chats like “KHANAK” (the WhatsApp group chats) which were noticed during recording of statement of Shri Vipul Dhirubhai Borad on 23.04.2022, were missing in the retrieved data from the two mobile phones and therefore, the same were again forwarded vide letter F.No.DRI/AZU/SRU/B/INV-08(INT-09)/2022 dated 20.05.2022 to the Deputy Director, RFSL, Surat for data extraction.

**6.4.2** The Deputy Director, RFSL, Surat submitted the examination report of whatsapp group chat from Cell Phone Exh-A pertaining to case no RFSL/EE/2022/CF/189 vide letter F.No.RFSL/EE/2022/CF/189/1164/2022 dated 16.06.2022. Screenshots of 8 (eight) whatsapp group chats and 1 (one) whatsapp Business group chat had been retrieved and copied in sterile CD marked Annexure-A1(CD). Out of 8(eight) whatsapp group chats, 2 (two) whatsapp group named as ‘KHANAK 2021’ and ‘પીપ્પીબીજીવડા’ contained audio and videos along with chats. These audios and videos from respective whatsapp group had been retrieved date wise and copied to 2 sterile CDs and marked Annexure-A1 (CD) along with chats.

**7.** A letter F.No. DRI/AZU/SRU/B/INV-08(INT-09)/2022 dated 22.04.2022 was issued to the Duty Manager, Air India Express, Surat Airport to call for certified copies of passenger manifest of Flight IX 172 (Sharjah to Surat) which arrived on

10<sup>th</sup> April, 2022, 13<sup>th</sup> April, 2022, 17<sup>th</sup> April, 2022 & 20<sup>th</sup> April, 2022. In response, the Air India Express, Surat vide letter dated 23.04.2022 submitted a certified copy of passenger manifest of Flight IX-172 (Sharjah to Surat) arriving on 10<sup>th</sup> April, 2022, 13<sup>th</sup> April, 2022, 17<sup>th</sup> April, 2022 & 20<sup>th</sup> April, 2022.

**8.** A reference was made to the Regional Passport Officer, Surat, vide letter F.No. DRI/AZU/SRU/B/INV-08(INT-09/2022) dated 25.04.2022 seeking the details of passport etc of passengers who had been identified from the investigation thus far to have been hired as carriers by Shri Vipul D Borad. The Regional Passport Officer, Surat vide letter F.No. SUR/POL/1070/2022 dated 28.04.2022 submitted the details of passengers along with copies of relevant documents except for the passports issued by RPO Mumbai & RPO, Ahmedabad.

**9.** A reference was made to the Deputy Commissioner of Customs, Surat International Airport, Surat vide letter F.No.DRI/AZU/SRU/B/INV-08(INT-09)/2022 dated 17.06.2022 seeking the copies of (i) declaration filed by the passengers who had boarded from Surat in the flight to Sharjah during the period from 07.04.2022 to 21.04.2022; and (ii) Declarations filed by the passengers who had landed at Surat airport from Sharjah during the period from 10.04.2022 to 20.04.2022. The Deputy Commissioner of Customs, Surat International Airport, Surat submitted vide letter F.No. I/01-03/AP/Misc.Corres/2021-22 dated 20.08.2022 (**RUD-16**) as under:-

*“(i) There was no declaration filed by any passenger boarded at Surat to Sharjah during the period from 07.04.2022 to 21.04.2022; and*

*(ii) There is no declarations filed by any passenger landed at Surat airport from Sharjah during the period from 10.04.2022 to 20.04.2022.”*

#### **STATEMENTS OF RELATED PERSONS RECORDED UNDER SECTION 108 OF THE CUSTOMS ACT, 1962-**

**10.** Summons dated 21.04.2022 was issued to **Shri Vijaykumar Gandubhai Vekariya**, an employee of M/s CRV Jewels and his statement was recorded on 21.04.2022 under Section 108 of Customs Act, 1962, wherein he inter alia stated that the keys of the shop, i.e. CRV Jewels, used to be with him and with Shri Rambhai Maganbhai Suhagiya, partner of CRV Jewels; that whoever reached the shop early used to open the shop; that on 21.04.2022 Shri Rambhai arrived first at around 10.00 A.M. and opened the shop; that Shri Vipulbhai D Borad came to M/s CRV Jewels around 10:15 AM and handed over a backpack to Shri Rambhai Maganbhai Suhagiya; that during the search of CRV Jewels, the DRI officers recovered 135 number of yellow coloured metal pieces with foreign markings, which appeared to be Gold, from the locker of M/s CRV Jewels; that on being asked regarding Shri Vipulbhai D Borad, he stated that he had seen him at M/s CRV Jewels, G4, Maitri Building, Lambe Hanuman Rd, Varachha, Surat, when he came to meet Shri Rambhai Maganbhai Suhagiya, a partner of CRV Jewels; that on being asked the purpose of Shri Vipulbhai D Borad visit at M/s CRV Jewels, he stated that he came to give a parcel, containing Gold Biscuits to Shri Rambhai Maganbhai Suhagiya; that Shri Vipulbhai D Borad had visited M/s CRV Jewels, G4, Maitri Building, Lambe Hanuman Rd, Varachha, Surat, Gujarat around 3 times in the past 02 months and every time he handed over Gold Biscuits to Shri Rambhai Maganbhai Suhagiya; that on being asked regarding the use of foreign Origin Gold Biscuits handed over by Shri Vipulbhai D Borad, he stated that Shri Rambhai Maganbhai Suhagiya sold those foreign origin Gold Biscuits to M/s Moon Star Bullion, Jadakhadi, Mahidharpura, Surat, Gujarat and M/s Harikala Bullion, Lambe Hanuman Rd, Varsha Society 1, Varachha, Surat.

**11.** Summons dated 21.04.2022 were issued to **Shri Shaileshkumar Parshottambhai Korat**, Sales Commission Agent of M/s CRV Jewels and his statement was recorded on 21.04.2022 under Section 108 of Customs Act, 1962,

wherein he interalia stated that 135 pieces of yellow coloured metal` appearing to be gold were recovered during search proceedings at M/s CRV Jewels, G4, Maitri Building, Lambe Hanuman Road, Varachha, Surat; that on that day he had arrived at the shop of M/s CRV Jewels before the shop opened; that around 10:00 AM, Shri Rambhai Maganbhai Suhagiya, Partner of CRV Jewels, arrived and opened the shop; that around 10:15 AM, Shri Vipulbhai D. Borad came with a navy-blue colour bag and went to the cabin situated at backside of cash counter; that after some time, he went into the locker room and saw that Shri Rambhai Maganbhai Suhagiya and Shri Vipulbhai D. Borad were counting the foreign origin gold biscuits; that in the meantime, DRI officers came in M/s CRV Jewels and started search; that on being asked regarding Shri Vipulbhai D. Borad, he stated that he knew him from past 02 months and met him at M/s CRV Jewels, Varachha, Surat, when he (Vipulbhai D. Borad) came to meet Shri Rambhai Maganbhai Suhagiya; that on being asked about the purpose of his (Vipulbhai D. Borad) visit at M/s CRV Jewels, he stated that he (Vipulbhai D. Borad) came to give a parcel containing gold biscuits to Shri Rambhai Maganbhai Suhagiya; that Shri Vipulbhai D. Borad had visited around 3-4 times at M/s CRV Jewels in past 02 months and every time he supplied gold biscuits to Shri Rambhai Maganbhai Suhagiya; that on being asked regarding what Shri Rambhai Maganbhai Suhagiya did with the gold biscuits supplied by Shri Vipulbhai D. Borad, he stated that Shri Rambhai Maganbhai Suhagiya used to sell those gold biscuits to M/s Moon Star Bullion, Jadakhadi, Mahidharpura, Surat or M/s Harikala Bullion, Lambe Hanuman Road, Varsha Society-1, Varachha, Surat; that when Shri Rambhai Maganbhai Suhagiya handed over the said gold biscuits to M/s Moon Star Bullion/ M/s Harikala Bullion, they gave him (Shri Rambhai Maganbhai Suhagiya) money in cash; that thereafter, Shri Vipulbhai D. Borad again visited at M/s CRV Jewels and took money in cash for gold biscuits supplied to Shri Rambhai Maganbhai Suhagiya.

**12.** Summons dated 21.04.2022 were issued to **Shri Chetanbhai R Katharotiya**, Partner of M/s CRV Jewels, and his statement was recorded on 21.04.2022 under Section 108 of Customs Act, 1962, wherein he interalia stated that M/s CRV Jewels (GSTIN: 24AAOFC3224E1ZU) was a partnership firm and there were two partners i.e. he himself and Shri Rambhai M Suhagiya; that the firm was engaged in selling of gold jewellery/ silver jewellery/ diamond studded jewellery and got those jewellery manufactured on job work basis; that they also traded in gold/silver bar/biscuits; that usually Shri Rambhai M Suhagiya, Shri Vijay G Vekariya and he himself remained present in the said showroom but sometimes Shri Shailesh P Korat also visited the showroom when he brought any customer for purchase of jewellery; that he (Shailesh P Korat) also facilitated their firm in procurement of natural diamonds; that 135 pieces of yellow colored metal of foreign origin were recovered during the search proceedings on 21.04.2022; that on being asked regarding presence of Shri Vipul D Borad at M/s CRV Jewels on 21.04.2022, he stated that Shri Vipul D Borad was maternal cousin brother of Shri Rambhai M Suhagiya and he visited the premises around at 10:00 am; that on being asked regarding the purpose of visit of Shri Vipul D Borad, he stated that as per his knowledge, Shri Vipul D Borad visited the premises to meet Shri Rambhai M Suhagiya to hand over the 135 pieces of gold biscuits; that Shri Rambhai M Suhagiya was in a better position to tell the exact reason of visit of Shri Vipul D Borad; that as Shri Vipul D Borad was the cousin brother of Shri Rambhai M Suhagiya he used to visit the premises of M/s CRV Jewels a number of time to meet Shri Rambhai M Suhagiya; that on being asked regarding 135 pieces of yellow metal biscuits found in the locker room of the premises of M/s CRV Jewels he stated that those biscuits had been brought by Shri Vipul D Borad in his blue color laptop bag and given to Shri Rambhai M Suhagiya; that he and Shri Rambhai M Suhagiya used to sell those gold biscuits, which were brought by Shri Vipul D Borad, to M/s Moon Star Inc, Shop no. 1-A & 2, B Rangrej Tower, Jada Khadi, Mahidharpura, Surat and Harikala Bullion, Varsha Society, Bhagunagar, Varachha, Surat; that on being asked regarding payment transaction against sale of the gold biscuits to Moon Star Bullion, Harikala Bullion and

purchase of the same from Shri Vipul D Borad, he stated that Shri Rambhai M Suhagiya used to handle all such transaction and he was in better position to explain the same, however, as per his knowledge the sale and purchase of the said golds biscuits were made to earn the commission only; that on being asked regarding how many times Shri Vipul D Borad had handed over gold biscuits to Shri Rambhai M Suhagiya, he stated that Shri Rambhai M Suhagiya was in a better position to tell the same, however, it had happened 3 or 4 times in past 02 months.

**13.** Summons dated 21.04.2022 was issued to **Shri Rambhai Maganbhai Suhagiya**, Partner of CRV Jewels and his statement was recorded on 21/22.04.2022 under Section 108 of Customs Act, 1962, wherein he interalia stated that he perused the Panchnama dated 21.04.2022 drawn at the M/s CRV Jewels and after going through the same, he appended his dated signature on the last page of it; that 135 UAE Origin Smuggled Gold Biscuits of 10 Tola each, were recovered on 21.04.2022 from the premises of M/s CRV Jewels, G4, Maitri Building, Varachha, Surat; that at around 10.10 AM Shri Vipulbhai D Borad entered into the shop with his bag; that he along with Shri Vipulbhai D Borad went into the cabin situated behind the cash counter of the shop; that Shri Vipulbhai D Borad handed over to him a total of 135 UAE origin Gold Biscuits of 10 Tola each; that after receiving the same he went into the Locker room and arranged the same on the floor for counting; that in the meantime, DRI officers came in his shop M/s CRV Jewels around 10:25 AM and started search in the shop; that he agreed with the recovery of 135 numbers of UAE origin Gold Biscuits of 10 Tola each from the floor of the locker room of shop M/s CRV Jewels; that on being asked regarding Shri Vipulbhai D Borad, he stated that he was his cousin from his maternal lineage; that he came to deliver Foreign Origin Gold Biscuits to him; that prior to this Shri Vipulbhai D Borad had delivered to him three consignments of 144, 115, & 130 Gold biscuits of Dubai/UAE Origin each of 10 tola on 11.04.2022, 14.04.2022 & 18.04.2022 respectively; that on being asked regarding the dealing of gold biscuits of foreign origin, he stated that Shri Baldev Sakhreliya, a friend of Shri Vipulbhai D Borad contacted him on mobile phone to seek the rate of gold biscuits before delivery of foreign origin gold biscuits; that he quoted to him the gold price on whats app and after finalizing the rate he sent the foreign origin smuggled gold biscuits through Shri Vipulbhai D Borad; that he did not know his whereabouts; that on being asked regarding the use of foreign origin gold biscuits received from Shri Vipulbhai D Borad, he stated that he had sold the same in 'as it was' condition to two of his customers M/s Moon Star Inc, Jadakhadi, Mahidharpura, Surat, Gujarat and M/s Harikala Bullion, L.H. Road, Varsha Society, Varachha, Surat, Gujarat 395006; that on being asked regarding the telephonic conversation with M/s Moon Star Inc & M/s Harikala Bullion, he stated that he regularly made calls to M/s Moon Star & M/s Harikala Bullion to know the daily rate of gold in market; that he perused the statement dated 21.04.2022 of Shri Vijaykumar Gandubhai Vekariya and stated that the content mentioned therein were true and correct and in token of its perusal and correctness, he put his dated signature on the last page of the same; that he perused the statement dated 21.04.2022 of Shri Shaileshkumar P Korat and stated that the contents mentioned therein were true and correct and in token of its perusal and correctness, he put his dated signature on the last page of the same; that he perused the statement dated 21.04.2022 of Shri Chetan R Katharotiya and stated that the contents mentioned therein were true and correct and in token of its perusal and correctness, he put his dated signature on the last page of the same; that he did not know whether Shri Chetan R Katharotiya had exact idea of sale/purchase of foreign origin gold biscuits as he (Rambhai) used to talk with Shri Baldev Sakhreliya and the concerned person of Moon Star Inc and Harikala Bullion; that he perused the panchnama dated 21.04.2022 drawn at M/s Moon Star Inc, Surat and stated that he had sold the foreign origin smuggled gold to M/s Moon Star Inc., therefore, the gold biscuits (cut pieces) with marking of Tigris and ARG UAE on it might be the same, which he sold to him, as they were mostly receiving such Dubai/UAE brand of gold pieces.

**13.1** During the recording of statement, Shri Rambhai Maganbhai Suhagiya produced his mobile phone viz Samsung Galaxy M31 Model No SM-M315F/DS, Serial No. RZ8N306FTGH having IMEI 1 No 355457110028470 and IMEI 2 No 355459110028478 for its examination by the officer. On examination of the mobile phone, a few print outs of photos received in whatsapp chats made with Shri Baldev (Vipul) (Mob: +91-9601347698) were taken out from his mobile and his explanation of pages are as below:

- Page No.1, printout of the screenshot of whatsapp chat dated 19.04.2022 (Tuesday) at 4.04pm mentioned as “135\*54080”. On being asked, he stated that meaning of the said message was that he raised order for 135 piece of gold biscuits of 999 purity weighing 10 tola and 54080 means the price for the gold biscuits had been fixed @ Rs 54080/- per tola.
- Further on Page No. 1, whatsapp chat dated 16.04.2022 (Saturday) at 3:38pm mentioned as “130\*53650”. He stated that meaning of the said message was that he raised order for 130 piece of gold biscuits of 999 purity weighing 10 tola and 53650 means the price for the gold biscuits had been fixed @ Rs 53650/- per tola.
- Page No.2 printout of the screenshot of whatsapp chat dated 12.04.2022 at 5:40pm mentioned as “115\*53250”. On being asked, he stated that meaning of the said message was that he raised order for 115 pieces of gold biscuits of 999 purity weighing 10 tola and 53250 means the price for the gold biscuits had been fixed @ Rs 53250/- per tola.
- Page No. 3 printout of the screenshots of whatsapp chat dated 09.04.2022 at 5:39pm mentioned as “144\*52850”. On being asked, he stated that meaning of the said message was that he raised order for 144 piece of gold biscuits of 999 purity weighing 10 tola and 52580 means the price for the gold biscuits had been fixed @ Rs 52850/- per tola.

On being asked he stated that all the above said orders had been placed by him as per the requirement from aforesaid mentioned bullion firms i.e. M/a Harikala Bullion and M/s Moon Star inc.; that he just earned commission of Rs 20-30 (approx.) on one tola of gold.

**13.2** On being asked, Rambhai Maganbhai Suhagiya stated that after raising the order (as per the requirements of the aforementioned two bullion firms) with Shri Baldev Sakhreliya, Shri Baldev Sakhreliya informed on a telephonic conversation that Shri Vipul D Borad would deliver the ordered quantity of gold biscuits on so and so date; that after receiving the same in his showroom, he informed the respective bullion firm i.e Shri Sagar Shah (Mob: +91-9687099000), proprietor of M/s Moon Star inc, Surat and Shri Manishbhai (Mob: +91-9978593937)/Shri Ashokbhai (Mob: +91-9925478392) of M/s Harikala Bullion, Surat and they used to send their employee within half an hour to receive the delivery; that once the gold biscuits reached to the premises of the bullion firms, they sent the cash through one person and after deducting his commission, he handed over the cash to Shri Vipul D Borad; that the details of the gold biscuits consignment received as under:

**Table 5: Details of Foreign origingold biscuits received by Shri Rambhai M Suhagiya**

Booking Date	No. of biscuits & Quoted Price	Gold biscuits received on	Delivered to
19.04.2022	135*54080	21.04.2022	Detained by DRI under panchnama dated 21.04.2022
16.04.2022	130*53650	18.04.2022	Moon Star Inc
12.04.2022	115*53250	14.04.2022	Harikala Bullion
09.04.2022	144*52850	11.04.2022	Harikala Bullion (104 Pc.) & Moon Star Inc (40 Pc)

On being asked whether he had ever asked documents for the gold biscuits supplied by Shri Baldev Sakhreliya/Shri Vipul D Borad as mentioned in above table, he stated that he had never asked them for the documents of the said gold biscuits. On being asked if he had ever asked about the source/origin of gold biscuits detained under panchnama dated 21.04.2022 drawn at M/s CRV, Jewels, Surat, as the gold biscuits were bearing foreign origin marks, he stated that he had raised order to Shri Baldev Sakhreliya and he (Baldev) informed him that it was of foreign origin, but he did not tell him how he procured the same; that on being asked how he knew Shri Baldev Sakhreliya, he stated that he met him earlier at his showroom when he visited with Shri Vipul D Borad for purchase of jewellery; that he had knowledge that dealing with the smuggled gold was an punishable offence under Customs Act, 1962.

**14.** Summons dated 21.04.2022 was issued to **Shri Vipulbhai Dhirubhai Borad** and his statement was recorded on 21/22.04.2022 under Section 108 of Customs Act, 1962, wherein he inter alia stated that he visited only Dubai around 15-20 times during last two years for his textile business purpose; that in the immediate past, he visited Sharjah, Dubai during the previous 10-12 days, and after a stay of 3 days, he returned to India; that he had perused Panchnama dated 21.04.2022 drawn at the M/s CRV Jewels, G4, Maitri Building, Lambe Hanuman Rd, Varachha, Surat, Gujarat 395006, and after going through the same, he appended his dated signature, and stated that he reached the shop of M/s CRV Jewels, G4, Maitri Building, L.H. Road, Varachha at around 10.15 hrs on 21.04.2022; that he accepted that he had brought the 135 Gold Biscuits of UAE origin in his Bag and handed over the same to Shri Rambhai Maganbhai Suhagiya in his Strong room situated behind the cash counter of CRV Jewels; that Shri Rambhai Maganbhai Suhagiya was his cousin (son of his Bua) who was partner of CRV Jewels; that whenever he visited CRV Jewels, he dealt only with Shri Rambhai Maganbhai Suhagiya; that the first time he had handed over 144 Gold Biscuits of UAE origin each of 10 tolas to Shri Rambhai Maganbhai Suhagiya on 11.04.2022 in CRV Jewels, and after that he had handed over 115 Gold Biscuits of UAE origin each of 10 tolas on 14.04.2022; and 130 Gold Biscuits of UAE origin each of 10 tolas on 18.04.2022 to Shri Rambhai Maganbhai Suhagiya.

**14.1** Shri Vipulbhai Dhirubhai Borad perused the statement dated 21.04.2022 of Shri Chetanbhai Katharotiya, Partner of CRV Jewels, statement dated 21.04.2022 of Shri Vijaykumar G. Vekariya, Accountant of CRV Jewels and statement dated 21.04.2022 of Shri Shailesh Korat and after perusing all those statements, he appended his dated signature in token of having seen and agreed with the contents of those statements. On being asked regarding the procurement of Gold Biscuits of 10 Tolas, he stated that as he was facing financial crisis, and during a visit to Sharjah in the immediate past, he planned to smuggle Gold Biscuits from Sharjah; that then he enquired with Shri Rambhai Maganbhai Suhagiya, his cousin, for sale opportunities of Gold of 10 Tolas in Surat; that initially Shri Rambhai Maganbhai Suhagiya denied the offer to sell Gold of 10 Tolas, but later on he agreed to sell the Gold biscuits of 10 Tolas on commission basis; that then, he managed 3 to 4 persons/ carriers and booked their tickets to Sharjah from Surat, and after stay for 2 or 3 days booked returned ticket; that at the time of returning from Sharjah to Surat, each carrier/person carried 30 to 40 biscuits in their shoes, and after landing at Surat, he collected the gold biscuits from them outside the Airport and delivered the same to Shri Rambhai Maganbhai Suhagiya at CRV Jewels, Varachha the next morning; that the rate of Gold biscuits was negotiated with Shri Rambhai Maganbhai Suhagiya; that he had not dealt with the delivery of Gold Biscuits to any other person, except Shri Rambhai Maganbhai Suhagiya.

**14.2** Shri Vipulbhai Dhirubhai Borad further stated that he had supplied 10 Tolas of UAE origin Gold Biscuits having different marking viz. Tigris UAE/ ARG

UAE to Shri Rambhai Maganbhai Suhagiya on different occasions; that he was aware that Shri Rambhai Maganbhai Suhagiya had sold the UAE origin Gold Biscuits to Moon Star Inc., Mahidharpura, as it was on the same day; that on that basis, he presumed that the cut piece of Gold having marking of “Tigris” and “ARG”, detained from M/s Moon Star Inc. might be pertaining to consignment of smuggled UAE origin Gold Biscuits, which was sold by him to Shri Rambhai Maganbhai Suhagiya on 18.04.2022. On being asked regarding entry into this Gold smuggling trade in detail, Shri Vipulbhai Dhirubhai Borad stated that prior to COVID pandemic he had a business of stone studded textile materials in partnership with Baldevbhai Sakhreliya, and for sampling of stone studded textile materials, he made regular visit to Sharjah; that during that visit, he came to know the purchase & sale business of Gold; that he and Shri Baldevbhai Sakhreliya decided to make entry into Gold smuggling as he was facing deep financial crisis; that firstly, they arranged persons who were ready to act as carriers and planned their to & fro tickets from Surat to Sharjah, and then he purchased Gold in Sharjah; that after purchase, Shri Baldevbhai Sakhreliya negotiated the rate of UAE origin Gold with Shri Rambhai Maganbhai Suhagiya; that after finalisation of rate Shri Baldevbhai Sakhreliya conveyed to him the exact number of Gold Biscuits to be smuggled from UAE; that after arrival of carriers at Surat Airport, he received them and collected the Gold biscuits from them and handed over the same to Shri Rambhai Maganbhai Suhagiya on next morning at his shop CRV Jewels, Varachha, Surat.

**14.3** On being asked regarding the finance for purchase of Gold in UAE, Shri Vipulbhai Dhirubhai Borad stated that Shri Dilipbhai and Anilbhai, both from Dubai, financed the purchase of Gold in Dubai; that he with the help of Navnit (his younger brother), Ankur (Baldev’s brother) collected the cash payment from Shri Rambhai Maganbhai Suhagiya within 1 to 3 days after delivery of Gold, and handed over the cash to Shri Alpesh Virani, who inturn sent the money to Dilipbhai/ Anilbhai at Sharjah through different Anagadia; that he had no idea about the details of Angadia through which Shri Alpesh Virani transferred the cash to UAE.

**14.4** Shri Vipulbhai Dhirubhai Borad perused the statement dated 21/22.04.2022 of Shri Rambhai Maganbhai Suhagiya along with printouts attached thereto and stated that he agreed with the facts stated by Shri Rambhai Maganbhai Suhagiya in his statement dated 21/22.04.2022. He perused the photo of whats app chat between Shri Rambhai Maganbhai Suhagiya and Shri Baldev (Vipul) (Mob:+91-9601347698), taken out from mobile phone of Shri Rambhai Maganbhai Suhagiya, and on being asked, he stated that:

- Page No.1 printout of the screenshot of whatsapp chat dated 19.04.2022 at 4.04 pm mentioned as “135\*54080”. On being asked, he stated that meaning of the said message was that Shri Rambhai Maganbhai Suhagiya confirmed order for 135 piece of gold biscuits of 999 purity weighing 10 tola and quoted the rate of Rs. 54080 per tola for the gold biscuits. Further, on the same Page No. 1, whatsapp chat dated 16.04.2022 at 3:38 pm mentioned as “130\*53650”. He stated that meaning of the said message was that Shri Rambhai Maganbhai Suhagiya placed order for 130 pieces of gold biscuits of 999 purity weighing 10 tola and 53650 means the price for the gold biscuits had been fixed @ Rs 53650/- per tola.
- Page No.2 printout of the screenshot of whatsapp chat dated 12.04.2022 at 5:40pm mentioned as “115\*53250”. On being asked, he stated that meaning of the said message was that Shri Rambhai had placed an order for 115 pieces of gold biscuits of 999 purity weighing 10 tola and 53250 means the price for the gold biscuits has been fixed @ Rs 53250/- per tola.
- Page No. 3 printout of the screenshot of whatsapp chat dated 09.04.2022 at 5:39 pm mentioned as “144\*52850”. On being asked, he stated that meaning of the said message was that Shri Rambhai raised order for 144 piece of gold

biscuits of 999 purity weighing 10 tola and 52580 means the price for the gold biscuits had been fixed @ Rs 52850/- per tola.

He put his dated signature on all 3 pages of photo of whatsapp chat, as explained above in token of having seen it and having been explained by him. On being asked, he stated that whenever he or Baldev or Navnit accompanied the carriers / group of persons from Sharjah, they never carried any Gold, as all Gold biscuits were carried by their carriers; that they remained present with them to avoid any mischief; and that they arranged to bring Gold Biscuits from UAE thrice, as detailed below:

Table 6: Details of FO Gold Biscuits Smuggled into India by Vipul Borad & others

Booking Date	No. of biscuits & Quoted Price	Gold biscuits delivered by Vipul to Sh. Rambhai on	Delivered by Rambhai Maganbhai Suhagiyato
19.04.2022	135*54080	21.04.2022	Detained by DRI under panchnama dated 21.04.2022
16.04.2022	130*53650	18.04.2022	Moon Star Inc
12.04.2022	115*53250	14.04.2022	Harikala Bullion
09.04.2022	144*52850	11.04.2022	Harikala Bullion (104 Pc.) & Moon Star Inc (40 Pc)

14.5 On being specifically asked regarding documents of smuggled Gold, he stated that they purchased Gold in UAE on cash basis and he handed over the same to Shri Rambhai Maganbhai Suhagiya without cover of Invoice or Challan; that no passengers/carrier who arrived from Sharjah had filed any declaration before Surat Airport Customs authorities in respect of the Gold biscuits mentioned above. He was shown the panchnama dated 22.04.2022 drawn at DRI office, Surat for the purpose of examination and valuation of the yellow colored metal pieces which appeared to be gold detained under panchnama dated 21.04.2022 drawn at CRV Jewels, Varachha, and after going through the same he stated that he was present during the examination and valuation, and he agreed with the manner of examination of Gold by Assayer Shri Salim Daginawala and accepted the market value of Rs. 8,58,17,880/- (Tariff Value Rs. 7,66,56,073/-) as arrived by the Gold Assayer for total detained 135 UAE Origin Gold Biscuits (10 tola each) totally weighing 15746.40 gm. On being asked, he stated that his brother Shri Navnit was out of India as he went to Sharjah on 21.04.2022 from Surat Airport; that he (Navnit) went with 2 passengers to bring the Gold Biscuits from UAE. On being asked the name of passengers who went on 21.04.2022 to UAE, he stated that the details of said passengers are as below:

Table 7: Details of Some Carriers who went to Sharjah on 21.04.2022

Sr.no	Name of passenger (S/ Shri)	Sex / Age	Passport No.
1	Gopalbhai Chhaganbhai Mulani	Male /33 year	V6233185
2	Dhawalkumar Premjibhai Patel	Male /33 year	V4538860

15. Further statement of **Shri Rambhai Maganbhai Suhagiya**, Partner of M/s CRV Jewels, Surat was recorded on 23.04.2022 against Summons dated 22.04.2022 issued under Section 108 of the Customs Act, 1962, wherein he interalia stated that he perused his statement dated 21.04.2022, and stated that the contents mentioned therein were true and correct, and in token of its perusal and correctness, he put his dated signature on the last page of the same. He perused the statement dated 22.04.2022 of Shri Vipul Dhirubhai Borad and stated that the contents mentioned therein were true and correct and in token of its perusal and correctness, he put his dated signature on the last page of the same. He also produced his mobile phone viz Samsung Galaxy M31 Model No SM-M315F/DS, Serial No. RZ8N306FTGH having



IMEI 1 No 355457110028470 and IMEI 2 No 355459110028478 for its examination by the officer. During examination of the mobile phone, a few print-outs of screenshot, received in the whatsapp chats made with Shri Ankur (Baldev) (*sic: name as saved on mobile phone*) (Mob: +91-8758751949) were taken out from his mobile and explanation of pages were given as below:

- *Page No.4 (as page 1 to 3 were already given to the print outs taken on 22.03.2022) was the printout of whatsapp chat dated 11.04.2022 at 12:28pm, he stated that 70 means 70,000, for whatsapp message dated 11.04.2022 at 2:05pm, he stated that 112 means 1.12 Lakh, for whatsapp message dated 12.04.2022 at 2:32pm, he stated that 130 means 1.30 Lakh.*

On being asked as to why those messages had been shared with Shri Ankur (Baldev), he stated that, sometimes Shri Ankurbhai required money urgently for his business purpose, which he used to return on the same day or next day, and then he sent one person to collect the same; that when he handed over the requested amount to him, he dropped a message on whatsapp mentioning the amount in coded form to Shri Ankurbhai ensuring that the requested amount had been given.

**15.1** He further stated that as the data retrieved from his mobile was incriminating in nature, the recording officer informed him that his mobile viz. Samsung Galaxy M31 Model No SM-M315F/DS, Serial No. RZ8N306FTGH having IMEI 1 No 355457110028470 and IMEI 2 No 355459110028478 was placed under seizure under the provisions of Customs Act, 1962 under reasonable belief that data from his mobile might be useful for further investigation of the case. On being asked regarding Shri Ankur (Baldev), he stated that the full name of Shri Ankurbhai was Shri Ankur Mansukhbhai Sakhreliya and he was the brother of Shri Baldev Sakhreliya; that Shri Ankur Mansukhbhai Sakhreliya was engaged in the business of textile; that he met him through Shri Vipul D Borad; that he did not have the import documents/ purchase bill or other relevant documents i.r.o. of the 135 pieces of foreign origin gold biscuits, brought by Shri Vipul D Borad on 21.04.2022 and detained from the premises of M/s CRV Jewels, Surat on 21.04.2022.

**15.2** Shri Rambhai Maganbhai Suhagiya also submitted a certificate under Section 138C of Customs Act, 1962 and 65-B of the Indian Evidence Act, 1872 certifying that printouts of screenshots, whatsapp/ Wechat, media bearing page No. 1 to 4 were taken from his mobile phone.

**16.** Further statement of **Shri Vipulbhai Dhirubhai Borad**, resident of 156, Yamuna Darshan Society, Mota Varachha, Surat was recorded on 23.04.2022 against Summons dated 22.04.2022 issued under Section 108 of Customs Act, 1962, wherein he interalia stated that he perused his earlier statement dated 21/22.04.2022 and agreed with the facts recorded in his statement dated 21/22.04.2022. On being asked about the passengers who carried the Gold on behalf of him in past, he stated that he started smuggling of Gold in April, 2022 and passengers came on 10 April, 13 April, 17 April & 20 April, 2022; that the passengers who travelled on behalf of him were as below:

**Table 8: Details of Carriers who worked on behalf of Vipul Borad**

Date of Landing at Surat Airport	Name of Passengers travelled
20 April, 2022	1. Yamini Premji Patel 2. Darshan Navinchandra Chhaswala 3. Dipali Darshan Chhaswala 4. Nehal Rakeshkumar Kachhadiya 5. Aryan Chintubhai Panwala
17 April, 2022	1. Gauravgiri Dineshgi Goswami 2. Rakesh Gopalbhai Moradiya

	3. Kalpeshkumar Thakarshibhai Desai 4. Vasantben Hasmukhbhai Rupareliya 5. Divyesh Natvarbhai Tavadiya 6. Ankur Manshukhbhai Sakhreliya
13 April, 2022	1. Kalpesh Chhaswala 2. Vivek Patel 3. Bharat Kanhayalal Kataria 4. Baldev Manshukhbhai Sakhreliya
10 April, 2022	1. Hardik Rupareliya 2. Hasmukh Khadela 3. Nikhil Prafullbhai Kanani 4. Mital Nikhilbhai Kanani 5. Vedanshi Nikhil Kanani 6. Mukesh Kumar Dhirajlal Kanani

**16.1** He was asked to peruse the passenger manifest of Air India Express Flight IX-172 (Sharjah to Surat) scheduled on 10.04.2022, 13.04.2022, 17.04.2022 & 20.04.2022 received vide letter dated 23.04.2022 from Officer, Air India Express, Surat and after going through the same, he confirmed the passenger details as stated above and appended his dated signature on the above said letter dated 23.04.2022 in token of having seen and perused the same. On being asked regarding sourcing of passengers/ carriers, he stated that they enquired about the persons who have to visit UAE and after contacting them, they offered them to carry gold on return from Sharjah in exchange for taking care of all expenses of to & fro tickets and stay of 2/3 days; that all the charges of travel were borne by him; that young children/ some women accompanying them did not carry any Gold on return.

**16.2** While recording his statement, Shri Vipulbhai Dhirubhai Borad willingly handed over his Samsung Galaxy S8+ phone Model SM-G955FD, Serial No. R58J603CV1E having IMEI 1 No 359116082638751 and IMEI 2 No 359117082638759 to the recording officer for scrutiny/ examination; that during examination of the Samsung mobile phone, few print outs of chat in whatsapp chats were taken by the recording officer bearing page no. 1 to 17. He was asked to peruse the printouts of whatsapp chat taken out from his mobile, and asked to give explanation of each of the pages in his words, which are reproduced below:

**“(i) Page 1 to 11:**

*These printouts pertain to chats in the whatsapp group in the name of “KHANAK 2021” in my Samsung Galaxy phone. On being asked, I state that my younger brother Nilesh is group admin of ‘KHANAK 2021’ group and other members of this group are Ankur Shakreliya, Baldev, Khanak new company, & Navnit. Further, my explanation for each page is as under-*

- *Page 1- This is Declaration filed by Shri Navnit before UAE Customs (import of Cash) on 21.04.2022 wherein he declared Indian currency in cash of Rs. 41,93,530/-*
- *Page 2- This is picture of Gold smuggled on 20.04.2022 taken by me at my home in the night of 20.04.2022 and shared in the early morning in “KHANAK 2021”. This was the Gold which was later detained by DRI on 21.04.2022 at CRV Jewels.*
- *Page 3 to 5- These three pages are Air tickets of passengers (Mr. Navnitkumar Dhirubhai Borad, Mr. Gopalbhai Chhaganbhai Mulani & Mr. Dhawalkumar Premjibhai Patel) travelled from Surat to Sharjah on 21.04.2022.*
- *Page 6 to 9- These pages are Tourist visa of two passengers (Mr. Gopalbhai Chhaganbhai Mulani & Mr. Dhawalkumar Premjibhai Patel) travelled on 21.04.2022 to Sharjah.*

- Page 10 – This is the group photo of passengers travelling on 17.04.2022 from Sharjah to Surat and carried Gold.
- Page 11- This is screen shot of chat wherein list of passenger was shared by Shri Ankur Shakreliya, travelled on 17.04.2022.
- Page 12 to 14- These three pages are Air tickets of passengers travelled from Sharjah to Surat on 17.04.2022 whose photo are in picture at page 11.

**(i) Page 15 to 16:**

*These printouts are pertain to whatsapp chats between me and my younger brother Shri Nilesh taken from my Samsung Galaxy phone, detail explanation for each page is as under-*

- Page 15- This is the group photo of passengers travelled on 20.04.2022 from Sharjah to Surat and carried Gold.
- Page 16- This is screen shot of chat wherein list of passenger was shared by Shri Nilesh, travelled on 20.04.2022

**(iii) Page 17:**

*This printout pertains to whatsapp chats between me and Baldev (Mob. No. 9601347698) taken from my Samsung Galaxy phone wherein Shri Baldev convey me regarding booking of 135 pcs of Gold Biscuits by Shri Rambhai Maganbhai Suhagiya @ of Rs. 54080/- per tola."*

As the data retrieved from his mobile was incriminating in nature, his mobile viz. Samsung Galaxy S8+, Model SM-G955FD, Serial No. R58J603CV1E having IMEI 1 No 359116082638751 and IMEI 2 No 359117082638759 was placed under seizure under the provisions of Customs Act, 1962 under reasonable belief that data from his mobile might be useful for further investigation of case.

**16.3** Shri Vipulbhai Dhirubhai Borad had submitted a certificate under Section 138C of Customs Act, 1962 and 65-B of the Indian Evidence Act, 1872 certifying that printouts of screenshots, whatsapp/ Wechat, media bearing page No. 1 to 17 were taken on that day from his mobile phone.

**17.** During investigation, Shri Vipulbhai Dhirubhai Borad S/o Shri Dhirubhai Borad and Shri Rambhai Maganbhai Suhagiya S/o Shri Maganbhai Suhagiya were arrested on 23.04.2022 at 16:10 hrs under Section 104 of Customs Act, 1962 and produced before the Hon'ble Chief Judicial Magistrate, Surat after following due procedure and both persons were sent in judicial custody by the Hon'ble CJM, Surat.

**18.** From the print outs of chat in whats app chats of Mobile phone pertaining to Shri Vipulbhai Dhirubhai Borad it appears that tickets were booked from M/s Magic Holidays, 6-7, Ground Floor, Navratan Chember, Sardar Chowk, Mini Bazar, Varachha, Surat. Summons dated 28.04.2022 was issued to M/s Magic Holidays, 6-7 Ground Floor, Navratan Chember, Sardar Chowk, Mini Bazar, Varachha, Surat and statement of **Shri Nikunj Arvindhbhai Sutariya**, Proprietor of M/s Magic Holidays, 6-7, Ground Floor, Navratn Chember, Sardar Chowk, Mini Bazar, Varachha, Surat, was recorded on 28.04.2022 under Section 108 of the Customs Act, 1962 wherein he interalia stated that he perused the statement dated 23.04.2022 of Shri Vipulbhai Dhirubhai Borad and its annexed pages bearing page no. 01 to 17 and stated that tickets placed at page no 4 of annexure attached to statement of Shri Vipulbhai Dhirubhai Borad had been booked by his firm M/s Magic Holidays, Surat and in token of its perusal and correctness, he put his dated signature on it. On being specifically asked, he stated that he and his employee Shri Raj Lungariya had mainly dealt with Shri Vipulbhai Dhirubhai Borad to book the tickets for the persons asked by Shri Vipulbhai Borad; that he had been booking tickets on behalf of Vipulbhai Dhirubhai Borad, Navnit Borad, Nilesh Borad and

Baldev Manshukhbhai Sakhreliya since year 2020; that on being asked the details of tickets booked on behalf of Vipulbhai Dhirubhai Borad, Navnit Borad, Nilesh Borad and Baldev Manshukhbhai Sakhreliya, he produced a file bearing number 01 to 64 containing documents i.e. tickets, passport of the passengers, sales ledger (for the period from 01.04.2022 onwards in the name of Goswami Gaurav & Malavia Sumitben Manishkumar) maintained on behalf of Shri Vipulbhai Dhirubhai Borad and his accomplices; that on being asked regarding details of the passengers whose tickets had been booked through Shri Vipulbhai Dhirubhai Borad from Surat to Sharjah and Sharjah to Surat, he stated that he would produce the required details within a day or two; that on being asked regarding the sales ledger of Shri Vipulbhai Dhirubhai Borad for the April 2022, he stated that the invoices were raised in the name of "Goswami Gaurav" and "Malavia Sumitben Manishkumar" as per the demand of Shri Vipulbhai Dhirubhai Borad and his accomplices; that the payments were made by Shri Vipulbhai Dhirubhai Borad in cash and he used to send cash through various persons to his office; that payment of Rs 300000/- (approx.) was pending; that he had never received any payment for tickets, Visa or Hotel booking from the passengers whose tickets were booked by Shri Vipulbhai Dhirubhai Borad and his accomplices. On being asked regarding the details of the passengers for booking the tickets, he stated that the details of the passengers were forwarded to his office's whatsapp number 9726233309 by Vipulbhai Dhirubhai Borad, Navnit Borad, Nilesh Borad and Baldev Manshukhbhai Sakhreliya and the said details were used to book the tickets for those passengers from Surat to Sharjah and Sharjah to Surat in April-2022; that he had sent the confirmed tickets on whatsapp numbers of Vipulbhai Dhirubhai Borad (9712886203; 9898848150), Navnit Borad (9824011005), Nilesh Borad (9904294441) and Baldev Manshukhbhai Sakhreliya (9601347698) on their whatsapp numbers.

**18.1** Shri Nikunj Arvindbhai Sutariya, Proprietor of M/s Magic Holidays, Surat vide letter dated Nil submitted documents bearing page no 1 to 68 containing copies of passport, ledger account maintained on behalf of Shri Vipul D. Borad & tickets of passengers booked on behalf of Shri Vipul D. Borad.,

**19.** Summons dated 02.05.2022 under Section 108 of the Customs Act, 1962 was issued to **Shri Baldev Mansukhbhai Sakhreliya**, Proprietor of Khanak Export, Plot No.208, Ground Floor, Rang Avdhut Soc-1, Nr. Krishna Park, Puna-Saroli Road, Surat R/o A-103, Kaveri Habitat, V T Nagar Road, Sarthana, Surat and his statement was recorded on 02.05.2022 under Section 108 of the Customs Act, 1962 wherein he inter alia stated that he started his proprietorship firm in the name of M/s Khanak Export, (GSTIN. 24EQTPS9819E1Z2), Plot No. 208, Ground Floor, Rang Avdhut Soc-1, Nr. Krishna Park, Puna-Saroli Road, Surat, Gujarat, 395010, which was engaged in the export of textile material to M/s Grand Hills General Trading LLC Dubai; that he used to visit Dubai frequently as he had worked as Manager in Dubai based firm M/s Grand Hills General Trading LLC, Dubai and he had applied visa as Partner of the said firm of Dubai; that as per his knowledge Shri Nilesh Borad was a Partner of the said firm and second partner was a Dubai citizen; that he perused the panchnama dated 02.05.2022 drawn at A-103, Kaveri Habitat, V T Nagar Road, Sarthana, Surat and stated that he was present during the course of panchnama proceedings and the contents mentioned in the panchnama were true and correct; that he perused the panchnama dated 21.04.2022 drawn at CRV Jewels, G-4, Maitri Building, Lambe Hanuman Road, Varachha, Surat-395006 and put his dated signature on the last page of the same; that it was correct that 135 biscuits of foreign origin were recovered from the premises of CRV Jewels; that he perused the statement dated 21/22.04.2022 of Shri Rambhai Maganbhai Suhagiya and stated that the content mentioned therein were true and correct, and in token of its perusal and agreement with the contents, he put his dated signature on the last page of the same; that he met Shri Rambhai Maganbhai Suhagiya in Nov 2021 through Shri Vipul D Borad as he went to buy some jewellery for his wife and he bought it from CRV jewels; that he perused the photo of whatsapp chat, taken out

from mobile phone of Shri Rambhai Maganbhai Suhagiya, made between Shri Rambhai Maganbhai Suhagiya and him (Mob: +91-9601347698), page 1 to 3, attached to the said statement of Shri Rambhai Maganbhai Suhagiya, and after perusing it he put his dated signature on the page 1 to 3 and his explanation of its contents is reproduced as below:

- *Page No.1 is the printout of the screenshot of whatsapp chat dated 19.04.2022 at 4.04 pm mentioned as "135\*54080", sent by Rambhai to me. On being asked, I state that meaning of the said message is that 135 gold biscuits are booked at Rs. 54080/- per tola etc. Further on the same Page No. 1, whatsapp chat dated 16.04.2022 at 3:38 pm mentioned as "130\*53650". I state that meaning of the said message is that Shri Rambhai placed order for 130 piece of gold biscuits of 999 purity weighing 10 tola and 53650 means the price for the gold biscuits has been fixed @Rs 53650/- per tola.*
- *Page No.2 is the printout of the screenshot of whatsapp chat dated 12.04.2022 at 5:40pm mentioned as "115\*53250", sent by Rambhai to me. On being asked, I state that meaning of the said message is that Shri Rambhai placed order for 115 piece of gold biscuits of 999 purity weighing 10 tola and 53250 means the price for the gold biscuits has been fixed @ Rs 53250/- per tola.*
- *Page No. 3 is the printout of the screenshot of whatsapp chat dated 09.04.2022 at 5:39 pm mentioned as "144\*52850", sent by Rambhai to me. On being asked, I state that meaning of the said message is that Shri Rambhai raised order for 144 piece of gold biscuits of 999 purity weighing 10 tola and 52580 means the price for the gold biscuits has been fixed @ Rs 52850/- per tola.*

Shri Rambhai Maganbhai Suhagiya used to send the said message to confirm the quantity and amount at the time of delivery of gold biscuits. He further stated that he asked Shri Rambhai Maganbhai Suhagiya to call Shri Vipulbhai D Borad directly as he (Vipulbhai) would deliver the same but every time he (Rambhai Maganbhai Suhagiya) sent message to him (Baldev). Further he (Baldev) used to send "OK" whenever he (Rambhai Maganbhai Suhagiya) sent the quantity and price of gold just because Shri Vipul D Borad directed him (Baldev) to do so.

**19.1** Shri Baldev Mansukhbhai Sakhreliya perused the statement dated 21/22.04.2022 of Shri Vipul D Borad and stated that the contents mentioned therein were true and correct and in token of its perusal he put his dated signature on the last page of the same. On being asked, he stated that he met Shri Vipul D Borad through his brother Shri Nilesh Borad as Shri Nilesh Borad and he had done the business of textile; that in the month of March, 2022 Shri Vipul D Borad met him and asked that he wanted to start some business activities in Dubai but he had financial difficulties and needed a person who can finance him; that as he (Baldev) used to visit Dubai for his business purpose, he knew one person in the name of Shri Dilip Virani, his distant relative who was engaged in the business of Diamond Trading so he introduced Shri Vipul D Borad to Shri Dilip Virani; that as per his knowledge Shri Dilip Virani used to give money to Shri Vipul D Borad for his Gold business. On being asked regarding entry into Gold smuggling trade in detail, he stated that two months earlier Shri Vipul Borad had informed him that he was facing deep financial crisis and wanted fast money and requested him for a financial/monetary favour; that then, he introduced Shri Vipul D Borad to Shri Dilip Virani who was settled in Dubai. On being asked regarding arrangement of passengers who were ready to act as carrier and booking of their tickets, he stated that arrangements of passengers were done by Shri Vipul D Borad and tickets were booked by him (Vipul) through M/s Magic Holidays, Surat. On being asked regarding expenses of tickets and stay of passengers in Dubai, he stated that he had no idea as Shri Vipul D Borad dealt the same personally. On being asked, he stated that as per his knowledge, prior to this consignment (which was detained by DRI officers), Shri Vipul D Borad had smuggled gold into India 3 times in the month of April 2022, and the exact quantity of gold smuggled by him must be the same which was mentioned in the statement of Shri Rambhai Maganbhai Suhagiya 130@53650 per tola, 115@53250 per tola and 144@52850 per tola.

**19.2** On being specifically asked, Shri Baldev Mansukhbhai Sakhreliya stated that he never handed over the Gold Biscuits to Shri Rambhai Maganbhai Suhagiya of CRV Jewels as Shri Vipul Borad had handed over the smuggled Gold Biscuits to Shri Rambhai Maganbhai Suhagiya of CRV Jewels on last three occasions. On being asked regarding the payment, he stated that Shri Ankur, his younger brother and Shri Navnit Borad, younger brother of Shri Vipul Borad collected the cash from Shri Rambhai Maganbhai Suhagiya at CRV Jewels and handed over the cash to Shri Alpesh Virani, a relative of Shri Dilip Virani, who in turn sent the money to Dilip Virani, Dubai; that he had never collected cash from Shri Rambhai Maganbhai Suhagiya against smuggled Gold; that he had no idea through which Angadia Shri Alpesh Virani transferred the money to Dubai; that Shri Alpesh Virani engaged in Diamond business and his office was at Shriji Awash, Mini Bazar, Surat.

**19.3** Shri Baldev Mansukhbhai Sakhreliya perused the passenger manifest of Air India Express Flight IX-172 (Sharjah to Surat) scheduled on 13.04.2022 received vide letter dated 23.04.2022 from Officer, Air India Express, Surat and after going through the same, he appended his dated signature on letter dated 23.04.2022 in token of having seen and perused and confirmed that he had travelled on 13.04.2022 from Sharjah to Surat. On being asked, he stated that he went to Sharjah on 07.04.2022 and returned on 13.04.2022 as his Iran Visa was issued and he had to return to India due to religious programme scheduled on 21.04.2022; that on being specifically asked regarding the co-passengers viz. Shri Kalpesh Chhaswala, Shri Vivek Patel & Shri Bharat Kanhayalal Kataria who travelled on the same flight on 13.04.2022 from Sharjah to Surat viz. flight IX-172, he stated that he was neither aware about their journey on 13.04.2022 nor did he know them.

**19.4** On being asked regarding the smuggling of 115 pieces of Gold Biscuits on 13.04.2022 and delivery of the same to Shri Rambhai Maganbhai Suhagiya on 14.04.2022 as reflected from the statement dated 21/22.04.2022 of Shri Rambhai Maganbhai Suhagiya and photo of whats app chat between him (Baldev) and Shri Rambhai Maganbhai Suhagiya, kept at Page No.2 attached to said statement, he stated that he dropped a message to Shri Rambhai Maganbhai Suhagiya “115 pcs kro” and he (Rambhai) said “ok” then he (Baldev) said “Thursday na delivery” then he (Rambhai) said 115\*53250. Further, on 14.04.2022 at 10:12 in response to his (Rambhai) message “Kon avse”, he (Baldev) conveyed him immediately “Navnit bhai”. On being asked he stated that 115 pieces of Gold Biscuits @ rate of 53250/- per tola were scheduled to be delivered to Shri Rambhai Maganbhai Suhagiya by Shri Navnit Borad on 14.04.2022; that he was not aware about the persons who carried the said Gold from Sharjah.

**19.5** Shri Baldev Mansukhbhai Sakhreliya perused the statement dated 23.04.2022 of Shri Vipul D Borad and photo of whats app chat, taken out from his mobile phone, made between him [Baldev (Vipul) (Mob: +91-9601347698] and Shri Vipul D Borad, page 1 to 17 attached to the said statement of Shri Vipul D Borad and appended his dated signature in token of having seen and perused it. On being asked, he stated that he had seen the photo kept at Page 2 and confirmed that this was picture of Gold smuggled on 20.04.2022 shared by Shri Vipul Borad in the early morning in “KHANAK 2021”; that it was the same gold which was later detained by DRI on 21.04.2022 at CRV Jewels; that he had seen the group photo kept at Page 10 (group photo of passengers who travelled on 17.04.2022 from Sharjah to Surat and carried Gold) and Page 15 (group photo of passengers who travelled on 20.04.2022 from Sharjah to Surat and carried Gold) and stated that he did not know any person present in the photo at page no. 10 & 15 attached to the statement of Shri Vipul D Borad; that on being asked regarding the photo of whats app chat of “KHANAK 2021” kept at Page 11 wherein a message “Smaglaro ni toli” (a team of smugglers) was shared by him (Baldev) at 12:23pm, he stated that in response to a message “Aaj na aapd cariang wala na Passport ma name hoy e mne send karjo ne” (Please send me the name of today’s carriers as per their passport) of Shri Vipul D Borad at 11:36 am, Shri Ankur Shakreliya, his younger brother, posted at 12:04pm

the name of passengers (Gauravgiri Dineshgiri Goswami, Rakesh Gopalbhai Moradiya, Kalpeshkumar Thakarshibhai Desai, Rupareliya Vasantben Hasmukhbhai, Tavadiya Divyesh Natvarbhai) and in response he (Baldev) replied “*Smaglaro ni toli*” to those 5 passengers; that in respect of page 17 attached to said statement he stated that that was the printout of whatsapp chats between him and Shri Vipul D Borad wherein he (Baldev) conveyed to him regarding booking of 135 pcs of Gold Biscuits by Shri Rambhai Maganbhai Suhagiya @ of Rs. 54080/- per tola; that on being specifically asked regarding documents of smuggled Gold, he stated that Shri Vipul Borad managed the purchase of Gold in UAE on cash basis and he handed over the same to Shri Rambhai Maganbhai Suhagiya without cover of Invoice or Challan; that no passengers/ carrier arriving from Sharjah had filed any declaration before Surat Airport Customs authorities for the Gold biscuits mentioned above.

**19.6** On being informed that Shri Vipul Borad had stated in his statement dated 23.04.2022 that his brother Shri Navnit Borad was out of India as he went to Sharjah on 21.04.2022 from Surat Airport with 2 passengers viz. Shri Gopalbhai Chhaganbhai Mulani & Shri Dhawalkumar Premjibhai Patel to bring the Gold Biscuits from UAE, Shri Baldev Mansukhbhai Sakhreliya stated that he was aware that Shri Navnit Borad (Mob No. +971527673228) was in Dubai but he did not know those two people who had travelled with him; that he had no idea about their journey schedule and their return plan; that on being asked regarding commission/ share of the income from smuggling of Gold, he stated that when he introduced Shri Vipul Borad to Shri Dilip Virani, Shri Vipul Borad assured him a lump-sum commission but till date he had not received a penny from Shri Vipul Borad; that on being asked, he stated that he was willingly handing over his iPhone 13 Pro, Model No MLU03LL/A Serial No. G0WG9HVX1L having IMEI 1 No 354073551082380 and IMEI 2 No 354073551054710 to the recording officer for scrutiny/ examination; that after examination of the iPhone 13 Pro, he was asked about the “KHANAK 2021” whatsapp group and he stated that he had deleted this whats app group and also other whatsapp chats, related to smuggling of Gold, with different persons after booking of case by DRI; that on being asked regarding the voice chat with Mobile No. +971557507158, he stated that number belong to Shri Dilip Virani, Dubai whose name had been deleted by him after the case was booked by DRI; that he had been asked to listen to the voice chats with Mobile No. +971557507158 and on being asked, he stated that he demanded Rs. 15 lakhs (15P) from Shri Dilip Virani to pay dues on behalf of Shri Vipul Borad and in response, Shri Dilip Virani denied and stated that he had funds only to pay for the release Shri Vipul Borad and no further funds to lend to him.

**20.** Summons dated 02.05.2022 under Section 108 of the Customs Act, 1962 was issued to **Shri Nilesh Dhirubhai Borad** R/o House No 156, Yamuna Darshan Society, Varachha, Surat and his statement was recorded on 02.05.2022 under Section 108 of the Customs Act, 1962 wherein he interalia stated that on Aadhar card the address was shown as 156, Yamuna Darshan Society, Mota Varchha, Surat, however he was residing at 99, Valkeshvar Society, Mota Varachha, Surat on rental basis; that he had one firm in the name of Grand Hills General Trading LLC, Bardubai, Dubai which was established in the year 2017; that in the said firm he was partner along with Shri Mohd Yusuf of UAE nationality; that he had visited Sharjah, Dubai on 18.04.2022 and returned on 20.04.2022 to India; that on being asked regarding whether he had declared anything before Dubai Customs authority, he confirmed that he had declared 999.0 purity gold before Customs authority but he did not know the exact quantity; that on being asked regarding gold and declaration form, he stated that after declaring the gold before Dubai Customs authorities, he had handed over the gold and papers to a person whose mobile number he had deleted; that Shri Vipul Borad had asked him to declare the said 135 gold biscuits before Dubai Customs authorities and also asked him to hand

over to one of the person who had arrived at airport whose number was deleted by him.

**20.1** Shri Nilesh Dhirubhai Borad perused the Panchnama dated 21.04.2022 drawn at the M/s CRV Jewels, G4, Maitri Building, Lambe Hanuman Rd, Varachha, Surat, Gujarat 395006 and after going through the same, he appended his dated signature on the last page in token of having perused it and agreed upon its contents and stated that those 135 Gold Biscuits of UAE origin were declared by him before Dubai Customs authorities; that Shri Rambhai Maganbhai Suhagiya was his cousin (son of his Bua) who was a partner in CRV Jewels; that he had never visited M/s CRV Jewels; that on being asked regarding Shri Chetanbhai Katharotiya, Partner of CRV Jewels, he stated that he knew him by name but had never met him; that on being asked regarding Shri Baldev Sakhreliya, he stated that he knew Shri Baldev Sakhreliya since 2016 as he had met him in relation to textile business; that Shri Baldev Sakhreliya was an employee in his firm viz Grand Hills General Trading LLC, Dubai; that on being asked regarding the procurement of Gold Biscuits of 10 Tolas in Dubai, UAE, he stated that he did not know who had purchased the said gold biscuits in Dubai and he had acted as per instructions of his elder brother Shri Vipul Borad.

**20.2** Shri Nilesh Dhirubhai Borad perused the Panchnama dated 02.05.2022 drawn at 156, Yamuna Darshan Society, Mota Varachha, Surat and after perusing the same, he put his dated signature on the last page of the said panchnama; that he perused the statement dated 23.04.2022 of Shri Vipul Borad along with printouts attached thereto and after going through the same he appended his dated signature in token of having seen and perused it; that on being asked regarding Shri Anilbhai and Shri Dilipbhai, he stated that he had heard those names from his elder brother Shri Vipul Borad but he did not know them; that on being asked to explain the Whatsapp chat taken out from Mobile of Shri Vipul Borad bearing page no. 1 to 17, his explanation is reproduced as under:

**(i) Page 1 to 11:**

*These printouts pertain to chats in the whatsapp group in the name of "KHANAK 2021" in Samsung Galaxy phone of Shri Vipul Borad. On being asked, I state that I am group admin of 'KHANAK 2021' group and other members of this group are Vipul, Ankur, Baldev, Khanak new company, & Navnit. Further, my explanation for each page is as under-*

- *Page 1- This is Declaration filed by Shri Navnit Borad before UAE Customs (import of Cash) on 21.04.2022 wherein he declared Indian currency in cash of Rs. 41,93,530/-*
- *Page 2- This is picture of Gold smuggled on 20.04.2022 taken by my brother Shri Vipul D Borad at his home in the night of 20.04.2022 and shared in the early morning in "KHANAK 2021". This was the Gold which later detained by DRI on 21.04.2022 at CRV Jewels.*
- *Page 3 to 5- These three pages are Air tickets of passengers (Mr. Navnitkumar Dhirubhai Borad, Mr. Gopalbhai Chhaganbhai Mulani & Mr. Dhawalkumar Premjibhai Patel) who travelled from Surat to Sharjah on 21.04.2022.*
- *Page 6 to 9- These pages are Tourist visa of two passengers (Mr. Gopalbhai Chhaganbhai Mulani & Mr. Dhawalkumar Premjibhai Patel) travelled on 21.04.2022 to Sharjah.*
- *Page 10 – This is the group photo of passengers who travelled on 17.04.2022 from Sharjah to Surat and I state that I do not recognize them.*
- *Page 11- This is screen shot of chat wherein list of passenger was shared by Shri Ankur Shakreliya, who travelled on 17.04.2022.*
- *Page 12 to 14- These three pages are Air tickets of passengers who travelled from Sharjah to Surat on 17.04.2022 whose photo are in picture at page 11.*

**(ii) Page 15 to 16:**



These printouts pertain to personal whatsapp chat between me and my elder brother Shri Vipul taken from his Samsung Galaxy phone, detailed explanation for each page is as under-

- Page 15-This is the group photo of passengers who travelled on 20.04.2022 from Sharjah to Surat who carried 135 pieces of smuggled gold.
- Page 16-This is screen shot of chat wherein list of passengers was shared by me to Shri Vipul who travelled on 18.04.2022. I explain that in the said photo the name of the person from left to right is: 1. I do not know her name, 2. Dipali Darshan Chhaswala, 3. Darshan Navinchandra Chhaswala, 4. Aryan Chintubhai Panwala and 5. Yamini Premji Patel. I further state that I know only Yamini Premji Patel and she introduced me to the other person at Dubai Airport. I shared the said photo as Shri Vipul D Borad asked me to send the photo of the persons travelling with me.

**(iii) Page 17:**

This printout pertains to whatsapp chats between Shri Vipul Borad and Baldev (Mob.No.9601347698) taken from his Samsung Galaxy phone wherein Shri Baldev has conveyed regarding booking of 135 pcs of Gold Biscuits by Shri Rambhai Maganbhai Suhagiya @of Rs.54080/- per tola.

**20.3** On being asked who had travelled with him on 18.04.2022 from Surat to Sharjah and from Sharjah to Surat on 20.04.2022, he stated that the list of passengers who travelled with him on 18.04.2022 from Surat to Sharjah and from Sharjah to Surat on 20.04.2022 were as under:-

**Table 9: Details of Passengers who travelled along with Nilesh Borad on 18.04.2022**

Date of Travel	Name of Passengers travelled	FROM/ TO
18 April, 2022	1. Me (Shri Nilesh Borad) 2. Yamini Premji Patel 3. Darshan Navinchandra Chhaswala 4. Dipali Darshan Chhaswala 5. Aryan Chintubhai Panwala	Surat to Sharjah
20 April, 2022	1. Me (Shri Nilesh Borad) 2. Yamini Premji Patel 3. Darshan Navinchandra Chhaswala 4. Dipali Darshan Chhaswala 5. Nehal Rakeshkumar Kachhadiya 6. Aryan Chintubhai Panwala Sakhreliya	Sharjah To Surat

On being asked about the purpose of visit to Sharjah by him and other members, he stated that they had visited for textile business purpose; that on being asked regarding the other persons who carried gold, declared by him before Dubai Customs authorities on 20.04.2022, he stated that he did not know exactly whether they were carrying gold with them or not. On being asked when the messages in the Khanak 2021 whatsapp group chat were very clear regarding smuggling of the gold then how can he say that he did not know exactly whether they were carrying gold with them or not, he stated that he knew that gold smuggling was being done by Shri Vipul D Borad however, he was not sure how much quantity of gold each person was carrying. On being asked regarding Khanak 2021 whatsapp group, he stated that the said group was created for textile related activates as he was a partner in a Dubai based firm i.e. M/s Grand Hills General Trading LLC.

**20.4** On being asked, why were Shri Baldev Sakhreliya and Shri Ankur Mansukhbhai Sakhreliyapresent in the said whatsapp Group, Shri Nilesh Dhirubhai Borad stated that as the said whatsapp group was created for textile related business and Shri Baldev Sakhreliya was the proprietor of M/s Khanak Export, Surat and used to export the textile material to his firm, Shri Baldev Sakhreliya was there in the group. He further stated that Shri Ankur Mansukhbhai Sakhreliyawas the younger brother of Shri Baldev Sakhreliya and was also working with Shri

Baldev Sakhreliya and that was the reason they both were members of the said whatsapp group. On being asked as to when Shri Vipul D Borad started gold smuggling, he stated that as per his knowledge, Shri Vipul D Borad started gold smuggling in the month of April 2022 itself as he (Vipul) was facing severe financial problems; that he requested for help from him and therefore he added him to "Khanak 2021" whatsapp group where discussions on the gold smuggling and necessary directions were shared amongst the members of the group. On being asked regarding commission, he stated that he had not earned any commission from the smuggling done by Shri Vipul D Borad. On being asked regarding his old mobile phone which he was used before the booking of the case, he stated that he had thrown his mobile phone after booking of the case.

**21** Summons dated 02.05.2022 under Section 108 of the Customs Act, 1962 was issued to **Shri Ankur Mansukhbhai Sakhreliya** R/o A-103, Kaveri Habitat, VT Nagar Road, Sarthana, Surat and his statement was recorded on 02.05.2022 under Section 108 of the Customs Act, 1962 wherein he inter alia stated that he engaged in Textile Business with his brother's proprietorship firm M/s Khanak Export; that he had visited Dubai for the first time in 2018 as a tourist; that then he had visited Dubai 3 to 4 times every year; that on being asked regarding the purpose of visit to Dubai, he stated that Shri Nilesh Borad had a shop in Dubai in the name of Grand Hills General Trading LLC, Meena Bazar, Dubai and he went there to show sample pieces of textile to customers and get the order from them; that after getting the order, they exported the same from Khanak Export; that recently, he had visited Sharjah & Dubai on 13.04.2022 from Surat and returned to Surat on 17.04.2022.

**21.1** Shri Ankur Mansukhbhai Sakhreliya perused the Panchnama dated 21.04.2022 drawn at the M/s CRV Jewels, G4, Maitri Building, Lambe Hanuman Rd, Varachha, Surat and after going through the same he appended his dated signature on the last page in token of having perused it and agreed to its contents; that he perused the statements dated 21/22.04.2022 & 23.04.2022 of Shri Vipul Dhirubhai Borad and after going through the same, he appended his dated signature on the last pages in token of having perused it and agreed to its contents; that he perused the statements dated 21/22.04.2022 & 23.04.2022 of Shri Rambhai Maganbhai Suhagiya, Partner of CRV Jewels and after going through the same he appended his dated signature on the last pages in token of having perused it and agreed to its contents; that on being asked, he stated that he knew Shri Vipulbhai Borad since 2018 as the brother of Shri Nilesh Borad & Navnit Borad who were the colleagues of his brother Shri Baldev Sakhreliya in Textile business; that on being asked regarding Shri Rambhai Maganbhai Suhagiya, Partner of CRV Jewels, he stated that he had met him in April, 2022 when Shri Vipul Borad asked him to collect cash from their shop CRV Jewels; that he had visited CRV Jewels three times to collect cash; that on being asked regarding the origin of the cash, he stated that he was not aware about the origin of the cash that time; that after the arrest of Shri Vipulbhai Borad & Shri Rambhai Maganbhai Suhagiya, a Partner of CRV Jewels he came to know that the origin of that cash was the sale proceeds of the foreign origin smuggled gold in question; that on being asked regarding co-passengers who travelled on 14.04.2022 i.e. the date on which he travelled from Surat to Sharjah, he stated that he travelled alone and no passenger accompanied him from Surat to Sharjah on 14.04.2022; that on being asked regarding S/Shri Gauravgiri Dineshgiri Goswami, Rakesh Gopalbhai Moradiya and Kalpesh kumar Thakrshibhai Desai who travelled on 14.04.2022 from Surat to Sharjah, he stated that he neither knew them nor was he aware about their presence in the same flight as him; on being asked regarding whatsapp group and its members in the name of "Khanak 2021", he stated that he was one of the member of this group and knew that during 2021, it was created for textile business for his brother's firm Khanak Exports, but later on, it was used exclusively to pass messages and directions related to the smuggling of foreign origin gold; that when he was about to return from Dubai, Shri Vipulbhai Borad passed a message to meet a group of 4 male

passengers who would smuggle Gold to Surat and share their photo and names as printed on the passport in the whatsapp group “Khanak 2021”; that he took a picture of the 4 male passengers (carriers) at Sharjah Airport and posted the same on the whatsapp group; that those four men carried foreign origin gold as per the directions of Shri Vipul Borad; that as per the directions of Shri Vipul Borad he posted the name of the said carriers i.e. Gauravgiri Dineshgiri Goswami, Rakesh Gopalbhai Moradiya, Kalpesh kumar Thakrshibhai Desai, Rupareliya Vasantben Hasmukhbhai and Tavadia Divyesh Natvarbhai in the same group; that he did not know that Mrs Rupareliya Vasantben Hasmukhbhai was carrying the gold or not, but she was travelling with the other 4 Gold carriers; that on being asked regarding how he knew the name of these Gold carriers, he stated that on the directions of Shri Vipul D Borad one of those 4 carriers contacted him on phone at Sharjah Airport and then he noted down their names from their passports.

**21.2** On being specifically asked regarding smuggling of gold, Shri Ankur Mansukhbhai Sakhreliya stated that he was working with his elder brother’s firm Khanak Export and used to visit Sharjah with sample of textiles and would deliver the samples at Grand Hills General Trading LLC, Meena Bazzar, Dubai; that he visited the office of Shri Dilip Virani situated at Gold Souk, Dubai; that on being specifically asked, he stated that as per the directions of Shri Vipulbhai D Borad he used to go to Shri Rambhai Maganbhai Suhagiya at his shop M/s CRV Jewels to pick up cash; that he picked up cash from Shri Rambhai Maganbhai Suhagiya two times on 11.04.2022 and one time on 12.04.2022; that he perused the printout of screenshots taken from the mobile of Shri Rambhai Maganbhai Suhagiya and stated that this was printout of whats app chats dated 11.04.2022 and 12.04.2022 between him and Shri Rambhai Maganbhai Suhagiya; that in the said chats Shri Rambhai Maganbhai Suhagiya sent him the message on different occasions “70”, “113” & “130” and in response he replied “OK” every time, it meant that he had picked up Rs.70,00,000/-, Rs. 113,00,000/- & Rs. 130,00,000/- from Shri Rambhai Maganbhai Suhagiya on different occasions.

**22.** During investigation, Shri Baldev Mansukhbhai Sakhreliya S/o Shri Mansukhbhai Lakshmanbhai Sakhreliya (ii) Shri Nileshkumar Dhirubhai Borad S/o Shri Dhirubhai Borad (iii) Shri Ankur Mansukhbhai Sakhreliya S/o Shri Mansukhbhai Lakshmanbhai Sakhreliya were arrested on 03.05.2022 under Section 104 of Customs Act, 1962 and produced before the Hon’ble Chief Judicial Magistrate, Surat after following due procedure and all three persons were sent in judicial custody by the Hon’ble CJM, Surat.

**23** Summons dated 04.05.2022 under Section 108 of the Customs Act, 1962 were issued to Shri Alpesh Virani R/o 45, Shiv Park Society, Nana Varachha, Surat and in response Shri Alpesh Virani vide letter dated 09.05.2022 (received on 10.05.2022) requested for next date on 25.05.2022. Further Summons dated 13.05.2022 was issued to Shri Alpesh Virani to appear on 25.05.2022 and statement of **Shri Alpesh Manjibhai Virani**, residing at 4, Shiv Park Society, Nana Varachha, Surat was recorded on 25.05.2022 under Section 108 of the Customs Act, 1962 wherein he inter-alia stated that he was working with a proprietorship firm of his brother-in-law M/s Hitesh Devrajibhai Patel, engaged in civil construction works like drainage, sanitation etc. as a contractor or subcontractor for the tenders allotted by Surat Municipal Corporation and he was looking after overall work of this firm; that on being asked about Shri Vipulbhai Dhirubhai Borad, he stated that he knew him from the last three years as he (Vipul) was engaged in the export of textile goods; that he had given him (Vipul) Rs.40.00 lakhs as a loan in last two years and out of this he had returned only principal amount of Rs.5.00 lakh in March-2022 and Rs.5.00 lakh in April-2022; that he generally called him on his mobile to recover his loan; that on being asked about his last phone call to Shri Vipulbhai Dhirubhai Borad, he stated that he had called him (Vipul) on phone on 21.04.2022 for recovery of loan but he did not attend his phone call on that day.

**23.1** Shri Alpesh Manjibhai Virani has perused the statement dated 21/22.04.2022 of Shri Vipulbhai Dhirubhai Borad and appended his signature on the last page. On being asked regarding whether he had received the money realised from the sale of foreign origin gold from Shri Vipulbhai Dhirubhai Borad or Shri Navnitkumar Dhirubhai Borad and sent the same amount to Shri Dilipbhai living in Dubai through Angadias, he stated that he neither received such money from Shri Vipulbhai Dhirubhai Borad /Shri Navnitkumar Dhirubhai Borad nor had he sent the money to Shri Dilipbhai living in Dubai through Angadias. On being asked about Shri Baldev Mansukhbhai Sakhreliya, he stated that he knew him as a working partner of Shri Vipulbhai Dhirubhai Borad; that he did not have any business relations with him. He had perused the statement dated 02.05.2022 of Shri Baldev Mansukhbhai Sakhreliya and stated that he neither received said money from Shri Vipulbhai Dhirubhai Borad /Shri Navnitkumar Dhirubhai Borad nor had sent any money to Shri Dilipbhai living in Dubai through Angadias. On being asked about Shri Nilesh Dhirubhai Borad, he stated that he knew him as the younger brother of Shri Vipulbhai Dhirubhai Borad; that he did not have any business relations with him. On being asked about Shri Navnitkumar Dhirubhai Borad, he stated that he knew him as the younger brother of Shri Vipulbhai Dhirubhai Borad; that he did not have any business relations with him.

**23.2** On being specifically asked regarding the business relations between his brother Shri Dilip Virani and Shri Vipulbhai Dhirubhai Borad, Shri Alpesh Manjibhai Virani stated that he did not have any idea about business relations between them; that his brother Shri Dilip Virani had a Diamond trading firm M/s L V Gems in Gold Souk market, Dubai. On being asked about Shri Anilbhai from Dubai, he stated that he knew a person in Dubai having name Shri Anil Kankot. On being asked about the business of Shri Anil Kankot, he stated that he worked in a Diamonds trading firm M/s Al-Bhoomi, Dubai. On being asked regarding his Mobile Phone, he stated that his old phone was damaged and thus he had purchased a new Mobile Phone just two days before.

**24.** Summons dated 14.06.2022 under Section 108 of the Customs Act, 1962 was issued to Shri Dilip Manjibhai Virani, residing at 407, Block- C, Suk Al Kabir Building, Bur Dubai (permanent address- 45, Shiv Park Society, Nana Varachha, Surat) and statement of **Shri Dilip Manjibhai Virani** was recorded on 20.07.2022 under Section 108 of the Customs Act, 1962 wherein he inter alia stated that he had been living in Dubai since 2011 at C Block, 407, Suk Al Kabir Building, Bur Dubai with his wife and son; that in the year 2019, he established his proprietorship firm L V Gems, 301 Rak Bank Building, Gold Souk market, Dubai, engaged in the trading of cut and polished diamonds; that Baldev's wife Smt Hiralben was his distant relative and that she introduced him to Shri Baldev in Dubai around four years ago where he told them about some gold jewellery shops as they wanted to buy gold jewellery; that thereafter, he used to contact Shri Baldev Sakhreliya for bringing food items from Surat to Dubai; that he also met him in the office of M/s Khanak Export whenever he came to Surat from Dubai; that on being asked about business relations with Shri Baldev Mansukhbhai Sakhreliya, he stated that he did not have any business relations with him; that on being asked about Shri Vipulbhai Dhirubhai Borad, he stated that he knew him from last two years through Shri Baldev Mansukhbhai Sakhreliya; that his elder brother Shri Alpesh Manjibhai Virani had given Rs.40.00 lakhs as a loan to Shri Vipulbhai Dhirubhai Borad; that on being asked about business relations with Shri Vipulbhai Dhirubhai Borad, he stated that he did not have any business relations with him; that he never had telephonic conversation with Shri Vipulbhai Dhirubhai Borad; that he had perused statement dated 21/22.04.2022 of Shri Vipulbhai Dhirubhai Borad and appended his signature on the last page in token of having perused it; that on being asked regarding financing of money to Shri Vipulbhai Borad for purchasing the foreign origin gold in Dubai and receiving money from Shri Alpesh Virani through Angadias, he stated that he neither had given money to Shri Vipulbhai Borad for purchasing

gold in Dubai nor received any money from his elder brother Shri Alpesh Virani through Angadia; that on being asked about Shri Anilbhai from Dubai, he stated that he knew a person in Dubai having name Shri Anil Kankotiya, who worked in a Diamonds trading firm M/s Al-Bhoomi, Dubai; that he did not have any business with Shri Anil Kankotiya.

**24.1** On being asked about Shri Nilesh Dhirubhai Borad, Shri Dilip Manjibhai Virani stated that he knew him as the younger brother of Shri Vipulbhai Dhirubhai Borad; that he did not have any business relations with Shri Nilesh Dhirubhai Borad; that on being asked about Shri Navnitkumar Dhirubhai Borad, he stated that he knew him as the younger brother of Shri Vipulbhai Dhirubhai Borad; that he did not have any business relations with Shri Navnitkumar Dhirubhai Borad; that on being asked regarding his Mobile Phone, he stated that he came to India from Dubai on 16.07.2022 and had left his mobile phone in his house at Dubai.

**25.** Further statement of **Shri Dilip Manjibhai Virani**, residing at 407, Block- C, Suk Al Kabir Building, Bur Dubai was recorded on 26.07.2022 against Summons dated 20.07.2022 issued under Section 108 of the Customs Act, 1962 wherein he interalia stated that he had been shown his earlier statement recorded on 20.07.2022 and after perusing the said statement, he appended his signature on the last page; that he had been confronted with a person present in the office of DRI Surat and on being asked, he stated that he knew that person by the name of Shri Baldev Sakhreliya for the last 4 years; that Shri Baldev Sakhreliya introduced him to Shri Vipul Borad two years back ago. On being asked, he stated that he learnt about smuggling of gold by Shri Vipul Borad when Summons were received by his elder brother, Shri Alpesh Virani; that neither he had given any money to Shri Vipul Borad at Dubai for purchase of Gold nor received any money from Shri Vipul Borad through his elder brother Shri Alpesh Virani.

**26.** Further statement of **Shri Baldev Mansukhbhai Sakhreliya**, Proprietor of Khanak Export, Surat, R/o A-103, Kaveri Habitat, V T Nagar Road, Sarthana, Surat, was recorded on 26.07.2022 against Summons dated 20.07.2022 issued under Section 108 of the Customs Act, 1962 wherein he interalia stated that he had been confronted with a person present in the office of DRI Surat and on being asked, he stated that he knew that person by the name of Shri Dilip Manjibhai Virani for the last 4 years; that his wife Smt Hiralben Virani was a distant relative of Shri Dilip Manjibhai Virani and she introduced him to Shri Dilip Manjibhai Virani in Dubai around four years ago; that he also carried food items to Dubai for Dilip Manjibhai Virani on a few occasions; that he did not have any business relations with him; that on being asked about the funding for the gold purchased in Dubai and smuggled in India, he stated that Shri Vipulbhai Dhirubhai Borad can answer this question as he did not know who was funding the gold purchased in Dubai and smuggled into India; that he perused the statement dated 23.04.2022 of Shri Vipulbhai Dhirubhai Borad and printout of the whats app chat kept at page number 17 of the printouts attached to the said statement and stated that he did not know any person known as Jalpesh; that on being asked to explain the message sent by Shri Vipul Borad to him as "Jalpesh na 25 che", he stated that the message sent by Shri Vipul Borad related to the 25 gold biscuits but presently he did not remember the relevance of the said message.

**26.1** Shri Baldev Mansukhbhai Sakhreliya submitted copies of his Bank account statements on 28.07.2022 vide letter dated Nil for the period from 01.02.2022 to 30.04.2022 in respect of his accounts maintained with (i) SBI Bank account – 32931284259, Savarkundla Branch, Amreli (ii) ICICI Bank A/c 724601000102, Yogi Chowk Branch, Surat, and (iii) Kotak Mahindra Bank account-9601347698 Sitanagar Branch, Varachha, Surat.

**27.** Summons dated 22.08.2022 was issued to **Shri Navnitkumar Dhirubhai Borad** residing at 156, Yamuna Darshan Society, Mota Varachha, Surat and his

statement was recorded on 26.08.2022 under Section 108 of the Customs Act, 1962 wherein he interalia stated that since the year 2016, he was doing trading of clothes on commission basis to many firms in Surat including to M/s Khanak Export, Surat; that he had one saving account A/c 32944137821 in SBI Bank, MotaVarachha Branch, Surat and submitted bank account's statement for the period 01.02.2022 to 30.04.2022; that on being asked regarding Shri Vipulbhai Dhirubhai Borad, Shri Nileshbhai Dhirubhai Borad and Shri Rambhai Maganbhai Suhagiya, he stated that Shri Vipulbhai Dhirubhai Borad was his elder brother, Shri Nileshbhai Dhirubhai Borad was his younger brother and Shri Rambhai Maganbhai Suhagiya was his cousin brother (son of my Bua) who was a partner in CRV Jewels; that Shri Baldev Sakhreliya and Shri Ankur Mansukhbhai Sakhreliya were brothers and he knew Shri Baldev Sakhreliya and Shri Ankur Mansukhbhai Sakhreliya since year 2016 when he started working with their firm M/s Khanak Export, Surat on commission basis; that he had been visiting UAE since the year 2016; that he had visited UAE around 10 times since the year 2016 for business related to textiles; that recently he went to Sharjah, UAE on 21.04.2022 by Air India Flight No IX-171 and returned to India via Nepal on 05.06.2022; that on being asked about his companion in his last visit to Dubai on 21.04.2022, he stated that he travelled alone and he had no companions in his last visit to Dubai on 21.04.2022; that on being asked about the booking of tickets for his last journey from India to Dubai and return flight from Dubai, he stated that he booked his ticket from M/s Magic Holidays, 6-7, Ground Floor, Navratn chember, Sardar chowk, Mini Bazar, Varachha, Surat, Gujarat; that he personally visited the office of M/s Magic Holidays at Mini Bazar, Surat to book his tickets and made the payment in cash after booking the tickets; that on being asked regarding return schedule from Dubai after 21.04.2022, he stated that he did not remember the exact date of his return ticket as he missed his return flight on that day and extended his stay at Dubai till 05.06.2022; that he came to know about the arrest of his brother in a case related to smuggling of Gold on 27.04.2022 when his family members informed him on his mobile number 9313160660; that he had been shown statement dated 21/22.04.2022 of Shri Vipulbhai Dhirubhai Borad and was explained in Gujarati language and after perusing the said statement, he appended his signature on the last page in token of having seen it; he denied that two passengers named Shri Gopalbhai Chhaganbhai Mulani and Shri Dhawalkumar Premjibhai Patel were accompanying him to Sharjah on 21.04.2022; that he never collected cash from Shri Rambhai Maganbhai Suhagiya, a Partner in M/s CRV Jewels, Surat; that on being asked about his role in travelling with gold carriers to & from Surat to Sharjah, he stated that he never involved himself in such type of activities and he used to visit Sharjah/ Dubai for his textile business purpose.

**27.1** Shri Navnitkumar Dhirubhai Borad was shown statement of Shri Vipulbhai Dhirubhai Borad dated 23.04.2022 and was explained its contents in Gujarati language and on being asked regarding the whatsapp group "Khanak-2021", he stated that he was not a member of whatsapp group "Khanak-2021"; that he was shown the print outs bearing number 1 to 10 taken out from the working copy received from Regional Forensic Science Laboratory, Surat, which were the screen shots taken from whatsapp group "Khanak-2021" from the mobile phone of Shri Vipulbhai Dhirubhai Borad as follows:

- (ii) He was shown the Page 1 to 3 of above printouts and informed that those printouts pertained to the whatsapp group "KHANAK 2021" and his younger brother Nilesh was group admin of the group 'KHANAK 2021' and other members of this group were Ankur Mansukhbhai Sakhreliya, Baldev, Khanak new company, & Navnit (8758125506). On being asked to explain about the participant Navnit (8758125506), he stated that as per his knowledge the mobile number 8758125506 belonged to him which he gave to his elder brother Shri Vipul Borad around one year back. On being asked about the user of mobile number 8758125506 in the last one year,

he stated that he had no idea regarding use of this mobile number and his brother Shri Vipul Borad could explain it.

- (iii) He had been shown Page 4 to 8 of above printouts and informed that those printouts pertained to the whats app group “KHANAK 2021”. It was having PDF copies of three air tickets for 21.04.2022 of PNR 3LN9B1, PDWBNU and QH60V9 through flight IX171. It pertained to Shri Navnitkumar Dhirubhai Borad, Shri Dhavalkumar Prembhai Patel & Gopalbhai Chhaganbhai Mulani respectively. On being asked to explain the sharing of the above said Air Tickets on whats app group “KHANAK 2021” by Shri BaldevSakhreliya, he stated that he did not have any idea why his ticket was shared on the said whatsapp group and he did not know about Shri Dhavalkumar Prembhai Patel & Shri Gopalbhai Chhaganbhai Mulani.
- (iv) He had been shown Page 9 of above printouts and informed that the printout pertained to photo of Gold Biscuits and had been shared by Shri Vipul Borad. He had been shown Page 10 of above printouts pertaining to declaration number AIRC/2514 dated 21.04.2022 (Declaration regarding import of Cash (DRIC) for Passengers) made by Passport holder V6225106 before the UAE Customs. Passport holder V6225106 travelled to Sharjah by flight no. IX171. The declaration was regarding foreign currency amounting to 41,93,530/- (Declared amount in other foreign currency) shared by Navnit (8758125506) on 21.04.2022 at 6:30 AM in the whats app group “Khanak-2021”. On being asked, he stated that the passport number V6225106 belongs to him but he had not made any declaration regarding import of foreign currency amounting of 41,93,530/- before the UAE Customs on 21.04.2022 and his signature was forged on this said declaration. On being asked about the said picture, he stated that he did not have any idea about that photo of gold biscuits or the whats app group.

**27.2** Shri Navnitkumar Dhirubhai Borad had been asked to peruse the statement dated 21/22.04.2022 of Shri Rambhai Maganbhai Suhagiya along with printouts attached thereto and had it explained to him in Gujarati Language and after going through the same, he appended his dated signature in token of having seen and perused it. He was asked to peruse the photo of whats app chat between Shri Rambhai Maganbhai Suhagiya and Shri Baldev (Vipul) (Mob: +91-9601347698) that had been taken from mobile phone of Shri Rambhai Maganbhai Suhagiya, and the contents of it were explained in Gujarati Language to him, it was explained to him that page No.2 attached to the said statement was the printout of the screenshot of whatsapp chat dated 14.04.2022 at 10:12 AM mentioned as “Kon avse” & “Navnitbhai”. On being asked, he stated that he did not know the meaning of that chat between Shri Rambhai Maganbhai Suhagiya and Shri Baldev (Vipul) (Mob: +91-9601347698) and he had put his dated signature on page 2 of photo of whats app chat. On being asked regarding M/s CRV Jewels, he stated that Shri Rambhai Maganbhai Suhagiya was his cousin (son of my Bua) who was a partner in M/s. CRV Jewels; that whenever he visited CRV Jewels he dealt only with Shri Rambhai Maganbhai Suhagiya; that he had visited M/s CRV Jewels some times in this year to purchase jewellery for his wife.

**27.3** Shri Navnitkumar Dhirubhai Borad had been shown statement dated 02.05.2022 of Shri Nilesh Dhirubhai Borad and it was explained to him in Gujarati Language and after perusing the said statement, he appended his signature on the last page; he denied that the declaration before UAE Customs was filed by him. He had been shown statement dated 02.05.2022 of Shri Baldev Mansukhbhai Sakhreliya and had it explained to him in Gujarati Language and after perusing the said statement, he appended signature on the last page and denied the fact that he had ever collected cash from M/s CRV Jewels, Surat. He was shown the statement

dated 28.04.2022 of Shri Nikunj Arvindbhai Sutariya, Proprietor of M/s Magic Holidays, 6-7, Ground Floor, Navratna Chember, Sardar Chowk, Mini Bazar, Varachha, Surat and it was explained to him in Gujarati Language and after perusing the said statement, he appended signature on the last page. On being asked about ticket booking from M/s Magic Holidays, he stated that he used to book his tickets to & fro from Surat/UAE through M/s Magic Holidays, Surat. On being asked specifically regarding booking of tickets of passengers, he stated that he never booked tickets for any other person except him. On being asked the mode of payment to M/s Magic Holidays for booking of tickets, he stated that every time he paid him in cash. On being specifically asked about the phone number 9824011005, he stated that he did not know about this mobile number's handler. He was asked to peruse the documents bearing page no 1 to 68 submitted by Shri Nikunj Arvindbhai Sutariya, Proprietor of M/s Magic Holidays to DRI and after going through the same he confirmed that the copy of passport kept at page 62 belongs to him and air-ticket kept at page no 42 & 45 were his travel tickets booked by Shri Nikunj Arvindbhai Sutariya, Proprietor of M/s Magic Holidays.

**27.4** During investigation, Shri Navnitkumar Dhirubhai Borad was arrested on 26.08.2022 under Section 104 of Customs Act, 1962 and produced before the Hon'ble Chief Judicial Magistrate, Surat after following due procedure and he was sent in judicial custody by the Hon'ble CJM, Surat.

**ENQUIRY WITH THE PASSENGERS WHO CARRIED GOLD FROM SHARJAH TO SURAT**

**28.** It appeared that 5 persons were accompanying Shri Nilesh D Borad on 20.04.2022 from Sharjah to Surat via flight IX 172. It appeared that Shri Nilesh D Borad had declared the 135 pieces of Gold Biscuits of 10 tola each before Sharjah Customs Authority at the time of departure on 20.04.2022 and had handed it over to the passengers who were traveling on the directions of Shri Vipul Borad and they had carried the said Gold and cleared the Indian Customs area after landing in Surat on 20.04.2022. It appears that a group photo of above 5 passengers was taken at Sharjah Airport and their names were shared by Shri Nilesh D Borad to Shri Vipul D Borad on whatsapp. The details of PNR of the above said 5 passengers and Shri Nilesh D Borad while travelling from Surat to Sharjah and returning from Sharjah to Surat are as below:

**Table 10: Details of PNR of the 5 Carriers and Nilesh Borad for the 20.04.2022 flight from Sharjah**

Name of Passengers	Passport No.	Surat to Sharjah		Sharjah to Surat	
		Date	PNR	Date	PNR
Nilesh Dhirubhai Borad	Z6069511	18.04.2022	DXSIVW	20.04.2022	RJUASI
Darshan Navinchandra Chhaswala	R3292663	18.04.2022	8KWN65	20.04.2022	DYKTOH
Dipali Darshan Chhaswala	R3292661				
Yamini Premjibhai Patel	S4219361	18.04.2022	GJN6KR	20.04.2022	U1HWV2
Aryan Chintubhai Panwala	U9461161	18.04.2022	UCPLJH	20.04.2022	K65RVX
Nehal Rakeshkumar Kachhadiya	U5853949	Not available		20.04.2022	C8E57Y

**28.1** Summons dated 22.09.2022 & 28.09.2022 were issued to **Shri Darshan Navinchandra Chhaswala**, a passenger, resident of 4/4418-19, Amli Sheri, Begampura, Surat and his statement was recorded on 03.10.2022 u/s 108 of



Customs Act, 1962 wherein he interalia stated that he and his wife Deepaliben had visited Dubai 3-4 times in search of jobs; that every time they had gone with Nileshbhai D Borad; that Nileshbhai D Borad used to ask him if they wanted to visit Sharjah and that whenever he (Darshanbhai) said yes, he (Nileshbhai D Borad) used to book his (Darshanbhai) and his wife's ticket and hotel room; that he had not paid money to Nileshbhai D Borad for ticket and hotel booking; that he and his wife had gone to UAE 3-4 times with Nileshbhai D Borad to find a job as they did not have much income in Surat; that as they did not get any good job there, both of them came back with Nileshbhai D Borad after 2-3 days; that he knew Shri Vipulbhai Borad as the elder brother of Nileshbhai D Borad; that every time when they planned to visit Sharjah, he used to talk to Nileshbhai D Borad only; that his wife didn't have any idea about what he used to talk with Nileshbhai D Borad; that the last time he himself, his wife, his wife's sister Yaminiben and her son Aryan went to Sharjah with Nileshbhai D Borad was on 18.04.2022 and they returned on 20.04.2022; that he was shown and explained the statement of Shri Vipulbhai Borad dated 23.04.2022, pages 15 and 16 of annexure attached to the statement and after having seen and understood, he stated that page no. 15 was a group photo in which from the left was -a woman they met at Sharjah Airport who told her name as Nehal, his wife, he himself, his wife's sister's son Aryan and his wife's sister Yamini; that Nileshbhai D Borad took their passports and sent their names to Vipulbhai D Borad from his mobile; that he was not aware about the declaration of Gold filed by Nileshbhai D Borad before UAE customs authority on 20.04.2022 at Sharjah Airport; that Nileshbhai D Borad gave him (Darshanbhai) 2 parcels on 20.04.2022 at Sharjah airport; that he didn't know what was inside those parcels; that he had kept those parcels in 02 different bags as they were heavy; that after landing at Surat airport, at the behest of Nileshbhai D Borad, the bag was taken out from the sight of custom officers; that no one was aware of those 02 parcels except him (Darshanbhai) and Nileshbhai D Borad.

**28.1.1** Shri Darshan Navinchandra Chhaswala, R/o 4/4418-19, Amli Sheri, Begaumpura, Surat-395003 was made a co-noticee in the Show Cause Notice No VIII/10-34-O&A/ADC/CRV/2022-23 dated 14.10.2022 issued by the Additional Commissioner of Customs, Surat, restricted to seizure of 135 pieces of foreign origin Gold Biscuits of 10 tola each, weighing 15746.40 gm smuggled on 20.04.2022, under Section 124 of Customs Act, 1962.

**29.** It appears that prior to 20.04.2022 various persons had carried the gold from Sharjah to Surat via flight IX 172. Shri Vipul Dhirubhai Borad in his statement dated 23.04.2022 identified the passengers who had carried gold on his behalf from Sharjah to Surat on different occasions i.e. 10<sup>th</sup> April, 2022, 13<sup>th</sup> April 2022, 17<sup>th</sup> April, 2022. On the basis of passenger manifest of Flight IX-172 (Sharjah to Surat) which arrived on 10<sup>th</sup> April, 2022, 13<sup>th</sup> April 2022 & 17<sup>th</sup> April, 2022 submitted by the Officer, Air India Express, Surat, and the documents submitted by Shri Nikunj Arvindbhai Sutariya, proprietor of Magic Holiday, the details of PNR of passengers who had travelled along with accomplice of Shri Vipul Dhirubhai Borad from Surat to Sharjah and who returned from Sharjah to Surat are as below:

**Table 11: Details of Passengers who had travelled along with accomplice of Shri Vipul Dhirubhai Borad**

Name of Passengers (Shri/ Smt.)	Passport No.	Surat to Sharjah		Sharjah to Surat	
		Date	PNR	Date	PNR
Hardik Rupareliya	P1449863	-	-	10-04-2022	E2YHLO
Hasmukh Khadela	S4221283	-	-	10-04-2022	UUWGHZ
Nikhil Prafullbhai Kanani	S9495066	18-04-2022	78P65K	10-04-2022	ZL4THK
Mital Nikhilbhai Kanani	P8698173	-	-	10-04-2022	
Mukesh Kumar Dhirajlal Kanani	R0657322	07-04-2022	P90VL7	10-04-2022	A080TE

Kalpesh Chhaswala	N5473975	11-04-2022	O4QQJ1	13-04-2022	EW35ZX
Vivek Patel	V4527970	11-04-2022	I0CSZI	13-04-2022	DJJORQ
Baldev Manshukhbhai Sakhreliya	V4529094	07-04-2022	-	13-04-2022	S3Q387
Vipul Dhirubhai Borad	L4229308	11-04-2022	SOIHK9	13-04-2022	VXQ700
Gauravgiri Dineshgiri Goswami	V2378068	14-04-2022	ZXGB44	17-04-2022	R59NZN
Rakesh Gopalbhai Moradiya	R0018913	14-04-2022	YZE3K5	17-04-2022	8EY22K
Kalpeshkumar Thakarshibhai Desai	V4605452	-	-	17-04-2022	HLHFE2
Vasantben Hasmukhbhai Rupareliya	V4538914	-	-	17-04-2022	74J2KD
Divyesh Natvarbhai Tavadiya	T9500760	-	-	17-04-2022	DCIXZQ
Ankur Manshukhbhai Sakhreliya	P3259002	14-04-2022	CV9XAF	17-04-2022	PG0GL1

**29.1** Summons were issued to the above passengers who had been identified by Shri Vipul Dhirubhai Borad and whosetickets were booked by Magic Holiday, details as below:

**Table 12: Details of Passengers Identified by Shri Vipul Dhirubhai Borad and whose tickets were booked by Magic Holiday**

Name of Passengers (Shri /Smt.)	Date of Summon	Response
Hardik Rupareliya	20.10.2022	Statement recorded on 9.11.2022
Hasmukh Khadela	20.10.2022	Statement recorded on 27.10.2022
Nikhil Prafullbhai Kanani	20.10.2022	Statement recorded on 14.11.2022
Mital Nikhilbhai Kanani	20.10.2022	Statement recorded on 31.10.2022
Mukesh Kumar Dhirajlal Kanani	20.10.2022	Statement recorded on 28.10.2022
Kalpesh Navinchandra Chhaswala	27.10.2022	Statement recorded on 8.11.2022
Vivek Premjibhai Patel	27.10.2022	Not responded
Gauravgiri Dineshgiri Goswami	27.10.2022	Not responded
Rakesh Gopalbhai Moradiya	27.10.2022	Statement recorded on 7.11.2022
Kalpeshkumar Desai	27.10.2022	Statement recorded on 7.11.2022
Vasantben Hasmukhbhai Rupareliya	27.10.2022	Statement recorded on 7.11.2022
Divyesh Natvarbhai Tavadiya	27.10.2022	Statement recorded on 11.11.2022

**29.2** Statement of **Shri HasmukhbhaiBhavanbhai Khadela**, the passenger who arrived in Surat on 10.04.2022, R/o E-304, Sahjanand Heights, Mota varachha, Near Maharaja Farm, Surat (Address as per Aadhar card- G/65, Purvi Society-1, Street No09, Hirabaug, Varachha Road, Surat) was recorded on 27.10.2022 under section 108 of Customs Act, 1962 wherein he interalia stated that his passport number was S4221283; that he had visited Dubai two times in 2022, the first time in April, 2022 and second time in October, 2022; that on being asked, he stated that he returned to India from his first journey on 10.04.2022; that he visited Dubai to explore the possibilities of import/export in Dubai; that on being asked regarding the booking of tickets for Dubai, he stated that his friend Shri Sahil had booked his ticket through a ticket booking agency whose name he did not remember; that he would produce the ticket booking details of his journey to & from Surat to UAE within aweek’s time; that he did not know Shri Vipul Borad, Shri Baldev Sakhareliya, Shri Ankur Sakhareliya, Shri Nilesh Borad and Shri Navnitkumar Dhirubhai Borad; that he had been shown the statement dated 23.04.2022 of Shri

Vipul Borad and on being asked, he stated that he had neither brought gold from Dubai to India on 10.04.2022 nor did he know any person involved in gold smuggling.

**29.3** Statement of **Shri Mukeshbhai Kanani** (Shri Mukesh Kumar Dhirajlal Kanani), the passenger who arrived at Surat on 10.04.2022, R/o 46, Sarita Vihar Society-01, Punagam to Bombay Market Road, Surat was recorded on 28.10.2022 under section 108 of Customs Act, 1962 wherein he interalia stated that his passport number was R0657322; that he had visited Dubai two times in the year 2022, first time in January, 2022 and second time in April, 2022; that he returned to India from his second journey on 10.04.2022; that he visited Dubai to purchase Diamond but he could not purchase the same due to high rate of Diamond; that he was shown and explained the statement dated 28.04.2022 of Shri Nikunj Arvindbhai Sutariya and a letter of Shri Nikunj Arvindbhai Sutariya, Proprietor of Magic Holidays, Mini Bazaar, Surat, along with its enclosure (Page-1 to 68) and after reading and having understood the same, he put his dated signature on it; that after gone through the documents from page no. 1 to 68 submitted by Shri Nikunj Arvindbhai Sutaria, Proprietor of M/s Magic Holidays, he confirmed that the copy of passport placed on page no. 61 was the copy of his passport and the copy of ticket placed on page no. 10 & 12 was his travel tickets booked by Shri Nikunj Arvindbhai Sutaria, Proprietor of M/s Magic Holidays; that he didn't agree that his tickets was booked through Shri Vipul Borad; that on being asked regarding his name appearing in the Sales ledgers created in the name of "Malviya Sumitaben Manishkumar (1734)" (page number 3) and "Dhavalkumar Premjibhai Patel (1681)" (page number 5), he stated that he didn't know why his tickets were shown in the above mentioned Sales ledgers; that he would submit the booking details of tickets for travel in April 2022 from Surat to UAE and from UAE to Surat within a week; that he did not know Shri Vipul Borad, Shri Baldev Sakhareliya, Shri Ankur Sakhareliya, Shri Nilesh Borad and Shri Navnitkumar Borad; that he had been shown the statement dated 23.04.2022 of Shri Vipul Borad and on being asked, he stated that he had neither brought gold from Dubai to India on 10.04.2022 nor did he know any person involved in gold smuggling.

**29.4** Statement of **Smt. Mital Nikhilbhai Kanani**, the passenger who arrived in Surat on 10.04.2022, R/o C-110, Gopinath Complex, Near Lajamani Chowk, Mota Varachha, Surat was recorded on 31.10.2022 under section 108 of Customs Act, 1962 wherein she interalia stated that her passport number was P8698173; that her husband was engaged in diamond trading business and she resided with him in Dubai; that on being asked, she stated that in 2022 she travelled from Dubai to India on 11.04.2022 & 30.10.2022; that on being asked regarding ticket booking, she stated that her tickets were booked by her husband and she came to India on 10.04.2022 along with her husband Shri Nikhil Prafullbhai Kanani & daughter Miss Vedanshi; that she was shown and explained statement dated 28.04.2022 of Shri Nikunj Arvindbhai Sutariya and after gone through the same she put her dated signature on the said statement; that she was shown a letter of Shri Nikunj Arvindbhai Sutariya, Proprietor of Magic Holidays, Mini Bazaar, Surat, along with its enclosure (Page-1 to 68) and after reading it and having understood the same, she put her dated signature on it; that after going through the documents from page no. 1 to 68 submitted by Shri Nikunj Arvindbhai Sutaria, Proprietor of M/s Magic Holidays, she confirmed that the copy of passport placed on page no. 60 was the copy of his passport and the copy of ticket placed on page no. 14 was her travel tickets booked by Shri Nikunj Arvindbhai Sutaria, Proprietor of M/s Magic Holidays; that she didn't agree that her tickets were booked through Shri Vipul Borad; that on being asked regarding the name of her husband, Shri Nikhil Prafullbhai Kanani, appearing in the Sales ledgers created in the name of "Dhavalkumar Premjibhai Patel (1681)" (page number 5), she stated that she didn't know why her husband's name Nikhil Prafullbhai Kanani was shown in the above mentioned Sales ledger; that she would submit the booking details of tickets for travel in April 2022

from Surat to UAE and from UAE to Surat within a week; that on being asked about Shri Vipul Borad, Shri Baldev Sakhareliya, Shri Ankur Sakhareliya, Shri Nilesh Borad and Shri Navnitkumar Borad, she stated that she did not know any person of those names; that she had been shown the statement dated 23.04.2022 of Shri Vipul Borad and after going through the same she appended her dated signature on it; that on being asked, she stated that she had neither brought gold from Dubai to India on 10.04.2022 nor she knew any person involved in gold smuggling.

**29.5** Statement of **Shri Rakesh Moradiya (Shri Rakesh Gopalbhai Moradiya)**, the passenger who arrived in Surat on 17.04.2022, R/o Hans Society, Part-III, Near Sudama Chowk, Mota Varachha, Surat was recorded on 07.11.2022 under section 108 of Customs Act, 1962 wherein he interalia stated that his passport number was R0018913; that that he had visited Dubai twice in the year 2022, the first time in Jan. 2022 and second time in April 2022; that he visited Dubai in Jan 2022 alongwith his wife for vacation; that he went to Dubai in April 2022 to meet Mr. Benjamin Lemay of German Company Punctus; that Punctus was engaged in golf course management and he handled server designing and software support for Punctus website; that he has been paid \$20 for an hour by Punctus.com; that on being asked who had booked the tickets for his trip to Dubai in April 2022, he stated that his friend Shri Kalpesh Desai had booked his tickets through Magic Holidays, Mini Bazaar, Surat and the payment was made in cash.

**29.5.1** Shri Rakesh Moradiya was shown and explained statement dated 28.04.2022 of Shri Nikunj Arvindbhai Sutariya and after reading the same he put his dated signature on the said statement; he was shown a letter of Shri Nikunj Arvindbhai Sutariya, owner of Magic Holidays, Mini Bazaar, Surat, along with its enclosure (Page-1 to 68), after reading and understanding the same, he put his dated signature thereon; that after goingthrough the documents from page no. 1 to 68 submitted by Shri Nikunj Arvindbhai Sutaria, Proprietor of M/s Magic Holidays, he confirmed that the copy of passport placed on page no. 65 was the copy of his passport and the copy of ticket placed on page no. 23 & 27 were his travel tickets booked by Shri Nikunj Arvindbhai Sutaria, proprietor of M/s Magic Holidays; that he didn't agree that his tickets were booked through Shri Vipul Borad; that on being asked regarding his name appearing in the Sales ledgers created in the name of "Malviya Sumitaben Manishkumar (1734)" (page number 3) and "Dhawalkumar Premjibhai Patel (1681)" (page number 5), he stated that he didn't know why his tickets were shown in the above mentioned Sales ledgers; that he would submit the booking details of tickets for travel from Surat to UAE and from UAE to Surat in April 2022 within a week; statement dated 23.04.2022 of Shri Vipulbhai Borad was shown and explained to him and after reading the same, he put his dated signature on the above said statement; that he had neither brought gold from Dubai to India on 17.04.2022 nor did he know any person involved in gold smuggling; that he was shown 04 printouts of WhatsApp group "KHANAK 2021" retrieved by RFSL, Surat from the mobile of Shri Vipulbhai and he stated the picture of him was clicked by a person at Sharjah airport and in that picture he was standing with 3 other men and the man standing on his right side is Shri Kalpesh Desai, two other persons were from Surat and he met them at Sharjah airport but he didn't know their name; on being asked regarding his name in whatsapp chatting in the group, he informed that he don't know why his name was used in the context of gold smuggling; that he did not know why his photo was shared on the said whatsapp group "Khanak 2021"; that on being asked about the boy who clicked their group photo, he stated that he did not know him; that he had met him there once; that on being asked about 4<sup>th</sup> printout, he stated that he did not know that person; he was shown and explained statement dated 02.05.2022 of Shri Baldev Sakhareliya and after read the same, he put his dated signature on the said statement; that on being asked why Shri Baldev Sakhareliya in his statement dated 02.05.2022 commented on his name as "*Smaglaro ni toli*", he stated that he did not know why he called him a gold smuggler; that he was shown and explained statement dated 02.05.2022 of Shri

Ankur Sakhareliya and after read the same, he put his dated signature on the said statement; that on being asked regarding Shri Ankur Sakhareliya in his statement dated 02.05.2022 has stated that he had posted a picture of 04 male Carriers at Sharjah airport on whatsapp group and those four persons possessed foreign origin gold and his name was mentioned as a carrier by Shri Ankur Sakhareliya in the post of whatsapp group KHANAK 2021, he stated that he didn't know why Shri Ankur Sakhareliya was referring to him as gold smuggler; that on being asked about Mr. Vipul Borad, Mr. Baldev Sakhareliya, Mr. Ankur Sakhareliya, Mr. Nilesh Borad and Mr. Navnitkumar Borad, he stated that he did not know any person by these names.

**29.6** Statement of **Shri Kalpeshkumar Desai**, the passenger who arrived at Surat on 17.04.2022, R/o E-102, Mamta Park Residency, Mota Varachha, Surat was recorded on 07.11.2022 under section 108 of Customs Act, 1962 wherein he inter alia stated that his passport number was V4605452; that he had visited Dubai in the month of April 2022; that he went to Dubai to meet Mr. Benjamin Lemay of German Company Punctus as he was his client for the last 4 years; that Punctus was indulged in golf course management and he was handling server designing and software support for Punctus website; that he was paid \$20 for an hour by Punctus.com; that on being asked who had booked the tickets for his trip to Dubai in April 2022, he stated that he booked his tickets from Magic Holidays, Mini Bazaar, Surat and paid for the tickets in cash; that he was shown and explained statement dated 28.04.2022 of Shri Nikunj Arvindbhai Sutariya and after reading the same he put his dated signature on the said statement; that he was shown a letter of Shri Nikunj Arvindbhai Sutariya, Proprietor of Magic Holidays, Mini Bazaar, Surat, along with its enclosure (Page-1 to 68) and after reading and understanding the same, he put his dated signature on it; that after gone through the documents from page no. 1 to 68 submitted by Shri Nikunj Arvindbhai Sutaria, Proprietor of M/s Magic Holidays, he confirmed that the copy of passport placed on page no. 59 was the copy of his passport and the copy of ticket placed on page no. 30 was his travel tickets booked by Shri Nikunj Arvindbhai Sutaria, Proprietor of M/s Magic Holidays; that he did not agree that his tickets were booked through Shri Vipul Borad; that on being asked regarding his name appearing in the Sales ledgers created in the name of "Malviya Sumitaben Manishkumar (1734)" (page number 3) and "Patel Yamini (1208)" (page number 6), he stated that he didn't know why his tickets were shown in the above mentioned Sales ledgers; that he would submit the booking details of tickets for travel from Surat to UAE and from UAE to Surat within a week.

**29.6.1** Statement dated 23.04.2022 of Shri Vipulbhai Borad was shown and explained to Shri Kalpeshkumar Desai and after reading the same he put his dated signature on the above said statement and stated that he had neither brought gold from Dubai to India on 17.04.2022 nor did he know any person involved in gold smuggling; that he was shown 04 printouts of WhatsApp group "KHANAK 2021" retrieved by RFSL, Surat from the mobile of Shri Vipulbhai D Borad and he stated that the picture of him was clicked by a person at Sharjah airport and in that picture he was standing with 3 other men and the man standing on his left side was his companion Shri Rakesh Moradiya, two other persons were from Surat and had met him at Sharjah airport but he didn't know their name; that on being asked about his name reflecting in the chat in WhatsApp group, he informed that he don't know why his name was used in the context of gold smuggling; that he had not known why his photo was shared on the said WhatsApp group "khanak 2021"; that on being asked about the man who clicked their group photo, he stated that he did not know him; that he had met him there once; that on being shown and explained statement dated 02.05.2022 of Shri Baldev Sakhareliya, he put his dated signature on the said statement; that on being asked why Shri Baldev Sakhareliya in his statement dated 02.05.2022 commented on his name as "*Smaglaro ni toli*", he stated that he did not know why he called him a gold smuggler; that on being shown and

explained statement dated 02.05.2022 of Shri Ankur Sakhareliya, he put his dated signature on the said statement; that on being asked regarding Shri Ankur Sakhareliya stating in his statement dated 02.05.2022 that he (Shri Ankur) had posted a picture of 04 male passengers (carriers) at Sharjah airport on whatsapp group and those four persons possessed foreign origin gold and their names were mentioned as carrier by Shri Ankur Sakhareliya in the post of whatsapp group KHANAK 2021, he (Kalpeshkumar Desai) stated that he don't know why Shri Ankur Sakhareliya had referred to him as gold smuggler; that on being asked about Mr. Vipul Borad, Mr. Baldev Sakhareliya, Mr. Ankur Sakhareliya, Mr. Nilesh Borad and Mr. Navnitkumar Borad, he stated that he did not know any person with those names.

**29.7** Statement of **Smt. Vasantben Hasmukhbhai Rupareliya**, the passenger who arrived at Surat on 17.04.2022, R/o 10, Jaldarshan Society, Nr Dharmishtha Society, Varachha, Surat, was recorded on 07.11.2022 under section 108 of Customs Act, 1962 wherein she inter alia stated that her passport number was V4538914; that her husband was working in a Diamond company and her only son Shri Hardik Rupareliya was working in a textile firm and she did not know name of said firm; that she visited Dubai in March, 2022 and returned from Dubai on 17.04.2022; that on being asked the purpose of travel, she stated that she visited UAE to take care of the daughter of her niece Smt. Pratyansha (Sister's daughter); that on being asked regarding booking of her ticket she stated that her ticket was booked by her niece Smt. Pratyansha at Dubai; that on being asked about Mr. Vipul Borad, Mr. Baldev Sakhareliya, Mr. Ankur Sakhareliya, Mr. Nilesh Borad and Mr. Navnitkumar Borad, she stated that she did not know any person by those names; she was shown and explained Shri Vipul Borad's statement dated 23.04.2022 and after reading it she put her dated signature on the said statement; that she neither brought gold from Dubai to India on 17.04.2022 nor did she know any person involved in gold smuggling; that she was shown two printouts taken out from the WhatsApp group "KHANAK 2021" retrieved by RFSL, Surat from the mobile of Shri Vipulbhai and on being asked about the photo of a woman wearing red suit and the related whatsapp chat about that woman, she stated that her photo was clicked by a boy at Sharjah airport and she did not know why her name was used in the context of gold smuggling; that she did not know why her photograph was shared on the said WhatsApp group "khanak"; that on being asked about the boy who clicked her photo, she stated that she did not know him; that she met him there once; that on being asked about Jalpesh, she stated that she did not know anyone by the name of Jalpesh.

**29.8** Statement of **Shri Kalpesh Navinchandra Chhaswala**, the passenger who arrived at Surat on 13.04.2022, R/o 4/4418-19, Amli Sheri, Begumpura, Surat was recorded on 08.11.2022 under section 108 of Customs Act, 1962 wherein he inter alia stated that his passport number was N5473975; that he went to Dubai on 11.04.2022 and returned to Surat on 13.04.2022; that in April 2022, he went to Dubai to explore Diamond import/export opportunities; that on being asked regarding booking of ticket for his travel to Dubai in April 2022, he stated that his ticket was booked by one of his relatives Shri Vivek Premjibhai Patel through a ticket booking agency and he did not know the name of that ticket booking agency; that Shri Vivek Premjibhai Patel was his brother's brother-in-law and Shri Vivek Premjibhai went out of India for study purpose; that he was shown and explained statement dated 28.04.2022 of Shri Nikunj Arvindbhai Sutariya and after reading the same he put his dated signature on the said statement; that he was shown a letter from Shri Nikunj Arvindbhai Sutariya, proprietor of Magic Holiday, Mini Bazaar, Surat, along with its enclosures (Page-1 to 68), after reading and having understood the same, he put his dated signature thereon; that after going through the documents from page no. 1 to 68 submitted by Shri Nikunj Arvindbhai Sutaria, Proprietor of M/s Magic Holidays, he confirmed that the copy of passport placed on page no. 58 was the copy of his passport and his name, passport number

(N5473975), date of journey (11.04.2022) and PNR (O4QQJ1) were mentioned at Serial No. 10 on page no. 7 and the copy of ticket placed on page no. 19 was his travel tickets booked by Shri Nikunj Arvindbhai Sutaria, proprietor of M/s Magic Holidays; that he didn't agree that his tickets were booked through Shri Vipul Borad.

**29.8.1** Shri Kalpesh Navinchandra Chhaswalawas shown the passenger manifest for Air India Express flight IX-172 (Sharjah to Surat) scheduled for 13.04.2022, received vide Air India's letter dated 23.04.2022 and on the perusal of the same, he stated that he came back to Surat on 13.04.2022 with Shri Vivek Premjibhai Patel and their PNRs were EW35ZX and DJJ0RQ respectively; that on being asked about the two different PNRs, he stated that he did not know why Shri Vivek Patel booked tickets with two different PNRs; that he and Shri Vivek Premjibhai Patel were seated on adjacent seats on the flight on his above mentioned journey date (13.04.2022); that his seat and Shri Vivek Premjibhai Patel were 22F and 22A respectively; that on being asked the reason for sitting together, he stated that they sat together because there were vacant seats available; that on being asked about Mr. Vipul Borad, Mr. Baldev Sakhareliya, Mr. Ankur Sakhareliya, Mr. Nilesh Borad and Mr. Navnitkumar Borad, he stated that he did not know any person by those names; that he was shown and explained statement dated 23.04.2022 of Shri Vipulbhai Borad and after reading the above said statement, he put his dated signature on the said statement; that he neither brought gold from Dubai to India on 13.04.2022 nor did he know any person involved in smuggling of gold.

**29.9** Statement of **Shri Hardik Hasmukhbhai Rupareliya**, the passenger who arrived at Surat on 10.04.2022, R/o 10, Jaldarshan Society, Nr Dharmishtha Society, Varachha, Surat, was recorded on 09.11.2022 under section 108 of Customs Act, 1962 wherein he interalia stated that his passport number was P1449863; that he went to Dubai five times in the year 2022; that he went to Dubai on 24.01.2022, 22.02.2022, 05.04.2022, 02.06.2022 & 26.09.2022 and came back to India on 03.02.2022, 24.02.2022, 10.04.2022, 10.06.2022 & 04.10.2022; that on being asked regarding Dubai trip in April 2022, he stated that he went to Dubai to show sample of garments made by his wife; that he was also trying to get a Job as Salesman in Meena Bazaar, Dubai; that on being asked regarding booking of tickets for his trip to Dubai in April 2022, he informed that his brother in law (Jijaji) Shri Veer Patel had booked his tickets; that his brother in law Shri Veer Patel was working in Pharmacy Company in Dubai since 2015-16; that on being asked about Shri Vipul Borad, Shri Baldev Sakhareliya, Shri Ankur Sakhareliya, Shri Nilesh Borad and Shri Navnitkumar Borad, he stated that he didnot know any person by those names; that on being asked, he stated that he hadno cousin in his family by name "Jalpesh"; statement dated 23.04.2022 of Shri Vipulbhai Borad was shown and explained to him and after reading the same he put his dated signature on the above said statement; that he had neither brought gold from Dubai to India on 10.04.2022 nor did he know any person involved in gold smuggling.

**29.10** Statement of **Shri Divyesh Natvarbhai Tavadiya**, the passenger who arrived at Surat on 17.04.2022, R/o-Khadi Falia, At/Po- Bodali, Tal- Jalalpore, Navsari, was recorded on 11.11.2022 under section 108 of Customs Act, 1962 wherein he interalia stated that his passport number was T9500760; that he went to Dubai on 13<sup>th</sup> April 2022 and returned to Surat on 17.04.2022; that on being asked regarding the purpose of his visit to Dubai in April 2022, he stated that he went to Dubai for a job interview in Dubal Aluminum Company; that his interview was conducted by Nirav Bhai who worked in Dubal Aluminium Company; that on being asked regarding booking of tickets for his trip to Dubai in April 2022, he stated that his ticket was booked by Nirav Bhai and the payment was made by Nirav Bhai; that his late father had arranged Job for Nirav in Dubai, then after Shri Nirav was in his contact, that was the reason Shri Nirav booked his ticket; that he would

submit the booking details of tickets for travel from Surat to UAE and from UAE to Surat in April 2022 within a week; that the statement dated 23.04.2022 of Shri Vipulbhai Borad was shown and explained to him and after reading the same he put his dated signature on it; that he was shown 4 printouts of whatsapp group "KHANAK 2021" retrieved by RFSL, Surat from mobile phone of Shri Vipulbhai Borad; that he stated that the photo of him was clicked by a person at Sharjah airport and in that photo he was standing with 3 other persons; that he met 3 other men standing in the photo at Sharjah Airport but he don't know any of them; that he didn't know the man who clicked his picture at Sharjah airport; that he didn't know his name, but if a picture of him was shown to him, he could recognized him; that when asked about 4<sup>th</sup> printout, he stated that he was the person who clicked his picture at Sharjah airport; that the recording officers informed him that the person in the picture was Shri Ankur Sakhareliya and on being asked what happened at Sharjah airport, he stated that Shri Ankur Sakhareliya met him at Sharjah airport and asked him to carry some gold biscuits; that he accepted his (Mr. Ankur Sakhareliya) offer and hid 8 gold biscuits in his shoes and Shri Ankur Sakhareliya gave him Rs.15000/- for that work; that Shri Niravbhai told him to meet Shri Ankur Sakhareliya at Airport; that Shri Niravbhai shared his photo with Shri Ankur Sakhareliya and conveyed his location at airport and on that basis Shri Ankur Sakhareliya recognised him at the airport and met him; that before that he had not met Shri Ankur Sakhareliya; that Shri Ankur Sakhareliya handed over to him 8 gold biscuits after security clearance at Sharjah airport in waiting area; that after arriving in Surat, Shri Ankur Sakhareliya met him in the parking area of Surat airport and he handed back the 8 gold biscuits to Shri Ankur Sakhareliya; that he was shown and explained statement dated 02.05.2022 of Shri Baldev Sakhareliya and after reading the same, he put his dated signature on it; that on being asked, why Shri Baldev Sakhareliya in his statement dated 02.05.2022 commented on his name as "Smaglaro ni toli", he stated that Shri Baldev Sakhareliya was calling him a smuggler because he was carrying 08 gold biscuits in his shoes; that he was shown and explained statement dated 02.05.2022 of Shri Ankur Sakhareliya and after reading the same, he put his dated signature on it; that on being asked regarding Shri Ankur Sakhareliyastating in his statement dated 02.05.2022 that he (Shri Ankur) had posted a picture of 4 male passengers (carriers) at Sharjah airport on whatsapp group and those four persons possessed foreign origin gold and his name was mentioned as carrier by Shri Ankur Sakhareliya in the post of whatsapp group KHANAK 2021, he stated that he was carrying 08 gold biscuits in his shoes but he didn't know other 03 passengers were also carrying gold or not; that on being asked regarding Mr. Vipul Borad, Mr. Baldev Sakhareliya, Mr. Ankur Sakhareliya, Mr. Nilesh Borad and Mr. Navnitkumar Borad, he stated that he only knew Mr. Ankur Sakhareliya in those names; that he knew Ankur as he gave him 08 gold biscuits to hide in shoes at Sharjah airport and take them to India in flight; that he had no idea about the weight of gold.

**29.10.1** Shri Divyesh Natvarbhai Tavadiya vide letter dated 11.11.2022 (received on 12.11.2022) retracted his statement recorded on 11.11.2022 u/s 108 of Customs Act, 1962. In response to his letter dated 11.11.2022, a rebuttal letter F.No. DRI/AZU/SRU/B/INV-08(INT-09)/2022 dated 16.11.2022 was issued to Shri Divyesh Natvarbhai Tavadiya.

**29.11** Statement of **Shri Nikhil Prafullbhai Kanani**, the passenger who arrived at Surat on 10.04.2022, R/o- C-110, Gopinath Complex, Near Lajamani Chowk, Mota Varachha, Surat, was recorded on 14.11.2022 under section 108 of Customs Act, 1962 wherein he interalia stated that his passport number was S9495066; that he held resident Identity card of UAE; that he came back to India from Dubai in the year 2022 twice on 10.04.2022 and 10.11.2022; that on being asked regarding booking of ticket for travel on 10.04.2022, he stated that he booked 3 tickets from M/s Magic Holidays, Surat for travel from Sharjah to Surat on 10.04.2022; that he travelled with his wife Smt Mittal Kanani and daughter Miss



Vedanshi Kanani from Sharjah to Surat on 10.04.2022; that he had been booking tickets through Magic Holidays (Prop - Nikunj Sutaria) since last 5 years; that he made the payment in cash to Shri Nikunj Sutaria after his arrival in India; that he was shown and explained statement dated 28.04.2022 of Shri Nikunj Arvindbhai Sutariya and after reading the same he put his dated signature on it; that he was shown a letter of Shri Nikunj Arvindbhai Sutariya, proprietor of Magic Holidays, Mini Bazaar, Surat, along with its enclosure (Page-1 to 68), after having read and understood the same, he put his dated signature thereon; that after going through the documents from page no. 1 to 68 submitted by Shri Nikunj Arvindbhai Sutaria, Proprietor of M/s Magic Holidays, he confirmed that the copy of passport placed on page no. 63 was the copy of his passport and the copy of ticket placed on page no. 15 was his travel tickets booked by Shri Nikunj Arvindbhai Sutaria, proprietor of M/s Magic Holidays; that he didn't agree that his tickets were booked through Shri Vipul Borad; that on being asked regarding his name appearing in the Sales ledgers created in the name of "Dhawalkumar Premjibhai Patel (1681)" (page number 5), he stated that he didn't know why his tickets were shown in the above mentioned Sales ledgers; that he would submit the booking details of tickets for travel from Surat to UAE and from UAE to Surat in April 2022 within a week; that on being asked about Mr. Vipul Borad, Mr. Baldev Sakhareliya, Mr. Ankur Sakhareliya, Mr. Nilesh Borad and Mr. Navnitkumar Borad, he stated that he did not know any person by those names; that statement dated 23.04.2022 of Shri Vipulbhai Borad was shown and explained to him and after read the same he put his dated signature on the above said statement and stated that he neither brought gold from Dubai to India on 10.04.2022 nor did he know any person involved in gold smuggling.

**29.12** Summons dated 27.10.2022 was issued to **Shri Gauravgiri Dineshgiri Goswami**, the passenger who arrived at Surat on 17.04.2022, R/o- Station Road, Bhimnath Temple, Chalal, Amreli-365630, Gujarat. Shri Gauravgiri DineshgiriGoswami neither joined the investigation nor responded to the summons issued to him.

**29.12.1** Summons (DIN-202210DDZ1000000C0FD) dated 27.10.2022 was issued to **Shri Vivek Premjibhai Patel**, the passenger arrived at Surat on 13.04.2022, R/o- 2, Harinandan Bunglows, Near Bhaktinandan Chok, Mota Varachha, Surat-394101, Gujarat. Shri Vivek Premjibhai Patel neither joined the investigation nor responded to the summons issued to him.

**ENQUIRY WITH BUYERS OF SMUGGLED GOLD:**

**30.** It appeared from the investigation that the gold smuggled by Shri Vipul Dhirubhai Borad & his associates was sold by Shri Rambhai Maganbhai Suhagiya, Partner in CRV Jewels to M/s Harikala Bullions, No-323, Ground Floor, Lambe Hanuman Road, Varsha Society-1, Varachha, Surat and M/s Moon Star Inc., Shop No.1/A &2, B Rangrej Tower, Jada Khadi, Mahidharpura, Surat on various occasions, details as below:

**Tabke 13: Details of buyers of Smuggled Gold**

<b>Date of smuggling of Gold through Surat Airport</b>	<b>No. of biscuits &amp; Quoted Price</b>	<b>Date on which Gold biscuits delivered to Sh. Rambhai at CRV Jewels</b>	<b>Delivered by Rambhai to</b>
10.04.2022	144*52850	11.04.2022	Harikala Bullion (104 Pc.) & Moon Star Inc (40 Pc)
13.04.2022	115*53250	14.04.2022	Harikala Bullion (115 Pc)
17.04.2022	130*53650	18.04.2022	Moon Star Inc (130 Pc)
20.04.2022	135*54080	21.04.2022	Detained by DRI under panchnama dated 21.04.2022

**31. ENQUIRY WITH MOON STAR INC, SHOP NO.1/A &2, B RANGREJ TOWER, JADA KHADI, MAHIDHARPURA, SURAT**

**31.1** A search was conducted at M/s Moon Star Inc., situated at Shop No.1/A &2, B Rangrej Tower, Jada Khadi, Mahidharpura, Surat and panchnama dated 21.04.2022 was drawn in the presence of independent panchas and Shri Sagar M. Shah, Proprietor of M/s Moon Star Inc. During the search, officers detained the 27 Foreign Origin Gold Full Pieces/Cut Pieces, totally weighing 2466.45 Grams found at the said premises, on reasonable belief that the same were smuggled goods, and hence were liable to confiscation under the provisions of Customs Act, 1962.

**31.2** M/s Moon Star Inc. vide letter dated 03.05.2022 addressed to the Deputy Director, DRI, Surat requested to release the detained goods and submitted relevant documents. They stated that the supporting documents had already been submitted for items mentioned at S.No. 1 to 10 and 27 of Annexure ‘A’ to the panchnama dated 21.04.2022. Further, M/s Moon Star Inc. submitted that they had procured the goods mentioned at Sr. No. 11 to 23, 25 and 26 from M/s Augmont Enterprises Pvt Ltd, Surat vide Invoice No. SISURG22230038 dated 18.04.2022. It was further submitted that the goods at Sr no. 24 was a cut piece of the full piece purchased from M/s Augmont Enterprises Pvt Ltd during the routine course of business vide Invoice No. SISURG22230055 dated 21.04.2022.

**31.3** On scrutiny of documents submitted by M/s Moon Star Inc. vide letter dated 03.05.2022, it appears that on the basis of serial number inscribed on foreign origin Gold pieces that out of total 2466.45 gm of detained Gold, they had purchased 1100 gm of Rand Refinery 999.0 Fine Gold (Sr.No. 1,2,3,4,5,6,7,8,9,10 & 27 of Annexure-A attached to panchnama dated 21.04.2022 drawn at Moon Star Inc., Mahidarpura, Surat ) from Rupali Gold, L.H. Road, Surat vide Invoice No. 67 dated 21.04.2022. As per the said documents, it appeared that those Gold were imported by RBL Bank Limited through SRI CITY SEZ vide Bill of Entry No. 2000628 dated 03.02.2022 and sold to Laljibhai Kanjibhai Soni vide Invoice No. OD22H99AHM9 dated 18.04.2022 who in turn sold 7000 gm to Rupali Gold, Surat. M/s Moon Star Inc purchased the 1500 gm of Gold from Rupali Gold vide Invoice No. 67 dated 21.04.2022. Further, it appeared that M/s Moon Star Inc. had submitted that they had purchased the goods mentioned at Sr. No. 11 to 23, 25 and 26 from M/s Augmont Enterprises Pvt Ltd, Surat vide Invoice No. SISURG22230038 dated 18.04.2022. It was further submitted that the goods at Sr no. 24 was a cut piece of the full piece purchased from M/s Augmont Enterprises Pvt Ltd vide Invoice No. SISURG22230055 dated 21.04.2022. It appears that 1100 gm of Rand Refinery 999.0 Fine Gold & a cut piece of 49.15 gm Valcambi Suisse 100g were duty paid in nature. Thus, the competent authority accorded permission to release the said Gold. Accordingly, out of total 2466.45 gm of detained gold, the 1149.15 gm Gold piece/ cut piece (Sr.No. 1,2,3,4,5,6,7, 8,9,10,24 & 27 of Annexure-A attached to panchnama dated 21.04.2022 drawn at Moon Star Inc) were released and handed over to Shri Sahil Shah duly authorized by Shri Sagar Shah on 20.09.2022 for the purpose under acknowledgment dated 20.09.2022. The remaining 15 pieces of Gold out of the 27 pieces of gold were not released as Shri Sagar Shah, Proprietor of M/s Moon Star Inc. failed to provide documents, which can establish its duty paid character. The details of the remaining 15 pieces of Gold out of the 27 pieces of gold are as under:-

**Table 13: Details of 15 pieces of Gold seized from M/s Moon Star Inc**

<b>Sr. No. as per panchnama dated 21.04.2022</b>	<b>Description on Gold/Yellow Metal</b>	<b>Sr. No. inscribed on Gold/Yellow Metal</b>	<b>Qty. (in Grams)</b>	<b>Remarks</b>
11	Suisse 100g 999.0	-	75	Cut Piece

	AssayeurFondeur			
12	Suisse 100g 999.0 AssayeurFondeur	B814142	100	Full piece
13	Suisse 100g 999.0 AssayeurFondeur	B814146	100	Cut Piece
14	Suisse 100g 999.0 AssayeurFondeur	-	85	Cut piece
15	Suisse 100g 999.0 AssayeurFondeur	B814137	100	Full piece
16	Suisse 100g 999.0 AssayeurFondeur	B814143	100	Full piece
17	Suisse 100g 999.0 AssayeurFondeur	B814144	100	Full piece
18	Suisse 100g 999.0 AssayeurFondeur	B814135	100	Full piece
19	Suisse 100g 999.0 AssayeurFondeur	B814134	100	Full piece
20	Suisse 100g 999.0 AssayeurFondeur	B814141	100	Full piece
21	Suisse 100g 999.0 AssayeurFondeur	B814148	100	Full piece
22	Suisse 100g 999.0 AssayeurFondeur	B814147	100	Full piece
23	Tigris Gold	-	69.35	Cut Piece
25	ARG Melter Assayer	-	37.99	Cut Piece
26	Tigris Gold	-	49.96	Cut Piece
Total			1317.30	

**31.4** It appeared that there was reasonable belief that 1317.30 gm of gold having foreign marking (Sr.No. 11 to 23, 25 & 26 of Annexure-A attached to panchnama dated 21.04.2022), detained from the premises of M/s Moon Star Inc., were smuggled goods and liable to confiscation under the provisions of Customs Act, 1962. Therefore, 15 pieces of foreign Origin Gold Full/Cut Pieces weighing 1317.30 gm in total valued at Rs. 71,79,286/- (Rupees Seventy One Lakhs Seventy Nine Thousand Two Hundred Eighty Six only) were seized vide Seizure Memo DIN No. 202209DDZ10000424490 dated 23.9.2022 under the provisions of Section 110 of Customs Act, 1962, under the reasonable belief that the same were liable for confiscation under the provisions of Customs Act, 1962. After completion of relevant enquiry in respect of Moon Star Inc, a Show Cause Notice No VIII/10-33/O&A/Moonstar/2022-23 dated 12.10.2022 was issued by the Additional Commissioner of Customs, Surat, in respect of seizure of 15 pieces of foreign Origin Gold Full/Cut Pieces weighing 1317.30 gm under Section 124 of Customs Act, 1962, to M/s Moon Star Inc. (Proprietor of Shri Sagar M. Shah), Shop No. 1/A & 2, B-Rangrej Tower, Jada Khadi, Mahadirpura, Surat.

**31.5.** Summons dated 22.04.2022 under Section 108 of Customs Act, 1962 was issued to **Shri Sagar Manubhai Shah**, proprietor of M/s Moon Star Inc, Shop No. 1/A & 2, B, Rangrej Tower, Jada Khadi, Mahadirpura, Surat and his statement was recorded on 22.04.2022 under Section 108 of Customs Act, 1962, wherein he interalia stated that he was proprietor of Moon Star Inc, engaged in trading of Gold & Silver Bullions (Bars/Biscuit /Coin) since 2019; that he purchased Gold & Silver from various suppliers and sold it in open market in cash or credit as it is as per the requirement of customers; that he had perused the Panchnama dated 21.04.2022 drawn at the M/s CRV Jewels, G4, Maitri Building, L.H. Road, Varachha, Surat and after going through the same, he appended his dated signature on the last page in token of having seen and perused it; that he had perused the Panchnama dated 21.04.2022 drawn at Moon Star Inc., Shop No. 1/A & 2, B, Rangrej Tower, Jada

Khadi, Mahidarpura, Surat and after going through the same, he appended his dated signature in token of having seen, perused and agreed upon its contents; that out of total 2466.45 gm of detained Gold, he purchased 1100 gm of Rand Refinery 999.0 Fine Gold (Sr.No. 1,2,3,4,5,6,7,8,9,10 & 27 of Annexure-A attached to panchnama dated 21.04.2022 drawn at Moon Star Inc., Mahidarpura, Surat) from Rupali Gold, L.H. Road, Surat vide Invoice No. 67 dated 21.04.2022; that he had submitted copy of documents pertaining to import and further sale of Gold mentioned at Sr. No. 1,2,3,4,5,6,7,8,9,10 & 27 of Annexure-A attached to panchnama dated 21.04.2022 drawn at Moon Star Inc (page no 1 to 11). On being asked, he stated that as per the said documents, those Gold were imported by RBL Bank Limited through SRI CITY SEZ vide Bill of Entry No. 2000628 dated 03.02.2022 and sold to Laljibhai Kanjibhai Soni vide Invoice No. OD22H99AHM9 dated 18.04.2022, who in turn sold 7000 gm to Rupali Gold, Surat; that he had purchased the 1500 gm of Gold from Rupali Gold vide Invoice No. 67 dated 21.04.2022. On being asked, he stated that he had done trading of 130 pieces of UAE origin Gold Biscuits 10 tolas each from Shri Rambhai Maganbhai Suhagiya, Partner in CRV Jewels on 18.04.2022; that he had negotiated with Shri Rambhai Maganbhai Suhagiya for supply of UAE origin Gold on two occasions and received 40 pieces of gold biscuits (10 Tola each) on 11.04.2022 and 130 piece of UAE origin Gold Biscuits (10 tolas each) on 18.04.2022 and these were sold on cash basis to various customers and he did not have their details; that he had no idea how the Gold was procured by Shri Rambhai Maganbhai Suhagiya as neither had he enquired with him nor had he informed him the mode of procurement; that he had perused the Panchnama dated 22.04.2022 drawn at DRI office Surat for valuation of detained goods pertaining to Moon Star Inc., and after going through the same, he appended his dated signature in token of having seen and perused it and stated that he agreed with the version of Shri Rambhai Maganbhai Suhagiya and accepted that the cut piece of Gold mentioned in Sr No. 23, 25 & 26 having marking of “Tigris” & “ARG” were the part of UAE origin Gold supplied to him by Shri Rambhai Maganbhai Suhagiya on 18.04.2022.

**31.6.** Summons dated 12.05.2022 was issued to M/s Augmont Enterprises Pvt Ltd, Shop No.240, Aryaman Arcade, Nr. Mahidarpura Police Station, Tower Road, Surat and statement of **Shri Ramesh Bhawarlal Mehta**, Delivery Head cum Authorized signatory of M/s Augmont Enterprises Pvt Ltd, Shop No.240, Aryaman Arcade, Nr. Mahidarpura Police Station, Tower Road, Surat was recorded on 23.05.2022 under Section 108 of the Customs Act, 1962, wherein he interalia stated that he was the delivery head of Surat branch of M/s Augmont Enterprises Pvt Ltd, Shop No. 240, Aryaman Arcade, Nr. Mahidarpura Police Station, Tower Road, Surat, 395003 since 2015; that M/s Augmont Enterprises Pvt Ltd was engaged in the trading of gold bullion; that they had never dealt with “Suissee 100g 999 Essayeur Fondeur”, “ARG Melter Assayer” and “Tigris Gold” brand Gold Bars of 100gm and he confirmed that they never sold those brand of Gold bars to M/s Moon Star Inc.

**31.7.** Further, Summons dated 20.09.2022 u/s 108 of the Customs Act, 1962 was issued to Shri Sagar Manubhai Shah, Proprietor of M/s Moon Star Inc., Shop No. 1/A & 2, B, Rangrej Tower, Jada Khadi, Mahidarpura, Surat and statement of **Shri Sagar Manubhai Shah**, Proprietor of M/s Moon Star Inc was recorded on 21.09.2022. His statement in questionnaire form was as below:

**Q.1** Please peruse your earlier statement dated 22.04.2022 recorded under Section 108 of Customs Act, 1962 and offer your comments?

**Ans.** I peruse my earlier statement dated 22.04.2022 recorded under Section 108 of Customs Act, 1962 and confirm that whatever recorded in my statement dated 22.04.2022 is true and correct except the fact that I have received 40 pieces and 130 pieces of UAE origin Gold Biscuit 10 tolas each on 11.04.2022 and 18.04.2022 respectively from Shri Rambhai Maganbhai Suhagiya, Partner of CRV Jewels and I append my dated signature on last page of said statement. Further, I state that it is true that I had made contract (Sauda) for 40 pieces and 130 pieces of UAE origin

Gold Biscuit 10 tolas each respectively with Shri Rambhai Maganbhai Suhagiya but due to rise in rate of gold on 11.04.2022 and 18.04.2022 I denied the delivery.

**Q.2** Please peruse your letter dated 03.05.2022 wherein you have submitted the invoices in respect of purchase of total 2466.45 gm of gold detained under panchnama dated 21.04.2022 drawn at Moon Star Inc., Shop No. 1/A & 2,B, Rangrej Tower, Jada Khadi, Mahidarpura, Surat.

**Ans.** I peruse my letter dated 03.05.2022 wherein invoices relating to purchase of total 2466.45 gm of gold detained under panchnama dated 21.04.2022 was submitted by me and append my dated signature in token of having seen and peruse. I further state that out of total 2466.45 gm detained gold I have received back 1149.15 gm of Gold released to my brother Shri Sahil Shah on 20.09.2022 and request you to release remaining Gold.

**Q.3** It appears from your letter dated 03.05.2022 that you have purchased the gold biscuits, mentioned at Sr. No. 11 to 23, 25 & 26 of the Annexure attached to the panchnama dated 21.04.2022, from M/s Augmont Enterprises Pvt Ltd, Surat vide Invoice No. SISURG22230038 dated 18.04.2022. These Gold biscuits have a marking of Brand of other than "Augmont". Please offer your comments?

**Ans.** In this regard I state that due to demand of foreign origin Gold biscuits in comparison to Indian origin and also due to higher value, I usually melt the Gold Biscuits purchased from M/s Augmont Enterprises Pvt Ltd and embossed the marking of foreign brands like Suisse, ARG Melter Assayer, Tigris, etc and serial number. I state that I had the facility for melting gold and a computerised numbering machine in my shop. As of now, I have disposed the said computerised numbering machine.

**Q.4** Please peruse the statement dated 23.05.2022 of Shri Ramesh Bhawarlal Mehta, Delivery Head cum Authorized signatory of M/s Augmont Enterprises Pvt Ltd, Shop No.240, Aryaman Arcade, Nr. Mahidharpura Police Station, Tower Road, Surat they have never dealt with "Suissee 100g 999 Essayeur Fondeur", "ARG Melter Assayer" and "Tigris Gold" brand Gold Bars of 100gm and confirmed that they have never sold these brand of Gold bars to M/s Moon Star Inc. Please offer your comments?

**Ans.** I peruse the statement dated 23.05.2022 of Shri Ramesh Bhawarlal Mehta, Delivery Head cum Authorized signatory of M/s Augmont Enterprises Pvt Ltd and appended my dated signature in token of having seen, perused and agreed upon. As I have already stated above, I had melted the Gold biscuits purchased from M/s Augmont Enterprises Pvt Ltd and made remarking of foreign origin brands viz. Suisse, ARG Melter Assayer, Tigris, etc and serial number.

**Q.5** What is the legality behind the said remarking?

**Ans.** As per my knowledge the procedure adopted by me for remarking on gold is not legally correct.

**Q.6** Have you maintained any record for melting and remarking on Gold Biscuits purchased from M/s Augmont Enterprises Pvt Ltd?

**Ans.** I have not maintained any records for melting and remarking on Gold Biscuits purchased from M/s Augmont Enterprises Pvt Ltd.

**31.8.** Shri Sagar Manubhai Shah had filed Cr. Misc Application No. 6495/2022 for Anticipatory bail before Hon'ble Sessions Court, Surat. After hearing the matter, the Hon'ble Sessions Court allowed the Anticipatory Bail application filed by Shri Sagar Manubhai Shah vide order dated 21.10.2022 passed by the 11<sup>th</sup> Additional Sessions Judge, District & Sessions Court, Surat with certain conditions including "the applicant Sagar Manubhai Shah is hereby ordered to be released in the event of his arrest in connection with File No.DRI/AZU/SRU/B/INV-08(INT-09)/2022, under Section-135(1)(a) and (b) as well as 135(1)(i)(A)(B) of The Customs Act on furnishing personal bond and like solvent surety of Rs. 5,00,000/- (Rupees Five Lac only)". During investigation, Shri Sagar Shah was arrested on 31.10.2022 under Section 104 of Customs Act, 1962 and released as per order dated 21.10.2022 passed by the 11<sup>th</sup> Additional Session Judge, Surat on submission of personal bond and solvent surety bond of Rs.5,00,000/-.

**32. ENQUIRY WITH HARIKALA BULLION, NO-323, GROUND FLOOR, PLOT, LAMBE HANUMAN ROAD, VARSHA SOCIETY 1, VARACHHA, SURAT**

**32.1.** Summon dated 30.04.2022 was issued to M/s Harikala Bullion, No-323, Ground Floor, Lambe Hanuman Road, Varsha Society-1, Varachha, Surat, Gujarat and statement of **Shri Nilesh Mansukhbhai Suhagiya**, Partner in M/s Harikala Bullion was recorded on 30.04.2022 under Section 108 of the Customs Act, 1962 wherein he stated that in 2017, he alongwith his father Shri Mansukhbhai Suhagiya opened a partnership firm in the name of M/s Harikala Bullion with 50%-50% partnership in the said firm; that his father Shri Mansukh Suhagiya was a sleeping partner and he did not attend office and he also visited office rarely thrice in a month; that mainly Shri Manish Suhagiya, his younger brother looked after the day to day work of his firm and he would be in better position to answer the same; that Shri Manish Suhagiya was looking after entire operation and he took the entire profit from the business.

**32.2.** Summons dated 03.05.2022 was issued to **Shri Manish Mansukhbhai Suhagiya**, M/s Harikala Bullion, No-323, Ground Floor, Lambe Hanuman Road, Varsha Society-1, Varachha, Surat, under Section 108 of the Customs Act, 1962 and his statement was recorded on 05.05.2022 under Section 108 of the Customs Act wherein he interalia stated that he was managing the overall business of M/s Harikala Bullion, Surat, a partnership firm since 2017; that he was also a proprietor of M/s Popley Gold, Varsha Society-1, Varachha, Surat and engaged in making Gold jewellery on demand; that his firm M/s Harikala Bullion was partnership firm wherein his father Shri Mansukhbhai Suhagiya and his elder brother Nilesh Mansukhbhai Suhagiya were partners but he was looking after managing the overall work of Harikala Bullion; that M/s Harikala Bullion was engaged in the trading of silver and gold bullion; that they purchased Gold & Silver from various suppliers and sold it in the open market; that the main suppliers of Gold were Rupali Gold, Surat; Jyotimai, Ahmedabad; Ambuja Bullion, Ahmedabad; Goldmine, Ahmedabad; Amarपाली, Ahmedabad etc.; that he was dealing in various brand of foreign origin gold of 100 gm and those brands were Welcome, Switzerland, Mettler, Rand, MMTC, UBS, etc and never dealt in "Tigris" & "ARG" brand gold of 10 tola; that he had sold pure Gold to CRV Jewels on various occasions and he never purchased Gold from CRV Jewels; that he produced a bunch of photocopies bearing number 01 to 21 containing documents i.e. invoices raised to M/s CRV Jewels by M/s Harikala Bullion and tax invoices raised to Harikala Bullion by Rupali Gold, delivery documents of Gold from RBL bank to M/s Laljibhai Kanjibhai Soni, Tax invoice raised by M/s Laljibhai Kanjibhai Soni to M/s Rupali Gold & Ledger account of M/s CRV Jewels. On being asked regarding the documents of 800gm of detained Gold, he stated that the detained Gold was balance stock of Gold purchased from M/s Rupali Gold, Surat vide tax invoices 54, 61, 70 & 79 on 19.04.2022, 20.04.2022, 21.04.2022 & 22.04.2022 respectively and M/s Rupali Gold purchased those gold biscuits from M/s Laljibhai Kanjibhai Soni vide invoice no. GST/93 dated 20.04.2022; that the said gold biscuits were part of delivery made to M/s Laljibhai Kanjibhai Soni from RBL Bank Limited, Ahmedabad.

**32.2.1** Shri Manishkumar Mansukhbhai Suhagiya perused the statement dated 21/22.04.2022 of Shri Rambhai Maganbhai Suhagiya partner in M/s CRV Jewels, Surat, statement dated 21/22.04.2022 of Shri Vipulbhai Dhirubhai Borad and statement dated 21.04.2022 of Vijaykumar Gandubhai Vekariya, Employee of M/s CRV Jewels, G4, Maitri Building, Lambe Hanuman Rd, Varachha, Surat and after perusing all the three statements, he appended his signature on the last page. On being asked regarding the purchase of 115 pieces of Gold Biscuits of 10 tolas each on 14.04.2022 and 104 pieces of gold biscuits of 10 tolas each on 11.04.2022, he stated that he never purchased Gold biscuits of 10 tolas either from Shri Rambhai Maganbhai Suhagiya partner in M/s CRV Jewels, Surat or M/s CRV Jewels, Surat. On being asked regarding profit sharing of Harikala Bullion, he stated that he was looking after overall work of Harikala Bullion and keeping all the profits as per understanding of his family members i.e. his father & elder brother. On being asked regarding Ashokbhai Suhagiya, Shri Manishkumar Mansukhbhai

Suhagiya stated that he (Ashokbhai) joined his firm after Covid due to his financial problems; that he was working with him (Manishkumar) on part time basis and also worked as a broker in Diamond & Gold market; that Shri Ashokbhai Suhagiya visited CRV Jewels some times for delivery of Gold purchased by CRV jewels. On being asked regarding the call made by him (Manishkumar) on 21.04.2022 to Shri Rambhai Maganbhai Suhagiya, he stated that he had to deliver the Gold ordered by Shri Rambhai Maganbhai Suhagiya on 21.04.2022 that's why he had to make call to him but he did not receive his call.

**32.3.** On the basis of documents submitted by M/s Harikala Bullions, the competent authority accorded permission to release the said detained Gold. Thus, 08 foreign origin Gold full pieces totally weighing 800 Grams were returned to Shri Nilesh Mansukhbhai Suhagiya, Partner of M/s Harikala Bullion and Shri Manishkumar Mansukhbhai Suhagiya, Defacto owner of M/s Harikala Bullion under acknowledgment dated 05.09.2022.

**33. FURTHER ENQUIRY WITH ASSOCIATES OF SHRI VIPUL DHIRUBHAI BORAD:**

**33.1** Summonsdated 05.12.2022 was issued to **Shri Chetanbhai R Katharotiya** Partner of M/s CRV Jewels and his statement was recorded on 03.01.2023 under Section 108 of the Customs Act, 1962 wherein he interalia stated that he perused his earlier statement dated 21.04.2022 and after going through the said statement, he appended his dated signature in token of having seen and agreed to its contents; that he was aware that Shri Vipulbhai Borad was dealing with Shri Rambhai Maganbhai Suhagiya for selling the smuggled gold biscuits; that initially, being a partner he objected to Shri Rambhai Maganbhai Suhagiya for dealing in the smuggled gold from their shop but Shri Rambhai Maganbhai Suhagiya convinced him to do so to meet the miscellaneous expenses of their showroom; that most of the time he was present at their showroom during the handling of the smuggled gold and cash by Shri Rambhai Maganbhai Suhagiya with Shri Vipul Borad and other persons; that first time on 11.04.2022 in morning, Shri Ankurbhai Sakhreliya came to his shop CRV Jewels and handed over a bag (with gold biscuits) to Shri Rambhai which was kept by Shri Rambhai Maganbhai Suhagiya in locker room and on the same day Shri Rambhai Maganbhai Suhagiya handed over the said gold to different persons of Harikala Bullions & Moon Star Inc.; that on 14.04.2022 Shri Navnit bhai Borad came with Gold biscuits to his shop CRV Jewels and handed over to Shri Rambhai and Shri Rambhai handed over the same to different persons of Harikala Bullions; that he did not know who had come to handover the Gold on 18.04.2022 as he was not at the shop on that day; that various persons from Harikala Bullions as well as Moon Star Inc had visited CRV Jewels to receive Gold biscuits from Shri Rambhai Maganbhai Suhagiya and for handing over cash to him.

**33.1.1** Shri Chetanbhai R Katharotiya was shown the videos extracted by CFSL, Surat from the DVR, seized from M/s CRV Jewels, G-4, Maitri Building, Lambe Hanuman Road, Varachha, Surat under panchnama dated 21.04.2022, and their relevant screen shots taken during his statement were shown to him for which his explanation is reproduced as below-

**Confrontation with Screen shots of Video of M/s CRV Jewels on 11.04.2022.**

<b>Page No &amp; Photo</b>	<b>Persons in the photo (S/Shri) (from left to right)</b>	<b>Chetan Katharotiya's explanation on the photo</b>
Page 1, photo 1 CAM 4 (11-04-2022 10:49:29)	Rambhai Maganbhai Suhagiya, my staff Shri Vijaykumar Vekariya & Shri Ankur Mansukhbhai Sakhreliya (in customer	Shri Ankur bhai Sakhreliya had visited CRV jewels on 11.04.2022 at around 10.49 am and handed over the gold biscuits in a bag to Shri Rambhai. Further, on being asked, I state that Shri Ankurbhai Sakhreliya is seen in CAM 4

	area)	(customer area). After receipt of said bag Shri Rambhai Maganbhai Suhagiya along with Shri Ankur Mansukhbhai Sakhreliya moved towards Locker room for counting of gold biscuits and for its safe custody.
Page 1, photo 2 CAM 5 (11-04-2022 10:49:47)	Rambhai Maganbhai Suhagiya (opening the locker gate) & Shri Ankur Mansukhbhai Sakhreliya	In this photo Shri Rambhai Maganbhai Suhagiya was seen trying to open the gate of locker room to place the gold biscuits and Shri Ankur Mansukhbhai Sakhreliya was seen accompanying him.
Page 2, photo 1 CAM 6 (11-04-2022 10:49:54)	Rambhai Maganbhai Suhagiya	In this photo Shri Rambhai Maganbhai Suhagiya was seen trying to block the camera no 6 (CAM 6) installed in the locker room with a CRV Jewel bag. In this regard, I state that whenever Shri Rambhai Maganbhai Suhagiya received smuggled gold from Vipul bhai and his accomplice, he blocked the camera installed in Locker room.
Page 3, photo 1 CAM 4 (11-04-2022 11:11:47)	A person moving towards cash counter, myself and Vijaykumar Vekariya (standing at counter)	A person (left side) seen carrying a back pack in CAM 4 (11.11 am) had visited CRV jewels on 11.04.2022 to receive Gold biscuits from Shri Rambhai Maganbhai Suhagiya and handing over cash to Rambhai in return. The said person went in locker room where he had received gold biscuits and handed over cash to Shri Rambhai Maganbhai Suhagiya. Further, I state that the same person had frequently visited CRV Jewels along with an old person on same day i.e. 11.04.2022 to hand over the cash to Shri Rambhai Maganbhai Suhagiya. On being asked, I state that I do not know the name of the said person as Shri Rambhai had dealt with him but I was aware that this person belongs to M/s Harikala Bullions, Surat
Page 3, photo 2 CAM 5 (11-04-2022 11:18:26)	A person carrying a back pack	I do not know the name of this person but I am aware that this person belongs to M/s Harikala Bullions, Surat. This person came into locker room to hand over the cash to Rambhai and received gold in return.
Page 4, photo 1 CAM 4 (11-04-2022 12:41:26)	A person carrying a back pack & Vijaykumar Vekariya	This person carrying a back pack had again visited CRV Jewels on 11.04.2022 to handover the cash to Shri Rambhai and collect gold biscuits. I further state that I do not know the name of this person but I was aware that this person belongs to M/s Harikala Bullions, Surat.
Page 4, photo 2 CAM 5 (11-04-2022 12:41:35)	A person trying to remove his back pack	The person seen in this photo is the same person seen in CAM 4 of photo 1 above. This person carrying a back pack had visited CRV Jewels on 11.04.2022 to handover the cash to Shri Rambhai and collect gold biscuits and he was seen removing the back pack just in front of locker room gate.
Page 5, photo 1 CAM 5 (11-04-2022 12:45:05)	Two persons (names not known but belonged to Harikala Bullions)	In this photo a person who was seen in photos of page 4 further visited CRV Jewels along with an old person on 11.04.2022 (12.45 pm) and entered in locker room area situated behind the cash counter to handover the cash and/or to



		<i>receive Gold from Shri Rambhai. I further state that I do not know the name of these two persons but they are related to Harikala Bullions. Further, I state that these two persons had frequently visited CRV Jewels and on 11.04.2022 they visited to handover the cash to Shri Rambhai and collect gold biscuits.</i>
<i>Page 5, photo 2 CAM 4 (11-04-2022 14:22:12)</i>	<i>A person with bag pack, Old man with bag pack and Vijaykumar Vekariya.</i>	<i>In this photo a person who was seen in page 5 photo 1 above had again visited CRV Jewels along with an old person on 11.04.2022 (14.22 pm) and seen approaching towards locker room area to handover the cash and/or to receive Gold. I further state that I do not know the name of these two persons.</i>
<i>Page 6, photo 1 CAM 4 (11-04-2022 16:20:34)</i>	<i>My self (upper left), Vijaykumar Vekariya, two customers, a person with bag (belong to Harikala Bullions) and cash (kept at counter)</i>	<i>In this photo, a person who belongs to Harikala Bullions who was also seen in photo at page 3,4,5 above had again visited the CRV Jewels on 11.04.2022 (16.20 hrs) to handover the cash to Shri Rambhai Maganbhai Suhagiya.</i>
<i>Page 6, photo 2 CAM 4 (11-04-2022 17:29:45)</i>	<i>A person belonged to Harikala Bullions with back pack</i>	<i>In this photo, a person belongs to Harikala Bullions again visited the CRV Jewels on 11.04.2022 (17.29 hrs) who was approaching towards locker room area situated behind the cash counter to handover the cash to Shri Rambhai Maganbhai Suhagiya. This person is the same person who had visited frequently with old man and seen in photo at page 3,4 &amp; 5 above.</i>
<i>Page 7, photo 1 CAM 4 (11-04-2022 12:14:12)</i>	<i>Vijaykumar Vekariya, Two persons with back pack &amp;Rambhai Maganbhai Suhagiya (counting the cash)</i>	<i>Two persons seen in this photo had visited the CRV Jewels on 11.04.2022 (12.14 hrs) to receive the cash from Shri Rambhai Maganbhai Suhagiya on behalf of Shri Vipul Borad. I do not know their names and address. In this photo Shri Rambhai was seen counting the cash before handing over to both persons.</i>
<i>Page 7, photo 2 CAM 5 (11-04-2022 12:14:18)</i>	<i>My self (carrying the cash from locker to outside)</i>	<i>In this photo, I was seen carrying the huge cash from locker room to cash counter to hand over the same to Rambhai Maganbhai Suhagiya. I further state that I had assisted Shri Rambhai only to move cash from inside the locker.</i>
<i>Page 8, photo 1 CAM 4 (11-04-2022 12:14:30)</i>	<i>Vijaykumar Vekariya, Two persons with back pack, my self &amp;Rambhai Maganbhai Suhagiya.</i>	<i>Two persons seen in this photo are same as appeared in photo at page 6 &amp; 7 and had visited the CRV Jewels on 11.04.2022 (12.14 hrs) to receive the cash from Shri Rambhai Maganbhai Suhagiya on behalf of Shri Vipul Borad. In this photo both persons were seen counting the cash before taking over from Rambhai.</i>
<i>Page 8, photo 2 CAM 4 (11-04-2022 13:51:54)</i>	<i>Vijaykumar Vekariya, Two persons with back pack, myself &amp;Rambhai Maganbhai Suhagiya.</i>	<i>Two persons standing in customer area are same as appeared in photo at page 7 &amp; photo 1 of this page had again visited the CRV Jewels on 11.04.2022 (13.51 hrs) to receive the cash from Shri Rambhai Maganbhai Suhagiya on behalf of Shri Vipul Borad. I state that I had assisted Shri Rambhai by way of carrying the cash from inside the locker room to reception area. In this photo both persons were seen counting the cash before</i>

		taking over from Rambhai.
Page 9, photo 1 CAM 4 (11-04-2022 15:34:33)	A person, myself & a person with back pack.	Two persons standing in customer area appearing in this photo had visited the CRV Jewels on 11.04.2022 (15.34 hrs) to handover the cash to Shri Rambhai Maganbhai Suhagiya. I am also seen in this photo to receive the bag from that person at the counter, only to assist Shri Rambhai as I handed over the said bag to that person immediately as he approached towards locker room. I do not know name of both persons but they may be concerned with Moon Star Inc. (Prop. Shri Sagar Shah). One of the person went into locker room to hand over the cash to Rambhai.
Page 9, photo 2 CAM 5 (11-04-2022 15:35:43)	A person sitting on the floor inside the locker with a bag.	This person who appeared in the photo was the same person seen in photo 1 of this page who was sitting inside the locker and handling a bag full of cash. This person had handed over the said cash to Shri Rambhai Maganbhai Suhagiya. I do not know name and address of this person. On being asked regarding the quantum of cash, I state that I have no idea about the quantum of that money.
Page 10, photo 1 CAM 4 (11-04-2022 16:04:24)	My self, Ankur Mansukhbhai Sakhreliya & Rambhai Maganbhai Suhagiya.	Shri Ankur Mansukhbhai Sakhreliya has again visited to CRV Jewels on 11.04.2022 at around 16.04 hrs to receive cash from Shri Rambhai Maganbhai Suhagiya. I was also present at the time of visit of Shri Ankur Mansukhbhai Sakhreliya. Shri Ankur Mansukhbhai Sakhreliya had received cash from Shri Rambhai and kept the same in his bag. Further, I state that I have no idea about the quantum of that cash. After some time Shri Ankur Mansukhbhai Sakhreliya went out side and came with Shri Navnit Borad within 10 minutes with their bags.
Page 10, photo 2 CAM 4 (11-04-2022 16:15:50)	Navnit Borad, Ankur Mansukhbhai Sakhreliya, My self & Vijaykumar Vekariya	Shri Ankur Mansukhbhai Sakhreliya had again visited CRV Jewels with Shri Navnit Borad on 11.04.2022 at around 16.15 hrs to receive cash from Shri Rambhai Maganbhai Suhagiya. I was also present at the time of visit of Shri Ankur Mansukhbhai Sakhreliya & Navnit Borad. Both went inside the locker room and collected cash from Shri Rambhai and kept in 2-3 bags. Further, I state that I have no idea about the quantum of that cash.
Page 11, photo 1 CAM 4 (11-04-2022 18:06:24)	Rambhai, two visitors standing in customer area, My self & Vijaykumar Vekariya	Two persons standing in customer area seen in this photo had come to CRV Jewels on 11.04.2022 (18.06 hrs) with a bag full of cash to handover the same to Shri Rambhai Maganbhai Suhagiya. I am also seen in this photo and I had carried the cash from counter to locker room only to assist Shri Rambhai. Both persons had left the CRV jewels within two minutes after handed over the cash to Shri Rambhai. I do not know name of both persons but may be concerned with Moon Star Inc. (Prop. Shri Sagar Shah)
Page 11, photo	Rambhai, myself (sitting	Two persons standing in customer area seen in

2 CAM 4 (11-04-2022 18:40:58)	on sofa), two visitors standing in customer area & Vijaykumar Vekariya	this photo had come to CRV Jewels on 11.04.2022 (18.40 hrs) with a bag to hand over the cash to Shri Rambhai Maganbhai Suhagiya. At that time I was sitting on the sofa. Shri Rambhai collected the cash and went to locker room. One of the person was also seen in photo 1 above. After handing over cash to Rambhai both persons left the CRV jewels within two minutes. I do not know name of both persons but may be concerned with Moon Star Inc. (Prop. Shri Sagar Shah)
Page 12, photo 1 CAM 6 (12-04-2022 12:13:59)	A person sitting on the floor inside the locker with a bag. (huge cash stacked beside him)	The person seen in this photo belong to Harikala Bullion was the same person seen in photos at page 3,4 5 & 6 had visited the CRV Jewels on 12.04.2022 to deliver the cash to Shri Rambhai against the gold received on 11.04.2022. This person had handed over the cash to Shri Rambhai Maganbhai Suhagiya inside the locker room. I do not know name and address of this person. This photo was captured in Camera no 6 (CAM-6) installed in locker room because, Shri Rambhai had forgot to block the CAM-6 on that day. On being asked regarding the quantum of cash, I state that I have no idea about the quantum of that money.
Page 12, photo 2 CAM 4 (12-04-2022 15:55:01)	Shri Rambhai, two persons sitting on sofa, One person with cash on counter, Vijaykumar Vekariya	The person seen in this photo is accomplice of Shri Vipul Borad who had came to collect cash from Rambhai. This was one of the person seen in photos at page 7 & 8, had visited the CRV Jewels on 12.04.2022 (15.55 hrs) to collect the cash from Shri Rambhai. I do not know name and address of this person. On being asked regarding the quantum of cash, I state that I have no idea about the quantum of that money.
Page 13, photo 1 CAM 4 (12-04-2022 15:43:16)	Vijaykumar Vekariya, two person sitting on sofa, Ankur Mansukhbhai Sakhreliya& Navnit Borad	Shri Ankur Mansukhbhai Sakhreliya and Shri Navnit Borad had visited CRV Jewels on 12.04.2022 at around 15.43 hrs to receive cash from Shri Rambhai Maganbhai Suhagiya. Both went inside the locker room and collected cash from Shri Rambhai.
Page 13, photo 2 CAM 6 (12-04-2022 15:46:14)	Ankur Mansukhbhai Sakhreliya& Navnit Borad	In this photo Shri Ankur Mansukhbhai Sakhreliya was seen counting the cash inside the locker room of CRV jewels on 12.04.2022 and Shri Navnit Borad was sitting just behind him. Both had visited CRV Jewels on 12.04.2022 to receive cash from Shri Rambhai Maganbhai Suhagiya. Further, I state that I have no idea about the quantum of that cash.

**33.1.2** On being specifically asked, Shri Chetanbhai R Katharotiya stated that he was in the shop on 11.04.2022 and 12.04.2022 and after handing over the gold biscuits by Shri Ankur Mansukhbhai Sakhreliya on 11.04.2022, various persons had visited on several occasions to their shop to collect gold biscuits from Shri Rambhai Maganbhai Suhagiya and further visited on regular intervals to deliver cash in return; that same persons had further visited CRV Jewels on next day i.e. 12.04.2022 to deliver cash to Shri Rambhai Maganbhai Suhagiya; that on some occasion he (Shri Chetanbhai R Katharotiya) had carried cash but had not indulged

in delivery of gold or receipt of cash directly; that on being specifically asked regarding the visit of same persons at many times on 11.04.2022, he stated that persons with cash had come to deliver cash in batches as and when they sold the gold; that as and when cash was received by Rambhai Maganbhai Suhagiya, he (Rambhai Maganbhai Suhagiya) called the persons of Vipul Borad to collect the cash from him and that's why they came to collect cash from Shri Rambhai Maganbhai Suhagiya twice or thrice on same day; that similar modus for delivery of gold and receipt of cash by Shri Rambhai Maganbhai Suhagiya had been followed on coming days wherever Gold was delivered by Shri Vipul Borad & group to Shri Rambhai Maganbhai Suhagiya.

**33.1.3** Further explanation of Shri Chetanbhai R Katharotiya on the screen shots of videos, extracted by CFSL, Surat from the DVR seized from M/s CRV Jewels, G-4, Maitri Building, Lambe Hanuman Road, Varachha, Surat under panchnama dated 21.04.2022, were as below-

**Confrontation with Screen shots of Video of M/s CRV Jewels on 14.04.2022**

<b>Page No &amp; Photo</b>	<b>Persons in the photo (S/Shri) (from left to right)</b>	<b>Chetan Katharotiya's explanation on the photo</b>
Page 14, photo 1 CAM 4 (14-04-2022 10:50:11)	My self, Navnit Borad & Vijaykumar Vekariya	In this photo me and Navnit Borad was seen passing by the cash counter in CRV Jewels. On 14.04.2022, Shri Navnit Borad came with a bag (with gold biscuits) at around 10.50 hrs to handover the gold to Shri Rambhai Maganbhai Suhagiya. Shri Navnit bhai went into locker room and handed over the said gold to Rambhai.
Page 14, photo 2 AM 6 (14-04-2022 10:52:45)	Navnit Borad & My self	Navnit Borad was seen sitting in locker room of CRV Jewels on 14.04.2022 and counting the gold biscuits brought by him. I was also present at the gate of locker room at that time. This photo was captured in Camera no 6 (CAM-6) installed in locker room because, Shri Rambhai had forgot to block the CAM-6 on that day. I further state that after receipt of those gold biscuits Shri Rambhai had handed over the same to persons of Harikala Bullions.
Page 15, photo 1 CAM 4 (14-04-2022 11:17:44)	My self, A person of Harikala Bullion, Vijaykumar Vekariya, Two persons of Harikala Bullion whose name I don't know (in customer area) & Shailesh Korat	In this photo three persons of Harikala Bullions have visited on 14.04.2022 with two back packs full of cash. Shri Rambhai immediately moved towards locker room and after that one of them followed Rambhai towards locker room and second person had passed his back pack to Shri Shailesh Korat over the counter and Shailesh bhai handed over the said bag to first person near locker room. These persons had came to CRV Jewels to receive Gold biscuits from Shri Rambhai Maganbhai Suhagiya and handed over the cash to Shri Rambhai Maganbhai Suhagiya. I do not know name and address of all three persons.
Page 15, photo 2 CAM 4 (14-04-2022 11:18:39)	My self (on chair), Vijaykumar Vekariya, Two persons of Harikala Bullion (in customer area)	In this photo Shri Vijaykumar Vekariya was seen to hand over some gold biscuits to one of the person of Harikala Bullions. I was also present that time when Shri Vijaykumar Vekariya bought some gold biscuits from inside the locker to hand over to the said person. I have no idea about the

		quantum of gold biscuits handed over by Shri Vijaykumar Vekariya at that time.
Page 16 photo 1 CAM 6 (14-04-2022 11:18:12)	A person of Harikala Bullion sitting in locker room with cash.	Three persons of Harikala Bullions had visited CRV jewels on 14.04.2022 to receive gold biscuits and to deliver cash to Shri Rambhai. One of person of Harikala Bullion went into the locker room with Shri Rambhai and in this photo said person was seen counting the cash before handing over to Rambhai. This person had frequently visited CRV jewels on many occasions to receive gold and delivery of cash but I do not know name and address of these persons.
Page 16 photo 2 CAM 4 (14-04-2022 11:39:03)	A person of Harikala Bullion with a back pack approaching towards locker room.	In this photo, a person belongs to Harikala Bullions again visited the CRV Jewels on 14.04.2022 (11.39 hrs) to deliver cash to Shri Rambhai. This person was the same person seen in photo 1 above.
Page 17 photo 1 CAM 6 (14-04-2022 11:39:24)	A person of Harikala Bullion with a back pack sitting in locker room.	In this photo, a person belongs to Harikala Bullions sitting in the locker room of CRV Jewels had visited the CRV Jewels on 14.04.2022 (11.39 hrs) to deliver cash to Shri Rambhai. This person was the same person seen in photo at page 16.
Page 17 photo 2 CAM 4 (14-04-2022 12:11:05)	A person of Harikala Bullion with a back pack approaching towards cash counter, Vijaykumar Vekariya, My self, Shailesh Korat and a person of Harikala Bullion with bag (in customer area).	In this photo, two person belongs to Harikala Bullions had again visited the CRV Jewels on 14.04.2022 (12.11 hrs) to deliver cash to Shri Rambhai. Both persons were also seen in photo at page 15. These both persons had visited CRV jewels on regular interval on several time on 14.04.2022 to deliver cash to Shri Rambhai. I do not know name and address of both persons.
Page 18 photo 1 CAM 4 (14-04-2022 12:46:55)	My self, two persons of Harikala Bullion with back pack approaching towards locker room, Vijaykumar Vekariya & Shailesh Korat (sitting on sofa)	In this photo, two person belongs to Harikala Bullions had again visited the CRV Jewels on 14.04.2022 (12.46 hrs) to deliver cash to Shri Rambhai. Both persons were also seen in photo at page 15 & 17.
Page 18 photo 2 CAM 4 (14-04-2022 14:40:00)	Two persons of Harikala Bullion with back pack approaching towards locker room & my self,	In this photo, two person belongs to Harikala Bullions had again visited the CRV Jewels on 14.04.2022 (14.40 hrs) to deliver cash to Shri Rambhai. Both persons were also seen in photo 1 above.
Page 19 photo 1 CAM 4 (14-04-2022 14:47:15)	Rambhai, a customer and a person of Vipul Borad.	A person had come to CRV Jewels on 14.04.2022 (14.47 hrs) to receive cash from Shri Rambhai on behalf of Vipul Borad. I had also carried cash from locker room to hand over the said person but I do not know name and address of that person.
Page 19 photo 2 CAM 4 (14-04-2022 15:18:26)	Myself, Navnit Borat, a customer and a person of Navnit Borad.	Shri Navnit Borad had come with a person to CRV Jewels on 14.04.2022 (15.18 hrs) to receive cash from Shri Rambhai. Shri Navnit Borad went into the locker room and collected the cash in a bag and left the office around 15.26 hrs.
Page 20 photo 1	Rambhai, a person of Vipul Borad (standing in	A person had again come to CRV Jewels on 14.04.2022 (16.37 hrs) to receive cash from Shri

CAM 4 (14-04-2022 16:37:47)	customer area) & my self	Rambhai on behalf of Vipul Borad. This was the same person seen in photo 1 of page 19. I had also carried cash from locker room to hand over the said person but I do not know name and address of that person.
Page 20 Photo 2 CAM 4 (14-04-2022 16:46:41)	A person with back pack approaching towards locker room, an old man with back pack (in customer area) & my self	In this photo, two person belongs to Harikala Bullions had again visited the CRV Jewels on 14.04.2022 (16.46 hrs) to deliver cash to Shri Rambhai. Both persons were the same seen in photos at page 18. Infact I had talked friendly with one of that person but I do not know his name and address.
Page 21 Photo 1 CAM 4 (14-04-2022 16:54:54)	A person of Vipul Borad (sitting on chair) & Rambhai	A person had again come to CRV Jewels on 14.04.2022 (16.54 hrs) to receive cash from Shri Rambhai on behalf of Vipul Borad. This was the same person seen in photo 1 of page 20. I had also carried cash from locker room to hand over the said person. On being specifically asked I state that this person visited again within 20 minutes (last visit on 16.37 hrs) as Shri Rambhai had called him to collect cash.
Page 21 Photo 2 CAM 4 (14-04-2022 19:20:02)	An old man with back pack approaching towards cash counter, Vijaykumar Vekariya, Rambhai & a person with old man (standing in customer area)	In this photo, an old man belongs to Harikala Bullions had again visited the CRV Jewels on 14.04.2022 (19.20 hrs) with a young person to deliver cash to Shri Rambhai. This old man is the same person seen in photos at page 17, 18, 20. I do not know his name and address of this person.
Page 22 Photo 1 CAM 4 (15-04-2022 13:59:22)	Rambhai, Two persons of Harikala bullion (one with back pack moving towards locker room and another standing in customer area) & Vijaykumar Vekariya.	In this photo, person moving towards the locker room, visited on many occasions frequently, belongs to Harikala Bullions came to the CRV Jewels on 14.04.2022 (13.59 hrs) with a young person to deliver cash to Shri Rambhai.
Page 22 Photo 2 CAM 4 (15-04-2022 17:22:53)	My self, Shailesh Korat, Vijaykumar Vekariya & Navnit Borad	When ever the cash had accumulated, Shri Rambhai called the Vipul Borad or his accomplice to collect cash. This time, Shri Navnit Borad had come to collect the cash from Shri Rambhai against the supply of gold made on 14.04.2022.

**Confrontation with Screen shots of video of M/s CRV Jewels on 18.04.2022**

<b>Page No &amp; Photo</b>	<b>Persons in the photo (S/Shri) (from left to right)</b>	<b>Chetan Katharotiya's explanation on the photo</b>
Page 23 Photo 1 CAM 5 (18-04-2022 09:55:53)	Vipul Borad	I was not available at CRV Jewels on 18.04.2022 but after going through the video footage, I recognised and state that Shri Vipul Borad had visited the CRV Jewels with a bag to deliver the gold biscuits to Shri Rambhai. In this photo Shri Vipul Borad was seen out side the locker room after handing over the gold biscuits to Shri Rambhai.
Page 23 Photo 2 CAM 4 (18-04-2022	Two person of Moon Star Inc. with a back pack approaching towards locker room & Shailesh	In this photo, two person belongs to Moon Star Inc. had visited the CRV Jewels on 18.04.2022 (10.49 hrs) to deliver cash to Shri Rambhai and collected gold biscuits which were brought by

10:49:16)	Korat	Shri Vipul Borad.
Page 24 Photo 1 CAM 4 (18-04-2022 12:35:23)	Vijaykumar Vekariya, Two person of Moon Star Inc. with a back pack (standing in customer area), & Rambhai	Two person belongs to Moon Star Inc. had again visited CRV Jewels on 18.04.2022 (12.35 hrs) to deliver cash to Shri Rambhai.
Page 24 Photo 2 CAM 4 (18-04-2022 13:33:46)	Rambhai, Vijaykumar Vekariya & Navnit Borad with back pack	Shri Navnit Borad had visited the CRV Jewels on 18.04.2022 (13.33 hrs) to receive the cash from Shri Rambhai.
Page 25 Photo 1 & 2 (18-04-2022 16:34:12) & (18-04-2022 16:56:12)	Two person of Shri Vipul Borad.	These two persons regularly visited to CRV Jewels to received cash from Shri Rambhai on behalf of Vipul Borad. On 18.04.2022 both person again and again visited on many times to collect cash from Shri Rambhai on behalf of Vipul Borad. I do not know name and address of both the persons.
Page 26 Photo 1 & 2 (19-04-2022 11:14:39) & (19-04-2022 14:48:16)	Two person of Shri Vipul Borad.	Two persons belonging to Moon Star Inc. had visited many times on 19.04.2022 and handed over the huge cash to Shri Rambhai against the gold biscuits delivered by Rambhai to them on 18.04.2022.
Page 27 Photo 1 & 2 (21-04-2022 10:08:39) & (21-04-2022 10:08:44)	Shri Vipul Borad & Vijaykumar Vekariya (CAM 4)	On 21.04.2022 just before the search of DRI, Shri Vipul Borad visited the CRV jewels with a heavy bag (with gold) and in photo 1 he was seen moving towards the locker room to deliver the gold biscuits to Shri Rambhai. In Photo 2 (CAM-5) Shri Vipul Borad was seen to enter the locker room with his bag.

**33.1.4** On being asked, Shri Chetanbhai R Katharotiya stated that whenever the gold was brought by Shri Ankur Mansukhbhai Sakhreliya or Shri Navnit Borad or Shri Vipul Borad, Shri Rambhai Maganbhai Suhagiya called the relevant persons of Harikala Bullions, Surat and Moon Star Inc, Surat to receive gold or deliver cash; that most of the time, same persons had visited so many times to receive gold biscuits and delivered cash on same day; that he just said hi-hello to those persons who had visited to CRV to receive gold/ cash and delivered cash but he didn't know them personally as they dealt directly with Shri Rambhai Maganbhai Suhagiya.

**33.2.** Summons dated 23.01.2023, Summons dated 30.01.2023 & Summons dated 24.02.2023 were issued to **Shri Rambhai Maganbhai Suhagiya**, Partner in M/s CRV Jewels, and his statement was recorded on 04.03.2023 under Section 108 of the Customs Act, 1962 wherein he requested to record his statement in hindi. English translation of his statement in questionnaire is reproduced below:

**Q.1** Please refer to your earlier statements recorded on 21/22.04.2022 and 23.04.2022 and offer your comments?

**Ans.** I peruse my earlier statements recorded on 21/22.04.2022 and 23.04.2022 and after reading and understanding as explained to me in the local language, I append my dated signature and state that Gold seized in CRV Jewels on 21.04.2022 was not mine. Shri Vipul Borad had brought that Gold to keep there which was later to be given to a particular person.

**Q.2** What was the turnover of CRV Jewels during April, 2022? What was the transaction volume of CRV Jewels with Harikala Bullions and Moon Star Inc, Surat during April, 2022? Please submit the ledger of Harikala Bullions and Moon Star Inc, Surat



**Ans.** I do not remember the turnover of CRV Jewels during April, 2022. I am producing the ledger of 2021-22 of Harikala Bullions and Moon Star Inc, Surat and also state that there was no transaction of CRV Jewels with these two firms in April, 2022.

**Q.3** What was the role of Mr. Chetan Katharotiya, Partner of CRV Jewels in the dealing of smuggled gold in CRV Jewels

**Ans.** Shri Chetan Katharotiya used to listen to me as my partner. Shri Vipul Borad used to talk to me only about bringing and carrying goods and cash. Shri Vipul Borad did not talk with Shri Chetan Katharotiya regarding bringing goods and its delivery to Vipul's men.

**Q.4** What did you do with the gold biscuits brought to CRV Jewels by Mr. Vipul Borad or his associates i.e Shri Ankur Mansukhbhai Sakhreliya, Navnit Borad?

**Ans.** Whenever Shri Vipul Borad or Shri Ankur Mansukhbhai Sakhreliya or Navnit Borad used to come to CRV Jewels to keep the goods, they used to tell the name of the person who would take the goods and after some time the person told by them would come and take the goods and keep cash in return. Shri Ankur Mansukhbhai Sakhreliya, Navnit Borad or their designated men used to come and collect the cash from time to time on the same day or the next day.

**Q.5** Please tell what kind of documents Mr. Vipul Borad or his associates used to provide you along with the smuggled gold and what kind of documents you prepared while delivering those goods?

**Ans.** Mr. Vipul Borad or his associates did not provide any documents. I also did not prepare and handover any documents to the person collecting the goods.

**Q.6** Pleasestate the name, address and company of the persons who came to CRV jewels on 11.04.2022, 14.04.2022 and 18.04.2022 to collect the goods brought by Mr. Vipul Borad or his associate.

**Ans.** On 11.04.2022, 14.04.2022 and 18.04.2022, the men told by Shri Vipul Borad had come to CRV Jewels to collect the goods, but I do not remember the names of those men. As far as I remember, at that time Shri Vipul Borad told me that person relating to M/s Harikala Bullion and M/s Moon Star Inc. will come, but I did not know those people personally. The persons of Harikala Bullion and Moon Star would come and take away the goods kept in the locker of CRV Jewels and in return they would keep the cash in the locker or on the counter.

**Q.7**Please read the statement dated 26.08.2022 of Mr. Navnitkumar Dhirubhai Borad in which he has said that he never collected cash from Mr. Rambhai Suhagia, Partner of CRV Jewels, Surat. Please offer your comment?

**Ans.** I did not give cash to Shri Navnit Borad. Shri Navnit Borad used to come to CRV Jewels to collect the cash brought by the man from Harikala Bullion and Moon Star in exchange for Vipul Borad's goods.

**Q.8** It is seen from the call details of your mobile phone received by RFSL, Surat that mobile number “8758125506” was saved in your phone with the name “Navneet Borad”. The conversation between you and the person with mobile number “8758125506” between 11.04.2022 and 19.04.2022 is summarized in Annexure – A. Kindly peruse Annexure – A and confirm with whom you talked during that period i.e Mr. Vipul Borad or Mr. Navnit Borad?

**Ans.** I had saved Mr. Navnit Borad's mobile number "8758125506" in my phone in the name of “Navneet Borad” and on this number I used to talk to Mr. Navnit Borad only.

Today I was shown the video of DVR seized from M/s CRV Jewels, G-4, Maitri Building, Lambe Hanuman Road, Varachha, Surat extracted by RFSL, Surat and relevant screen shots is attached with of statement dated 03.01.2023 of Mr. Chetan Katharotiya's. I have seen the related screen shots which are attached with the statement dated 03.01.2023 of Mr. Chetan Katharotiya and on being asked my explanation has been typed in English in the table below.

**Screen shots of video of day 11.04.2022.**

Page No & Photo	Persons in the photo (S/Shri) (from left to right)	My explanation on the photo
Page 1, photo 1 CAM 4 (11-04-2022	My self, my staff Shri Vijaykumar Vekariya & Shri Ankur Mansukhbhai Sakhreliya (in customer	Shri Ankur bhai Sakhreliya had visited CRV jewels on 11.04.2022 at around 10.49 am with goods in a bag and passed me over the counter and I escorted him to Locker room to keep it in



10:49:29)	area)	safe.
Page 1, photo 2 CAM 5 (11-04-2022 10:49:47)	My self (opening the locker gate) & Shri Ankur Mansukhbhai Sakhreliya	In this photo I was seen trying to open the gate of locker room to allow Shri Ankur Mansukhbhai Sakhreliya to keep goods brought by him.
Page 2, photo 1 CAM 6 (11-04-2022 10:49:54)	My self	In this photo I was seen holding a CRV Jewel bag which was lying on floor and unintentionally kept in front of the camera no 6 (CAM 6) installed in the locker room.
Page 3, photo 1 CAM 4 (11-04-2022 11:11:47)	A person moving towards cash counter, Chetan and Vijaykumar Vekariya (standing at counter)	A person (left side) seen carrying a back pack in CAM 4 (11.11 am) had visited CRV jewels on 11.04.2022 to receive goods brought by ShriAnkur Mansukhbhai Sakhreliya. On being asked, I state that I do not remember the name of said person but I was aware that this person belongs to M/s Harikala Bullions, Surat. I allowed the said person to enter in locker room as per the direction of Shri Vipul Borad.
Page 3, photo 2 CAM 5 (11-04-2022 11:18:26)	A person carrying a back pack	I do not know the name of this person but I am aware that this person belongs to M/s Harikala Bullions, Surat. This person came into locker room to handover the cash and collect the goods kept by Shri Ankur Mansukhbhai Sakhreliya in Locker. I do not know whether the goods bought by Ankur was Gold or otherwise as I had not verified it.

**33.3** Summons dated 20.07.2022 was issued to **Shri Vipul Dhirubhai Borad** and he responded vide email dated 26.07.2022 that he would not be available on 26.07.2022 as he wanted to get his mother treated in a hospital and had other bank loan issues and informed that he could come on or after 01.08.2022. Summons dated 22.08.2022 was issued to Shri Vipul Dhirubhai Borad for his appearance on 26.08.2022 to record his statement but no reply was received. Further, Summons dated 15.02.2023 was issued to Shri Vipul Dhirubhai Borad for his appearance on 20.02.2023 to record his statement. Shri Vipul Dhirubhai Borad vide email dated 20.02.2023 informed that his mental health was not good and that he was taking treatment from a psychiatrist and that he would meet on 28 Feb, if mentally well. Further, Summons dated 24.02.2023 was issued to Shri Vipul Dhirubhai Borad for his appearance on 28.02.2023 to record his statement. Shri Vipul Dhirubhai Borad submitted vide letter dated 28.02.2023 that “Sir, I had received today’s summons dated 28.02.2023 and I appeared in person in the office of DRI, Surat. I am giving in writing that due to my mental health and other reason, I won’t be able to give my statement. I will come on 20.03.2023 and give statement. It is my humble request.” Further, a Summon dated 05.05.2023 was issued to Shri Vipul Dhirubhai Borad and he vide email dated 09.05.2023 informed that “Dear Sir main Vipul main abhi 18 may tak out of station hun main surat akar office aa jaunga”. Further Summons dated 07.07.2023 and Summons dated 24.08.2023 were issued to Shri Vipul Dhirubhai Borad. Shri Vipul Dhirubhai Borad appeared on 28.08.2023 and his statement was recorded on 28.08.2023 u/s 108 of Customs Act, 1962 wherein he inter alia stated that he had no movable & immovable property in his name; that he had not reissued his old SIM card number after his arrest and presently he was using a new mobile number 8320103934; that at present he was into trading of textile material on commission basis for supply in UP & MP; that he produced copy of statement of his SBI Bank account no. 40018865026 for the period from 01.01.2022 to 31.12.2022. His further statement in question-answer form is reproduced as under:

- Q.1 Please peruse your earlier statements recorded on 21/22.04.2022 & 23.04.2022 under section 108 of Customs Act, 1962 and offer your comments?
- Ans. I peruse my earlier statements recorded on 21/22.04.2022 & 23.04.2022 and after going through the same, I put my dated signature in token of having read and understand and state that the contents mentioned therein are true and correct.
- Q.2 What types of documents have been handed over by you or Shri Ankur Mansukhbhai Sakhreliya or Shri Navnit Borad at the time of supply of gold to Shri Rambhai Maganbhai Suhagiya?
- Ans. I have not given any documents in support of purchase or sale of gold to Shri Rambhai Maganbhai Suhagiya at the time of supply.
- Q.3 Have you dealt with Shri Chetan Kathrotia, Partner of M/s CRV Jewels in relation to supply of Gold Biscuits at CRV Jewels?
- Ans. I have never dealt with Shri Chetan Kathrotia, Partner of M/s CRV Jewels for supply of Gold biscuits.
- Q.4 You have stated in your earlier statement that Shri Rambhai Maganbhai Suhagiya had handed over the Gold Biscuits, supplied by you, to M/s Harikala Bullions, Surat and M/s Moon Star Inc., Surat. Have you met with the concerned persons of M/s Harikala Bullions, Surat and M/s Moon Star Inc., Surat?
- Ans. I have not met any person concerned with M/s Harikala Bullions, Surat and M/s Moon Star Inc., Surat.
- Q.5 Please peruse the statement dated 02.05.2022 of Shri Nilesh Borad and offer your comments?
- Ans. I peruse statement dated 02.05.2022 of Shri Nilesh Borad and after having gone through it, I put my dated signature in token of having read and understood it and state that the contents mentioned therein are true and correct.
- Q.6 Please peruse the statement dated 02.05.2022 of Shri Baldev Sakhreliya and offer your comments?
- Ans. I peruse statement dated 02.05.2022 of Shri Baldev Sakhreliya and after having gone through, I put my dated signature in token of having read and understood it and state that the contents mentioned therein are true and correct. Further, I state that I did not know any Shri Dilip Virani or Shri Alpesh Virani and I have never met any of them.
- Q.7 Please peruse the statement dated 02.05.2023 of Shri Ankur Mansukhbhai Sakhreliya and offer your comments?
- Ans. I peruse statement dated 02.05.2022 of Shri Ankur Mansukhbhai Sakhreliya and after having gone through, I put my dated signature in token of having read and understand and state that the content mentioned therein are true and correct.
- Q.8 Please peruse the statement dated 26.08.2022 of Shri Navnit kumar Borad, your younger brother, and offer your comments?
- Ans. I peruse statement dated 26.08.2022 of Shri Navnit kumar Borad and after having gone through, I put my dated signature in token of having read and understand and state that the content mentioned therein are true and correct. On being asked, I state that Mobile no. 8758125506 was used by my younger brother Shri Navnit Kumar Borad.
- Q.9 Please peruse the letter dated 17.01.2023 of Mr. Mudaddal Shakir and English translation of Form AIRC/2514 attached with letter dated 17.01.2023. It noticed that Shri Navnitkumar Dhirubhai Borad (Passport no. V6225106) had filed declaration dated 21.04.2022 before Airport Customs, Sharjah and declared value of currency as 4193530 (currency not mentioned), please offer your comments?
- Ans. I peruse the letter dated 17.01.2023 of Mr. Mudaddal Shakir and English translation of Form AIRC/2514 attached with letter dated 17.01.2023 and append my dated signature on it. On being asked, I state that I have no idea how much amount of currency had been carried by Shri Navnit Borad to Sharjah on that day.
- Q.10 Please peruse the statement dated 28.04.2022 of Shri Nikunj Arvindbhai Sutariya, Proprietor of M/s Magic Holidays, 6-7,Ground Floor, Navratn Chember, Sardar Chowk, Mini Bazar, Varachha, Surat and offer your comments?
- Ans. I peruse statement dated 28.04.2022 of Shri Nikunj Arvindbhai Sutariya, Proprietor of M/s Magic Holidays, 6-7,Ground Floor, Navratn Chember, Sardar Chowk, Mini Bazar, Varachha, Surat and after having gone through it, I put my dated signature in token of having read and understood it and state that the contents mentioned therein are true and correct.

Q.11 Please peruse the letter of Shri Nikunj Arvindbhai Sutariya, Proprietor of M/s Magic Holidays and ledger account attached with letter in the name of Goswami Gaurav (1720), Malavia Sumitben Manishkumar (1734), Dhavalkumar Premjibhai Patel (1681) and Patel Yamini (1208). Please state whether in addition to above accounts, any other account was maintained by Shri Nikunj Arvindbhai Sutariya on behalf of you?

Ans. I peruse the letter of Shri Nikunj Arvindbhai Sutariya, Proprietor of M/s Magic Holidays and ledger account attached with letter and append my dated signature in token of having seen and peruse and stated that I have no idea about the ledger maintained by Shri Nikunj Arvindbhai Sutariya, Proprietor of M/s Magic Holidays.

Q.12 Please peruse the statement dated 03.01.2023 of Shri Chetan Kathrotiya, Partner of CRV Jewels, Surat and its attachments of screen shot of video of DVR seized from CRV Jewels. Please go through the photo attached to the statement of Shri Chetan Kathrotiya wherein Shri Chetan Kathrotiya identified the persons to be related to Harikala Bullions and Moon Star Inc. and offer your comments.

Ans. I peruse the statement dated 03.01.2023 of Shri Chetan Kathrotiya, Partner of CRV Jewels, Surat and photos attached thereto and put my dated signature on said statement. I state that I have never met the person of Harikala Bullions and Moon Star Inc. as seen in photo and as identified by Shri Chetan Kathrotiya, Partner of CRV Jewels.

Q.13 Please peruse the statement dated 04.03.2023 of Shri Rambhai Maganbhai Suhagiya, Partner of CRV Jewels, Surat and offer your comments?

Ans. I peruse the statement dated 04.03.2023 of Shri Rambhai Maganbhai Suhagiya, Partner of CRV Jewels, Surat and append my dated signature in token of having seen and perused it. I further state that I have never dealt with Harikala Bullion and Moon Star Inc.

Q.14. Please peruse the letter dated RFSL/EE/2022/CF/189/1132/2023 dated 28.04.2023 issued by Deputy Director, RFSL, Surat and Page No 1 to 68 of Annexure-A and offer your comments?

Ans. I have perused the letter and Annexure Page no 1 to 68 and confirm that the report is related to my phone as I used SIM Mobile no 9712886203 and 9898848150 for Whatsapp and append my dated signature on letter dated 28.04.2023 in token of having seen, read and understood the same.

Q.15. Please peruse the statement dated 26.07.2022 of Shri Baldev Sakhreliya wherein he stated that you i.e. Shri Vipulbhai Borad can explain the funding for Gold purchased in Dubai and offer your comments?

Ans. I peruse statement dated 26.07.2022 of Shri Baldev Sakhreliya and after having gone through it, I put my dated signature in token of having read and understood it and state that I do not agree with version of Shri Baldev Sakhreliya as I have no idea about the funding of Gold purchased in Dubai.

**33.4.** Summons dated 24.02.2023 was issued to Shri Navnitkumar Dhirubhai Borad R/o 156, Yamuna Darshan Society, Mota Varachha, Surat for recording his further statement but no response was received from Shri Navnitkumar Dhirubhai Borad.

## **ANALYSIS OF EVIDENCES:**

### **34. ANALYSIS OF DATA EXTRACTED FROM THE MOBILES AND CDR:**

On the basis of working copy of data extracted from the seized mobile of Shri Vipul Dhirubhai Borad and Shri Rambhai M. Suhagiya and CDR by the RFSL Surat, hard copy of relvant chats, call details and photo was asked for vide letter F.No. DRI/AZU/SRU/B/INV-08(INT-09)/ 2022 dated 05.04.2023. Shri S.J. Mistry, Regional Forensic Science Laboratory, Surat vide letter Case No. RFSL/EE/2022/CF/189/1132/2023 dated 28.04.2023 submitted hard copy of relevant whatsapp chats, call details and photo.

#### **34.1 ANALYSIS OFMOBILE DATA OF SHRI RAMBHAH MAGANBHAI SUHAGIYA**

**34.1.1** It appeared from the data retrived from Mobile Phone of Shri Rambhai M. Suhagiya, seized under his statement recorded on 23.04.2022 u/s 108 of C.A.,

1962 that Shri Rambhai M Suhagiya had a whatsapp chat with Shri Baldev Sakhreliya [which name was saved in mobile of Shri Rambhai as ‘Baldev(Vipul)’]. The relevant whatsapp chat between Shri Rambhai M Suhagiya (919998868068) and Shri Baldev Sakhreliya(919601347698) is summerized as below:

**Table 15: Summary of Whatsapp Chat between Rambhai Maganbhai Suhagiya and Baldev**

Sr. No.	Date	Time (UTC+5:30)	Chat/Audio from	Contents of Chat/audio
1	05.04.2022	19:17:57	Incoming call from Baldev	-
2	05.04.2022	19:37:41	Incoming call from Baldev	-
3	05.04.2022	19:40:53	Incoming call from Baldev	-
4	09.04.2022	17:12:57	Baldev	Hi
5	09.04.2022	17:13:00	Baldev	Rate plz
6	09.04.2022	17:14:18	Baldev	Final aapo
7	09.04.2022	17:14:25	Baldev	Yarji
8	09.04.2022	17:30:51	Baldev	Ok
9	09.04.2022	17:39:37	Rambhai	144*52850
10	11.04.2022	10:41:01	Rambhai	Ok
11	12.04.2022	17:28:37	Baldev	Hi
12	12.04.2022	17:35:32	Rambhai	Bolo
13	12.04.2022	17:35:38	Baldev	Rate
14	12.04.2022	17:35:46	Rambhai	53230
15	12.04.2022	17:35:58	Baldev	Final aapo
16	12.04.2022	17:36:08	Rambhai	Final
17	12.04.2022	17:36:14	Baldev	Nthi
18	12.04.2022	17:36:22	Rambhai	Ketla pis
19	12.04.2022	17:36:26	Baldev	114
20	12.04.2022	17:36:40	Rambhai	Weit (Wait)
21	12.04.2022	17:40:01	Rambhai	53250
22	12.04.2022	17:40:07	Baldev	Ok
23	12.04.2022	17:40:11	Baldev	115 pcs kro
24	12.04.2022	17:40:16	Rambhai	Ok
25	12.04.2022	17:40:18	Baldev	Thursday na delivery
26	12.04.2022	17:40:30	Rambhai	115*53250
27	12.04.2022	17:40:38	Rambhai	Ok
28	14.04.2022	10:12:47	Rambhai	Jay swaminarayan
29	14.04.2022	10:12:55	Baldev	Jay swaminarayan
30	14.04.2022	10:12:55	Rambhai	Kon avse (who wil come)
31	14.04.2022	10:12:59	Baldev	Navnit bhai
32	14.04.2022	10:12:47	Rambhai	Ok
33	14.04.2022	15:47:59	Incoming call from Baldev	-
34	14.04.2022	18:02:47	Incoming call from Baldev	-
35	16.04.2022	15:31:53	Incoming call from Baldev	-
36	16.04.2023	15:35:57	Ougoining call from Rambhai	-
37	16.04.2022	15:38:29	Rambhai	130*53650
38	19.04.2022	16:02:49	Incoming call from Baldev	-
39	19.04.2022	16:04:19	Rambhai	135*54080

It appeared from the whatsapp chat between Shri Rambhai Maganbhai Suhagiya and Shri Baldev Sakhreliya that Shri Baldev Shakreliya had quoted a price per tolas gold biscuits to Shri Baldev Sakhreliya. It appeared from the whatsapp chat and as per the explanation given by Shri Rambhai Maganbhai Suhagiya in his statement that he (Rambhai) raised order for 144 pieces of gold biscuits of 10 tola bar on a rate of Rs. 52850/- per tola to Shri Baldev Sakhreliya on 09.04.2022 and further placed order for 115 pieces @ Rs. 53250 per tola on 12.04.2022 and again placed order for 130 pieces @Rs. 53650 per tola on 16.04.2022to Shri Baldev Sakhreliya.

**34.1.2** It appeared from the call logs of Shri Rambhai M Suhagiya that he had sent *whatsapp* message to Shri Ankur Mansukhbhai Sakhreliya to collect the cash from his shop viz. CRV Jewels, as and when cash was received in his shop. The relevant whatsapp chat between Shri Rambhai M Suhagiya (919998868068) and Shri Ankur Mansukhbhai Sakhreliya (918758751949) was as below:

**Table 16: Whatsapp chat between Shri Rambhai M Suhagiya and Shri Ankur Mansukhbhai Sakhreliya**

Sr. No.	Date	Time (UTC+5:30)	Chat/Audio from	Contents of Chat/audio
1	11.04.2022	12:28:07	Rambhai	70
2	11.04.2022	12:28:34	Ankur	Ok
3	11.04.2022	13:30:21	Rambhai	Ok
4	11.04.2022	13:39:44	Rambhai	Ok
5	11.04.2022	14:05:38	Rambhai	112
6	11.04.2022	14:06:01	Ankur	Ok
7	11.04.2022	17:03:11	Ankur	Ok
8	12.04.2022	14:22:16	Rambhai	OK
9	12.04.2022	14:32:46	Rambhai	130
10	12.04.2022	14:33:00	Ankur	Ok

It appeared that Shri Rambhai Maganbhai Suhagiya, Partner of CRV Jewels had called Shri Ankur Mansukhbhai Sakhreliya to collect the cash received in his office. The details of calls retrieved from the call log from the mobile of Shri Rambhai Maganbhai Suhagiya were as under:

**Table 17: Details of Calls Retrieved from the Call log of Mobile of Shri Rambhai Maganbhai Suhagiya**

#	Parties	Timestamp	Duration	Status	Source Info
383	Direction:	11-04-2022	00:00:06	Answered	Source:
	Outgoing	10:47:28(UTC+5:30)			
	To				
	918758751949				
	Ankur (Baldev)				
382	Direction:	11-04-2022	00:00:13	Answered	Source:
	Incoming	10:48:19(UTC+5:30)			
	From				
	918758751949				
	Ankur (Baldev)				
374	Direction:	11-04-2022	00:00:16	Answered	Source:
	Incoming	12:12:26(UTC+5:30)			
	From				
	918758751949				

	Ankur (Baldev)				
369	Direction:	11-04-2022	00:00:21	Answered	Source:
	Incoming	13:28:01(UTC+5:30)			
	From				
	918758751949				
	Ankur (Baldev)				
336	Direction:	12-04-2022	00:00:27	Answered	Source:
	Outgoing	12:36:22(UTC+5:30)			
	To				
	918758751949				
	Ankur (Baldev)				

**34.1.3** It appeared during the investigation that Shri Rambhai Maganbhai Suhagiya passed the smuggled golds as it was to two Bullion firms viz. Harkala Bullion, Surat and M/s Moon Star Inc., Surat. It appeared that after enquiry about the rate from Shri Baldev Sakhreliya, Shri Rambhai Maganbhai Suhagiya confirmed the rate from the buyer of smuggled gold and passed the rate to Shri Baldev Sakhreliya. On enquiry from Shri Baldev Sakhreliya on 09.04.2022 at 17.14 hrs, Shri Rambhai Maganbhai Suhagiya confirmed the rate from one of the buyer i.e. Harikala Bullions on *whatsapp* on mobile no. 919924621292 on 09.04.2022 at 17:36 hrs and confirmed to Shri Baldev Sakhreliya as “144\*52850”. It appeared from the call logs of Shri Rambhai Maganbhai Suhagiya, retrieved from his seized mobile that Shri Rambhai Maganbhai Suhagiya received rate from the Harikala Bullion and conveyed to Shri Baldev Sakhreliya immediately. Summary of call made/ received between Shri Rambhai Maganbhai Suhagiya and Harikala Bullions was as below:

**Table 18: Summary of Calls Made/ Received between Shri Rambhai Maganbhai Suhagiya and Harikala Bullions**

#	Parties	Timestamp	Duration	Status	Source Info
415	Direction:	09-04-2022	00:00:23	Answered	Source:
	Outgoing	12:23:46(UTC+5:30)			
	To				
	912612564900				
	Harikala Bullion Manishbhai				
413	Direction:	09-04-2022	00:00:05	Answered	Source:
	Outgoing	13:43:36(UTC+5:30)			
	To				
	912612564900				
	Harikala Bullion Manishbhai				
411	Direction:	09-04-2022	00:00:08	Answered	Source:
	Outgoing	15:44:54(UTC+5:30)			
	To				
	912612564900				
	Harikala Bullion Manishbhai				
409	Direction:	09-04-2022	00:00:43	Answered	Source: WhatsApp
	Incoming	17:18:19(UTC+5:30)			
	From				
	<u>919924621292@s.whatsapp.net</u>				
	Harikala Kumar				

	To				
	<u>919998868068@s.whatsapp.net</u>				
	Raman suhagiya				
408	Direction:	09-04-2022	00:00:13	Answered	Source: WhatsApp
	Outgoing	17:36:39(UTC+5:30)			
	From				
	<u>919998868068@s.whatsapp.net</u>				
	Raman suhagiya				
	To				
	<u>919924621292@s.whatsapp.net</u>				
	Harikala Kumar				
406	Direction:	09-04-2022	00:00:00	Not answered	Source:
	Outgoing	18:37:45(UTC+5:30)			
	To				
	919924621292				
	Harikala Kumar				
405	Direction:	09-04-2022	00:00:00	Not answered	Source:
	Outgoing	18:38:12(UTC+5:30)			
	To				
	919924621292				
	Harikala Kumar				
404	Direction:	09-04-2022	00:00:18	Answered	Source:
	Outgoing	18:39:22(UTC+5:30)			
	To				
	919924621292				
	Harikala Kumar				
381	Direction:	11-04-2022	00:00:39	Answered	Source: WhatsApp
	Incoming	10:51:57(UTC+5:30)			
	From				
	<u>919924621292@s.whatsapp.net</u>				
	Harikala Kumar				
	To				
	<u>919998868068@s.whatsapp.net</u>				
	Raman suhagiya				
379	Direction:	11-04-2022	00:00:29	Answered	Source: WhatsApp
	Outgoing	11:05:31(UTC+5:30)			
	From				
	<u>919998868068@s.whatsapp.net</u>				
	Raman suhagiya				
	To				
	<u>919924621292@s.whatsapp.net</u>				

	Harikala Kumar				
378	Direction:	11-04-2022	00:00:16	Answered	Source: WhatsApp
	Outgoing	11:31:40(UTC+5:30)			
	From				
	<u>919998868068@s.whatsapp</u> .net				
	Raman suhagiya				
	To				
	<u>919924621292@s.whatsapp</u> .net				
	Harikala Kumar				
377	Direction:	11-04-2022	00:00:13	Answered	Source: WhatsApp
	Incoming	11:32:32(UTC+5:30)			
	From				
	<u>919924621292@s.whatsapp</u> .net				
	Harikala Kumar				
	To				
	<u>919998868068@s.whatsapp</u> .net				
	Raman suhagiya				
373	Direction:	11-04-2022	00:00:22	Answered	Source: WhatsApp
	Outgoing	12:18:22(UTC+5:30)			
	From				
	<u>919998868068@s.whatsapp</u> .net				
	Raman suhagiya				
	To				
	<u>919924621292@s.whatsapp</u> .net				
	Harikala Kumar				
372	Direction:	11-04-2022	00:00:04	Answered	Source:
	Outgoing	12:21:59(UTC+5:30)			
	To				
	912612564900				
	Harikala Bullion Manishbhai				
365	Direction:	11-04-2022	00:00:16	Answered	Source: WhatsApp
	Outgoing	14:29:59(UTC+5:30)			
	From				
	<u>919998868068@s.whatsapp</u> .net				
	Raman suhagiya				
	To				
	<u>919924621292@s.whatsapp</u> .net				
	Harikala Kumar				
364	Direction:	11-04-2022	00:00:09	Answered	Source: WhatsApp
	Outgoing	14:47:00(UTC+5:30)			
	From				



	<u>919998868068@s.whatsapp</u> .net				
	Raman suhagiya				
	To				
	<u>919924621292@s.whatsapp</u> .net				
	Harikala Kumar				
363	Direction:	11-04-2022	00:00:04	Answered	Source:
	Outgoing	15:20:12(UTC+5:30)			
	To				
	912612564900				
	Harikala Bullion Manishbhai				
351	Direction:	11-04-2022	00:00:00	Not answered	Source: WhatsApp
	Outgoing	17:53:32(UTC+5:30)			
	From				
	<u>919998868068@s.whatsapp</u> .net				
	Raman suhagiya				
	To				
	<u>919924621292@s.whatsapp</u> .net				
	Harikala Kumar				
350	Direction:	11-04-2022	00:00:31	Answered	Source: WhatsApp
	Outgoing	17:55:12(UTC+5:30)			
	From				
	<u>919998868068@s.whatsapp.</u> net				
	Raman suhagiya				
	To				
	<u>919924621292@s.whatsapp.</u> net				
	Harikala Kumar				
346	Direction:	11-04-2022	00:00:07	Answered	Source: WhatsApp
	Outgoing	19:37:28(UTC+5:30)			
	From				
	<u>919998868068@s.whatsapp</u> .net				
	Raman suhagiya				
	To				
	<u>919924621292@s.whatsapp</u> .net				
	Harikala Kumar				
345	Direction:	11-04-2022	00:00:00	Not answered	Source: WhatsApp
	Outgoing	19:56:43(UTC+5:30)			
	From				
	<u>919998868068@s.whatsapp.</u> net				
	Raman suhagiya				
	To				
	<u>919924621292@s.whatsapp</u>				

	.net				
	Harikala Kumar				
344	Direction:	11-04-2022	00:00:28	Answered	Source: WhatsApp
	Incoming	19:57:23(UTC+5:30)			
	From				
	<u>919924621292@s.whatsapp.</u> net				
	Harikala Kumar				
	To				
	<u>919998868068@s.whatsapp.</u> net				
	Raman suhagiya				
335	Direction:	12-04-2022	00:00:14	Answered	Source:
	Outgoing	12:42:57(UTC+5:30)			
	To				
	912612564900				
	Harikala Bullion Manishbhai				
333	Direction:	12-04-2022	00:00:36	Answered	Source: WhatsApp
	Incoming	12:49:32(UTC+5:30)			
	From				
	<u>919924621292@s.whatsapp</u> .net				
	Harikala Kumar				
	To				
	<u>919998868068@s.whatsapp.</u> net				
	Raman suhagiya				
329	Direction:	12-04-2022	00:00:08	Answered	Source:
	Outgoing	14:38:24(UTC+5:30)			
	To				
	912612564900				
	Harikala Bullion Manishbhai				
321	Direction:	12-04-2022	00:02:11	Answered	Source: WhatsApp
	Outgoing	16:53:19(UTC+5:30)			
	From				
	<u>919998868068@s.whatsapp.</u> net				
	Raman suhagiya				
	To				
	<u>919924621292@s.whatsapp.</u> net				
	Harikala Kumar				
319	Direction:	12-04-2022	00:03:41	Answered	Source: WhatsApp
	Outgoing	17:56:17(UTC+5:30)			
	From				
	<u>919998868068@s.whatsapp.</u> net				
	Raman suhagiya				
	To				

	<u>919898293938@s.whatsapp.net</u>				
	Manish Suhagiya(Harikala)				
296	Direction:	13-04-2022	00:00:16	Answered	Source: WhatsApp
	Outgoing	12:46:25(UTC+5:30)			
	From				
	<u>919998868068@s.whatsapp.net</u>				
	Raman suhagiya				
	To				
	<u>919924621292@s.whatsapp.net</u>				
	Harikala Kumar				
295	Direction:	13-04-2022	00:00:45	Answered	Source: WhatsApp
	Incoming	12:51:27(UTC+5:30)			
	From				
	<u>919924621292@s.whatsapp.net</u>				
	Harikala Kumar				
	To				
	<u>919998868068@s.whatsapp.net</u>				
	Raman suhagiya				
254	Direction:	14-04-2022	00:00:19	Answered	Source: WhatsApp
	Outgoing	18:53:40(UTC+5:30)			
	From				
	<u>919998868068@s.whatsapp.net</u>				
	Raman suhagiya				
	To				
	<u>919924621292@s.whatsapp.net</u>				
	Harikala Kumar				
253	Direction:	14-04-2022	00:00:00	Not answered	Source: WhatsApp
	Outgoing	19:36:30(UTC+5:30)			
	From				
	<u>919998868068@s.whatsapp.net</u>				
	Raman suhagiya				
	To				
	<u>919924621292@s.whatsapp.net</u>				
	Harikala Kumar				
252	Direction:	14-04-2022	00:00:00	Missed	Source: WhatsApp
	Incoming	19:41:22(UTC+5:30)			
	From				
	<u>919924621292@s.whatsapp.net</u>				
	Harikala Kumar				

	To				
	<u>919998868068@s.whatsapp</u> .net				
	Raman suhagiya				
244	Direction:	15-04-2022	00:00:30	Answered	Source: WhatsApp
	Outgoing	11:20:50(UTC+5:30)			
	From				
	<u>919998868068@s.whatsapp</u> .net				
	Raman suhagiya				
	To				
	<u>919924621292@s.whatsapp</u> .net				
	Harikala Kumar				
237	Direction:	15-04-2022	00:00:44	Answered	Source: WhatsApp
	Outgoing	12:54:19(UTC+5:30)			
	From				
	<u>919998868068@s.whatsapp</u> .net				
	Raman suhagiya				
	To				
	<u>919924621292@s.whatsapp</u> .net				
	Harikala Kumar				
223	Direction:	16-04-2022	00:00:40	Answered	Source: WhatsApp
	Outgoing	11:15:12(UTC+5:30)			
	From				
	<u>919998868068@s.whatsapp</u> .net				
	Raman suhagiya				
	To				
	<u>919924621292@s.whatsapp</u> .net				
	Harikala Kumar				
213	Direction:	16-04-2022	00:00:00	Not answered	Source:
	Outgoing	14:57:10(UTC+5:30)			
	To				
	912612564900				
	Harikala Bullion Manishbhai				
208	Direction:	16-04-2022	00:00:00	Not answered	Source:
	Outgoing	15:34:07(UTC+5:30)			
	To				
	912612564900				
	Harikala Bullion Manishbhai				
207	Direction:	16-04-2022	00:00:00	Not answered	Source: WhatsApp
	Outgoing	15:34:28(UTC+5:30)			
	From				
	<u>919998868068@s.whatsapp</u>				

	.net				
	Raman suhagiya				
	To				
	<u>919924621292@s.whatsapp</u> .net				
	Harikala Kumar				
206	Direction:	16-04-2022	00:00:10	Answered	Source: WhatsApp
	Outgoing	15:35:06(UTC+5:30)			
	From				
	<u>919998868068@s.whatsapp</u> .net				
	Raman suhagiya				
	To				
	<u>919898293938@s.whatsapp</u> .net				
	Manish Suhagiya(Harikala)				
205	Direction:	16-04-2022	00:00:00	Missed	Source: WhatsApp
	Incoming	15:35:11(UTC+5:30)			
	From				
	<u>919924621292@s.whatsapp</u> .net				
	Harikala Kumar				
	To				
	<u>919998868068@s.whatsapp</u> .net				
	Raman suhagiya				
204	Direction:	16-04-2022	00:00:10	Answered	Source: WhatsApp
	Incoming	15:35:28(UTC+5:30)			
	From				
	<u>919924621292@s.whatsapp</u> .net				
	Harikala Kumar				
	To				
	<u>919998868068@s.whatsapp</u> .net				
	Raman suhagiya				
202	Direction:	16-04-2022	00:02:23	Answered	Source: WhatsApp
	Outgoing	15:41:20(UTC+5:30)			
	From				
	<u>919998868068@s.whatsapp</u> .net				
	Raman suhagiya				
	To				
	<u>919898293938@s.whatsapp</u> .net				
	Manish Suhagiya(Harikala)				
201	Direction:	16-04-2022	00:00:10	Answered	Source: WhatsApp
	Outgoing	15:44:11(UTC+5:30)			
	From				

	<u>919998868068@s.whatsapp</u> .net				
	Raman suhagiya				
	To				
	<u>919898293938@s.whatsapp</u> .net				
	Manish Suhagiya(Harikala)				
200	Direction:	16-04-2022	00:00:00	Not answered	Source: WhatsApp
	Outgoing	15:46:43(UTC+5:30)			
	From				
	<u>919998868068@s.whatsapp</u> .net				
	Raman suhagiya				
	To				
	<u>919898293938@s.whatsapp</u> .net				
	Manish Suhagiya(Harikala)				
199	Direction:	16-04-2022	00:00:00	Missed	Source: WhatsApp
	Incoming	15:47:25(UTC+5:30)			
	From				
	<u>919898293938@s.whatsapp</u> .net				
	Manish Suhagiya(Harikala)				
	To				
	<u>919998868068@s.whatsapp</u> .net				
	Raman suhagiya				
198	Direction:	16-04-2022	00:00:41	Answered	Source: WhatsApp
	Outgoing	15:47:34(UTC+5:30)			
	From				
	<u>919998868068@s.whatsapp</u> .net				
	Raman suhagiya				
	To				
	<u>919898293938@s.whatsapp</u> .net				
	Manish Suhagiya(Harikala)				
157	Direction:	18-04-2022	00:00:00	Not answered	Source:
	Outgoing	12:27:08(UTC+5:30)			
	To				
	912612564900				
	Harikala Bullion Manishbhai				
156	Direction:	18-04-2022	00:00:00	Not answered	Source:
	Outgoing	12:27:41(UTC+5:30)			
	To				
	912612564900				
	Harikala Bullion Manishbhai				
155	Direction:	18-04-2022	00:00:00	Not answered	Source:

	Outgoing	12:29:26(UTC+5:30)			
	To				
	912612564900				
	Harikala Bullion Manishbhai				
154	Direction:	18-04-2022	00:00:00	Not answered	Source:
	Outgoing	12:31:42(UTC+5:30)			
	To				
	912612564900				
	Harikala Bullion Manishbhai				
153	Direction:	18-04-2022	00:00:00	Not answered	Source:
	Outgoing	12:32:11(UTC+5:30)			
	To				
	919978593937				
	Harikala Bullion Manishbhai				
152	Direction:	18-04-2022	00:00:00	Not answered	Source:
	Outgoing	12:32:24(UTC+5:30)			
	To				
	912612564900				
	Harikala Bullion Manishbhai				
151	Direction:	18-04-2022	00:00:00	Not answered	Source:
	Outgoing	12:34:46(UTC+5:30)			
	To				
	912612564900				
	Harikala Bullion Manishbhai				
150	Direction:	18-04-2022	00:00:00	Not answered	Source:
	Outgoing	12:35:28(UTC+5:30)			
	To				
	919978593937				
	Harikala Bullion Manishbhai				
149	Direction:	18-04-2022	00:00:00	Not answered	Source:
	Outgoing	12:40:07(UTC+5:30)			
	To				
	912612564900				
	Harikala Bullion Manishbhai				
148	Direction:	18-04-2022	00:00:00	Not answered	Source:
	Outgoing	12:40:20(UTC+5:30)			
	To				
	919978593937				
	Harikala Bullion Manishbhai				
147	Direction:	18-04-2022	00:00:15	Answered	Source:
	Outgoing	12:40:41(UTC+5:30)			
	To				
	919898293938				
	Manish Suhagiya(Harikala)				
146	Direction:	18-04-2022	00:00:00	Not answered	Source:

	Outgoing	12:41:28(UTC+5:30)			
	To				
	919924621292				
	Harikala Kumar				
145	Direction:	18-04-2022	00:00:00	Not answered	Source:
	Outgoing	12:42:06(UTC+5:30)			
	To				
	919924621292				
	Harikala Kumar				
144	Direction:	18-04-2022	00:00:13	Answered	Source:
	Incoming	12:42:33(UTC+5:30)			
	From				
	919924621292				
	Harikala Kumar				
133	Direction:	18-04-2022	00:00:00	Not answered	Source:
	Outgoing	14:51:12(UTC+5:30)			
	To				
	912612564900				
	Harikala Bullion Manishbhai				
132	Direction:	18-04-2022	00:00:07	Answered	Source:
	Outgoing	14:51:58(UTC+5:30)			
	To				
	919924621292				
	Harikala Kumar				
94	Direction:	19-04-2022	00:00:06	Answered	Source:
	Outgoing	12:52:59(UTC+5:30)			
	To				
	912612564900				
	Harikala Bullion Manishbhai				
89	Direction:	19-04-2022	00:00:22	Answered	Source:
	Outgoing	14:11:57(UTC+5:30)			
	To				
	912612564900				
	Harikala Bullion Manishbhai				
84	Direction:	19-04-2022	00:00:00	Not answered	Source: WhatsApp
	Outgoing	15:37:05(UTC+5:30)			
	From				
	<u>919998868068@s.whatsapp.net</u>				
	Raman suhagiya				
	To				
	<u>919924621292@s.whatsapp.net</u>				
	Harikala Kumar				
83	Direction:	19-04-2022	00:01:34	Answered	Source: WhatsApp
	Outgoing	15:37:22(UTC+5:30)			
	From				
	<u>919998868068@s.whatsapp.net</u>				



	Raman suhagiya				
	To				
	<u>919924621292@s.whatsapp</u> .net				
	Harikala Kumar				
79	Direction:	19-04-2022	00:01:27	Answered	Source: WhatsApp
	Outgoing	16:04:29(UTC+5:30)			
	From				
	<u>919998868068@s.whatsapp</u> .net				
	Raman suhagiya				
	To				
	<u>919898293938@s.whatsapp</u> .net				
	Manish Suhagiya(Harikala)				
78	Direction:	19-04-2022	00:01:32	Answered	Source: WhatsApp
	Outgoing	16:08:21(UTC+5:30)			
	From				
	<u>919998868068@s.whatsapp</u> .net				
	Raman suhagiya				
	To				
	<u>919898293938@s.whatsapp</u> .net				
	Manish Suhagiya(Harikala)				
77	Direction:	19-04-2022	00:00:13	Answered	Source: WhatsApp
	Incoming	16:10:16(UTC+5:30)			
	From				
	<u>919898293938@s.whatsapp</u> .net				
	Manish Suhagiya(Harikala)				
	To				
	<u>919998868068@s.whatsapp</u> .net				
	Raman suhagiya				
64	Direction:	19-04-2022	00:00:05	Answered	Source:
	Outgoing	18:14:28(UTC+5:30)			
	To				
	912612564900				
	Harikala Bullion Manishbhai				
38	Direction:	20-04-2022	00:00:22	Answered	Source:
	Outgoing	14:42:16(UTC+5:30)			
	To				
	912612564900				
	Harikala Bullion Manishbhai				
37	Direction:	20-04-2022	00:00:00	Not answered	Source:
	Outgoing	15:43:49(UTC+5:30)			
	To				
	912612564900				

	Harikala Bullion Manishbhai				
36	Direction:	20-04-2022	00:00:04	Answered	Source:
	Outgoing	15:44:13(UTC+5:30)			
	To				
	912612564900				
	Harikala Bullion Manishbhai				
32	Direction:	20-04-2022	00:00:06	Answered	Source:
	Outgoing	17:22:06(UTC+5:30)			
	To				
	912612564900				
	Harikala Bullion Manishbhai				
22	Direction:	20-04-2022	00:00:14	Answered	Source: WhatsApp
	Incoming	20:08:35(UTC+5:30)			
	From				
	<u>919924621292@s.whatsapp.net</u>				
	Harikala Kumar				
	To				
	<u>919998868068@s.whatsapp.net</u>				
	Raman suhagiya				
13	Direction:	21-04-2022	00:00:00	Missed	Source: WhatsApp
	Incoming	10:34:53(UTC+5:30)			
	From				
	<u>919924621292@s.whatsapp.net</u>				
	Harikala Kumar				
	To				
	<u>919998868068@s.whatsapp.net</u>				
	Raman suhagiya				
11	Direction:	21-04-2022	00:00:00	Missed	Source: WhatsApp
	Incoming	10:41:19(UTC+5:30)			
	From				
	<u>919924621292@s.whatsapp.net</u>				
	Harikala Kumar				
	To				
	<u>919998868068@s.whatsapp.net</u>				
	Raman suhagiya				

**34.1.4** It appeared from the call logs of Shri Rambhai Maganbhai Suhagiya, retrieved from his seized mobile that Shri Rambhai Maganbhai Suhagiya also received rate from Moon Star Inc. (Prop. Shri Sagar Shah) and conveyed it to Shri Baldev Sakhreliya. It appeared that mobile no 9687099000 was used by Shri Sagar Shah, Prop. of Moon Star Inc., Surat and said mobile number was saved by Shri Rambhai Maganbhai Suhagiya in his mobile in the name of 'Moon Bullion Sagarbhai'. A summary of call made/ received between Shri Rambhai Maganbhai Suhagiya and Moon Star Inc. (Prop. Shri Sagar Shah) was as below:

**Table 19: Summary of Calls Made/ Received between Shri Rambhai Maganbhai Suhagiya and Moon Star Inc.**

#	Parties	Timestamp	Duration	Status	Source Info
216	Direction:	16-04-2022	00:00:27	Answered	Source: WhatsApp
	Outgoing	12:42:25(UTC+5:30)			
	From				
	<u>919998868068@s.whatsapp.net</u>				
	Raman suhagiya				
	To				
	<u>919687099000@s.whatsapp.net</u>				
	Moon Bullion Sagarbhai				
170	Direction:	18-04-2022	00:00:24	Answered	Source: WhatsApp
	Outgoing	10:20:47(UTC+5:30)			
	From				
	<u>919998868068@s.whatsapp.net</u>				
	Raman suhagiya				
	To				
	<u>919687099000@s.whatsapp.net</u>				
	Moon Bullion Sagarbhai				
168	Direction:	18-04-2022	00:00:52	Answered	Source: WhatsApp
	Incoming	10:43:19(UTC+5:30)			
	From				
	<u>919687099000@s.whatsapp.net</u>				
	Moon Bullion Sagarbhai				
	To				
	<u>919998868068@s.whatsapp.net</u>				
	Raman suhagiya				
163	Direction:	18-04-2022	00:00:17	Answered	Source: WhatsApp
	Outgoing	11:08:01(UTC+5:30)			
	From				
	<u>919998868068@s.whatsapp.net</u>				
	Raman suhagiya				
	To				
	<u>919687099000@s.whatsapp.net</u>				
	Moon Bullion Sagarbhai				
159	Direction:	18-04-2022	00:00:22	Answered	Source: WhatsApp
	Outgoing	12:05:37(UTC+5:30)			
	From				
	<u>919998868068@s.whatsapp.net</u>				

	Raman suhagiya				
	To				
	<u>919687099000@s.whatsapp</u> .net				
	Moon Bullion Sagarbhai				
139	Direction:	18-04-2022	00:00:36	Answered	Source: WhatsApp
	Outgoing	12:51:37(UTC+5:30)			
	From				
	<u>919998868068@s.whatsapp</u> .net				
	Raman suhagiya				
	To				
	<u>919687099000@s.whatsapp</u> .net				
	Moon Bullion Sagarbhai				
125	Direction:	18-04-2022	00:00:16	Answered	Source: WhatsApp
	Outgoing	16:11:48(UTC+5:30)			
	From				
	<u>919998868068@s.whatsapp</u> .net				
	Raman suhagiya				
	To				
	<u>919687099000@s.whatsapp</u> .net				
	Moon Bullion Sagarbhai				
119	Direction:	18-04-2022	00:00:00	Not answered	Source: WhatsApp
	Outgoing	17:35:07(UTC+5:30)			
	From				
	<u>919998868068@s.whatsapp</u> .net				
	Raman suhagiya				
	To				
	<u>919687099000@s.whatsapp</u> .net				
	Moon Bullion Sagarbhai				
115	Direction:	18-04-2022	00:00:00	Not answered	Source: WhatsApp
	Outgoing	18:31:20(UTC+5:30)			
	From				
	<u>919998868068@s.whatsapp</u> .net				
	Raman suhagiya				
	To				
	<u>919687099000@s.whatsapp</u> .net				
	Moon Bullion Sagarbhai				
114	Direction:	18-04-2022	00:00:39	Answered	Source: WhatsApp
	Incoming	18:32:21(UTC+5:30)			
	From				
	<u>919687099000@s.whatsapp</u>				

	.net				
	Moon Bullion Sagarbhai				
	To				
	<u>919998868068@s.whatsapp</u> .net				
	Raman suhagiya				
102	Direction:	19-04-2022	00:00:18	Answered	Source: WhatsApp
	Outgoing	10:56:37(UTC+5:30)			
	From				
	<u>919998868068@s.whatsapp</u> .net				
	Raman suhagiya				
	To				
	<u>919687099000@s.whatsapp</u> .net				
	Moon Bullion Sagarbhai				
96	Direction:	19-04-2022	00:00:29	Answered	Source: WhatsApp
	Outgoing	11:56:10(UTC+5:30)			
	From				
	<u>919998868068@s.whatsapp</u> .net				
	Raman suhagiya				
	To				
	<u>919687099000@s.whatsapp</u> .net				
	Moon Bullion Sagarbhai				
86	Direction:	19-04-2022	00:00:33	Answered	Source: WhatsApp
	Outgoing	14:56:06(UTC+5:30)			
	From				
	<u>919998868068@s.whatsapp</u> .net				
	Raman suhagiya				
	To				
	<u>919687099000@s.whatsapp</u> .net				
	Moon Bullion Sagarbhai				
85	Direction:	19-04-2022	00:00:17	Answered	Source: WhatsApp
	Outgoing	15:19:39(UTC+5:30)			
	From				
	<u>919998868068@s.whatsapp</u> .net				
	Raman suhagiya				
	To				
	<u>919687099000@s.whatsapp</u> .net				
	Moon Bullion Sagarbhai				
82	Direction:	19-04-2022	00:00:22	Answered	Source: WhatsApp
	Outgoing	15:56:58(UTC+5:30)			
	From				

	919998868068@s.whatsapp.net				
	Raman suhagiya				
	To				
	919687099000@s.whatsapp.net				
	Moon Bullion Sagarbhai				
81	Direction:	19-04-2022	00:00:53	Answered	Source: WhatsApp
	Outgoing	15:57:58(UTC+5:30)			
	From				
	919998868068@s.whatsapp.net				
	Raman suhagiya				
	To				
	919687099000@s.whatsapp.net				
	Moon Bullion Sagarbhai				

**34.1.5** It appeared from the call log of Shri Rambhai Maganbhai Suhagiya, retrieved from his mobile phone that Shri Rambhai Maganbhai Suhagiya was in constant touch with Shri Navnitkumar Dhirubhai Borad (8758125506). It appeared that Shri Rambhai Maganbhai Suhagiya informed to Shri Navnitkumar Dhirubhai Borad (Mob No. 8758125506) to collect the cash from CRV Jewels whenever the cash were accumulated on account of sale of smuggled gold. It appeared that Shri Rambhai Maganbhai Suhagiya in his statement dated 04.03.2023 stated that he had saved mobile no ‘8758125506’ in his phone in the name of “Navneet Borad” and had spoken with Shri Navnitkumar Dhirubhai Borad on that number. A summary of call made/ received between Shri Rambhai Maganbhai Suhagiya and Shri Navnitkumar Dhirubhai Borad was as below:

**Table 20: Summary of Calls Made/ Received between Shri Rambhai Maganbhai Suhagiya and Shri Navnit Borad**

#	Parties	Timestamp	Duration	Status	Source Info
388	Direction:  Outgoing  To 918758125506 Navneet Borad	11-04-2022 10:36:36(UTC+5:30)	00:00:00	Not answered	Source:
387	Direction:  Outgoing  To 918758125506 Navneet Borad	11-04-2022 10:37:05(UTC+5:30)	00:00:00	Not answered	Source:
385	Direction:  Outgoing  To 918758125506 Navneet Borad	11-04-2022 10:38:40(UTC+5:30)	00:00:19	Answered	Source:
343	Direction:	11-04-2022	00:00:22	Answered	Source:

	Outgoing To 918758125506 Navneet Borad	20:23:12(UTC+5:30)			
282	Direction: Outgoing To 918758125506 Navneet Borad	14-04-2022 10:13:26(UTC+5:30)	00:00:12	Answered	Source:
272	Direction: Incoming From 918758125506 Navneet Borad	14-04-2022 12:00:14(UTC+5:30)	00:00:00	Missed	Source:
270	Direction: Incoming From 918758125506 Navneet Borad	14-04-2022 13:10:07(UTC+5:30)	00:00:35	Answered	Source:
269	Direction: Outgoing To 918758125506 Navneet Borad	14-04-2022 14:59:20(UTC+5:30)	00:00:12	Answered	Source:
261	Direction: Incoming From 918758125506 Navneet Borad	14-04-2022 16:43:50(UTC+5:30)	00:00:15	Answered	Source:
260	Direction: Outgoing To 918758125506 Navneet Borad	14-04-2022 17:10:14(UTC+5:30)	00:00:13	Answered	Source:
240	Direction: Outgoing From 919998868068@s.w hatsapp.net Raman suhagiya To 918758125506@s.w hatsapp.net Navneet Borad	15-04-2022 12:25:50(UTC+5:30)	00:00:10	Answered	Source: Wha tsApp
140	Direction: Outgoing	18-04-2022 12:50:52(UTC+5	00:00:26	Answered	Source:

	To 918758125506 Navneet Borad	:30)			
134	Direction:  Outgoing  To 918758125506 Navneet Borad	18-04-2022 14:46:44(UTC+5 :30)	00:00:21	Answered	Source:
126	Direction:  Incoming  From 918758125506 Navneet Borad	18-04-2022 16:07:44(UTC+5 :30)	00:00:16	Answered	Source:
76	Direction:  Outgoing  To 918758125506 Navneet Borad	19-04-2022 16:13:06(UTC+5 :30)	00:00:12	Answered	Source:
73	Direction:  Incoming  From 918758125506 Navneet Borad	19-04-2022 17:11:43(UTC+5 :30)	00:01:54	Answered	Source:
68	Direction:  Outgoing  To 918758125506 Navneet Borad	19-04-2022 17:42:31(UTC+5 :30)	00:00:40	Answered	Source:
66	Direction:  Outgoing  To 918758125506 Navneet Borad	19-04-2022 17:53:55(UTC+5 :30)	00:00:09	Answered	Source:

**34.2. ANALYSIS OFMOBILE DATA OF SHRI VIPUL DHIRUBHAI BORAD-**

**34.2.1** On scrutiny of the working copy of data retrived from the seized mobile of Shri Vipul Dhirubhai Borad, it appeared that various whatsapp chats were related to smuggling of gold and hard copy of the same were received from the RFSL, Surat vide letter Case No. RFSL/EE/2022/CF/189/1132/2023 dated 28.04.2023.

**34.2.2** It appeared that Shri Vipul Dhirubhai Borad had used SIM Mobile no 9712886203, and for whastapp purpose he used mobile no. 9898848150. It appeared that Shri Vipul Dhirubhai Borad and Shri Baldev Sakhreliya updated eachother through whatsapp conversations regarding purchasing of gold. The relevant whatsapp chats between Shri Vipul Dhirbubhai Borad (Mob-9898848150) and Baldev Sakhreliya (919601347698) was as below:



**Table 21: Relevant Whatsapp Chats between Shri Vipul Dhirbubhai Borad and Baldev Sakhreliya**

Sr. No.	Date	Time (UTC+5:30)	Chat/Audio from	Contents of Chat/audio
1	19.04.2022	19:48:10	Vipul	<i>Kal ma 4 ena book karje</i>
2	19.04.2022	19:48:24	Baldev	<i>Ok</i>
3	20.04.2022	20:14:13	Baldev	<i>54080/- ma book che</i>
4	20.04.2022	20:14:25	Vipul	<i>Ok</i>
5	20.04.2022	20:14:37	Baldev	<i>Pcs je aape e tamne</i>
6	20.04.2022	20:14:40	Baldev	<i>Nilesh bhai</i>
7	20.04.2022	20:14:40	Vipul	<i>Ok</i>
8	20.04.2022	20:14:53	Vipul	<i>Jalpesh na 25 che</i>
9	20.04.2022	20:14:54	Baldev	<i>Apda 135 pcs to book che j</i>
10	20.04.2022	20:14:59	Baldev	<i>Ha ok</i>
11	20.04.2022	20:15:05	Vipul	<i>Ok</i>

**34.2.3** It appeared from the whatsapp chat retrieved from the mobile phone of Shri Vipul D Borad that Shri Nilesh Borad (elder brother of Shri Vipul Borad) had sent him (Vipul) a group photo of passengers and name of said passengers. It appeared that Shri Nilesh Borad had forwarded a group photo of passengers who had travelled on 20.04.2022 from Sharjah to Surat with him, along with their name viz Aryan Chintubhai Panwala, Yamini Premjibhai Patel, Chhaswala Darshan Navinchandra, Chhaswala Dipali Darshan bhai and Kachhadiy Nehal Rakesh Kumar between 4.39 pm to 4.41 pm on 20.04.2022 through whatsapp. It appeared that Shri Vipul Borad had identified the 4 passengers out of 5 passengers shown in said group photo as (i) Dipali Darshan Chhaswala (ii) Darshan Navinchandra Chhaswala (iii) Aryan Chintubhai Panwala and (iv) Yamini Premji Patel. It appeared from the statement of Shri Nilesh D Borad that those passengers travelled with him on 20.04.2022 from Sharjah to Surat on the same flight. It appeared from the statement of Shri Nilesh D. Borad that he had submitted a declaration of these 135 Gold Biscuits of UAE origin before Dubai Customs authorities on 20.04.2022. It also appeared that copy of Hotel Booking Voucher for Check-in on 10-Apr-2022 and Check-out on 13-Apr-2022 in Admiral Plaza Hotel, Dubai in the name of Mr. Vipulkumar Borad, Mr. Kalpesh Chhaswala & Mr. Vivek Patel was shared by Shri Nilesh D Borad to Shri Vipulbhai D Borad on whats app on 07.04.2022. Further, copy of Air ticket in the name of all three persons for flight AI 912- Air India from Dubai to Mumbai for journey on 24.04.2022 were also shared by Shri Nilesh D Borad to Shri Vipulbhai D Borad on whatsapp on 10.04.2022. It appeared that flight tickets for all three passengers were dummy tickets and their journey were preponed to 13.04.2022 from Sharjah to Surat. It appeared that the room in hotel and tickets were booked by Magic Holidays, 6-7, GD FLR, Navratna Chamber, Sardar Chowk, Mini Bazar, Varachha, Surat. It appeared that Shri Nilesh D Borad had send contact number of ‘Shri Kalpesh Bhai D K’ (Phone +918460825802) on whatsapp on 10.04.2022 to Shri Nilesh D. Borad. It appeared that ‘Shri Kalpesh Bhai D K’ was Mr. Kalpesh Navinchandra Chhaswala who had travelled with Shri Nilesh D Borad on 13.04.2022.

**34.2.4** It appeared that the information/ message related to smuggling of Gold were shared in a whatsapp group named as “KHANAK 2021” by their members. It appears that there were six participants in whatsapp group “KHANAK 2021” – Khanak New Company (919773132045), Nilesh (919904294441), Navnit (918758125506), Baldev (919601347698), Ankur Shakreliya (918758751949) and Vipul D. Borad (BABA) (919898848150). The relevant whatsapp chat shared in “KHANAK 2021” whatsapp group by its memebers was as below:

**Table 22: Relevant Whatsapp Chat Shared in “KHANAK 2021” Whatsapp Group**

Sr.	Date	Time	Chat/Audio/Pdf	Contents of Chat/audio
-----	------	------	----------------	------------------------

No.		(UTC+5:30)	from	
1	14.04.2022	16:54:02	Baldev	Shared a ticket of Air India Express of PNR 8EY22K
2	14.04.2022	16:54:02	Baldev	Shared a ticket of Air India Express of PNR HLHFE2
3	14.04.2022	16:54:03	Baldev	Shared a ticket of Air India Express of PNR R59NZN
4	14.04.2022	16:54:03	Baldev	Shared a ticket of Air India Express of PNR PG0GL1
5	15.04.2022	08:59:48	Vipul	Jay ho
6	17.04.2022	11:38:44	Vipul	<b>Aaj na apd caring vala na Passport ma name hoye e mne send karjo ne</b>
7	17.04.2022	11:40:07	Ankur	Ha
8	17.04.2022	12:04:04	Ankur	Gauravgirir dineshgiri Goswami Rakesh Gopalbhai Moradiya Kalpeshkumar thakurbhai desai Rupareliya Vasantben hasmukhbhai Tavadia divyesh natvarbhai
9	17.04.2022	12:23:17	Baldev	<b>Smaglaro ni toil</b>
10	17.04.2022	12:24:55	Vipul	<b>Vasantben Pan</b>
11	17.04.2022	12:26:26	Baldev	<b>Jalpesh na Mammi</b>
12	17.04.2022	12:27:27	Vipul	Ha kelo che Jalpesh
13	17.04.2022	12:27:35	Vipul	Audio massage sent (could not be retrieved by RFSL)
14	17.04.2022	12:28:05	Baldev	Ha em rakhjo
15	17.04.2022	12:27:35	Vipul	Audio message sent (could not retrieved by RFSL)
16	17.04.2022	12:47:36	Ankur	Ok
17	17.04.2022	13:00:14	Vipul	Audio message sent (could not retrieved by RFSL)
18	17.04.2022	13:00:29	Vipul	Finaly
19	17.04.2022	13:44:05	Ankur	Ok
20	17.04.2022	13:44:23	Ankur	Audio message sent (could not retrieved by RFSL)
21	17.04.2022	15:23:42	Vipul	Audio message sent (could not retrieved by RFSL)
22	17.04.2022	15:24:02	Ankur	Ok
23	17.04.2022	17:05:46	Ankur	Sign done
24	17.04.2022	17:09:41	Ankur	Shared agroup photo of 4 male persons without mask
25	17.04.2022	17:09:41	Ankur	Shared a group photo of 4 male persons with mask
26	17.04.2022	17:09:41	Ankur	Shared photo of a lady passenger
27	17.04.2022	17:10:06	Ankur	Shared photo of himself (Ankur)
28	17.04.2022	17:13:44	Baldev	Bichara nu dhyan rakhje (Reply on photo of lady)
29	17.04.2022	17:15:23	Ankur	Ha ha
30	17.04.2022	17:15:49	Baldev	<b>Chokra sala smagling krave che</b>
31	17.04.2022	17:15:55	Ankur	Ha
32	17.04.2022	17:36:49	Vipul	<b>Ava chokra koi na pake</b> (Reply on post of ‘Chokra sala smagling krave che’)
33	18.04.2022	17:23:10	Baldev	Share eVisa of VipulD Borad

34	18.04.2022	17:23:10	Baldev	Share eVisa of Mukeshkumar D. Kanani
35	18.04.2022	17:23:11	Baldev	Share eVisa of Gopalbhai C. Mulani
36	18.04.2022	17:23:11	Baldev	Share eVisa of Dhavalkumar Premjibhai Patel
37	18.04.2022	17:53:50	Baldev	Share eVisa of Shlpaben Mukeshbhai Kanani
38	18.04.2022	17:53:50	Baldev	Share eVisa of Tanay Mukeshbhai Kanani
39	18.04.2022	17:54:49	Baldev	Share Air India Expres ticket of PNR 3LN9B1 of Navnit Borad
40	18.04.2022	17:54:49	Baldev	Share Air India Expres ticket of PNR PDWBNU of Dhavalkumar Premjibhai Patel
41	18.04.2022	17:54:50	Baldev	Share Air India Expres ticke of PNR QH60V9 of Gopalbhai C. Mulani.
42	18.04.2022	17:55:25	Baldev	Navnitbhai Dhavalbhai Gopal Dte 21/04/22 srt to shj tot
43	18.04.2022	18:35:19	Baldev	Share pdf of eVisa of Deeptiben Vipulbhai Borad
44	21.04.2022	00:24:10	Vipul	Share Photo of gold biscuits scatterredon floor.
45	21.04.2022	06:30:44	Navnit	Share a photo of declaration AIRC/2514

**34.2.5** It appeared that a picture of Gold Biscuits scattered on floor was found shared at 12.24 am on 21.04.2022 by Shri Vipul D Borad in whats app group “KHANAK 2021”. The said picture was retrived by the RFSL Surat and hard copy was provided vide report letter Case No. RFSL/EE/2022/CF/189/1132/2023 dated 28.04.2023. Shri Vipul D Borad in his voluntary statement recorded on 23.04.2022 explained that this was the picture of Gold smuggled on 20.04.2022 taken by him at his home in the night of 20.04.2022 and shared in the early morning in “KHANAK 2021” whatsapp group; that this was the Gold which was later detained by DRI on 21.04.2022 at CRV Jewels.

**34.2.6** It appeared that Shri Navnit D Barod (Passport No. V6225106) had travelled to Sharjah on 21.04.2022 via flight IX171 from Surat and filed declaration No AIRC/ 2514 (Declaration Regarding impot of Cash (DRIC) for Passengers) before Customs, Sharjah Port, Customs and Free Zone Authority. Shri Navnit D Barod had shared photo of said decaration in ‘KHANAK 2021’ whatsapp group. The photo of said declaration No AIRC/ 2514 was retrieved by the RFSL Surat and hard copy was provided vide report letter Case No. RFSL/EE/2022/CF/189/1132/2023 dated 28.04.2023 (kept at page no. 159). The scanned image of said declaration No AIRC/ 2514 filed by Shri Navnit D Borad (Pasport No. V6225106) is as under:

**Scanned Image of the Customs Declaration Filed by Navnit Borad at Sharjah Airport**



**34.2.7** The call log retrieved from the mobile of Shri Vipul Dhirubhai Borad contained call details during the period from 08.10.2017 to 23.04.2022. It appeared that Shri Hardik Rupareliya (mob no. 8866438755), the passenger/ carrier, who had made journey from Sharjah to Surat on 10.04.2022, was in continuous touch with Shri Vipul D Borad. It appeared that mobile no ‘8866438755’ was saved in the name of ‘Hardik jalpesh’ by Shri Vipul D Borad. It appeared that Shri Vipul D Borad had made/ received 12 calls with Shri Hardik Rupareliya alia Jalpesh during the

period from 04.03.2022 to 15.04.2022. It appeared that prior to 04.03.2022 no call data between Shri Vipul D Borad & Hardik Rupareliya was found in seized mobile of Shri Vipul D Borad. The details of call made between Shri Vipul D Borad (919898848150) and Shri Hardik Rupareliya (mob no. 8866438755) was as under:

**Table 23: Details of Calls made Between Shri Vipul D Borad and Shri Hardik Rupareliya**

#	Parties	Timestamp	Duration	Status	Source Info
2905	Direction: Outgoing From 919898848150@s.whatsapp.net BABA To 918866438755@s.whatsapp.net Hardik jalpesh	04-03-2022 18:42:09(UTC+5:30)	00:00:34	Answered	Source: WhatsApp
2898	Direction: Outgoing From 919898848150@s.whatsapp.net BABA To 918866438755@s.whatsapp.net Hardik jalpesh	05-03-2022 14:24:44(UTC+5:30)	00:00:43	Answered	Source: Whatsapp
1351	Direction: Outgoing To +918866438755 Hardik jalpesh	04-04-2022 12:33:34(UTC+5:30)	00:00:00	Not answered	Source:
1333	Direction: Incoming From 918866438755@s.whatsapp.net Hardik jalpesh To 919898848150@s.whatsapp.net BABA	04-04-2022 13:41:23(UTC+5:30)	00:01:04	Answered	Source: WhatsApp
1326	Direction: Incoming From 918866438755@s.whatsapp.net Hardik jalpesh To 919898848150@s.whatsapp.net BABA	04-04-2022 13:57:35(UTC+5:30)	00:00:00	Missed	Source: WhatsApp
1325	Direction: Outgoing From 919898848150@s.w	04-04-2022 13:57:52(UTC+5:30)	00:01:33	Answered	Source: WhatsApp

	hatsapp .net BABA To 918866438755@s.w hatsapp .net Hardik jalpesh				
1310	Direction: Outgoing From 919898848150@s.w hatsapp .net BABA To 918866438755@s.w hatsapp .net Hardik jalpesh	04-04-2022 15:12:27(UTC+5:30)	00:00:30	Answered	Source: WhatsApp
1154	Direction: Outgoing To +918866438755 Hardik jalpesh	06-04-2022 11:39:58(UTC+5:30)	00:00:00	Not answered	Source:
1153	Direction: Outgoing From 919898848150@s.w hatsapp .net BABA To 918866438755@s.w hatsapp .net Hardik jalpesh	06-04-2022 11:40:16(UTC+5:30)	00:00:00	Not answered	Source: WhatsApp
1128	Direction: Outgoing From 919898848150@s.w hatsapp .net BABA To 918866438755@s.w hatsapp .net Hardik jalpesh	06-04-2022 16:24:02(UTC+5:30)	00:00:07	Answered	Source: WhatsApp
1127	Direction: Outgoing From 919898848150@s.w hatsapp .net BABA To 918866438755@s.w hatsapp .net Hardik jalpesh	06-04-2022 16:24:35(UTC+5:30)	00:00:00	Rejected	Source: WhatsApp
446	Direction: Outgoing From 919898848150@s.w hatsapp .net BABA	15-04-2022 20:45:23(UTC+5:30)	00:00:00	Not answered	Source: WhatsApp

	To 918866438755@s.w hatsapp .net Hardik jalpesh				
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**34.2.8** It appeared that Shri Nikhil Prafulbhai Kanani (mob no. 8980778185), the passenger/ carrier, who travelled with his family (wife & daughter) from Sharjah to Surat on 10.04.2022 and returned alone on 18.04.2023, was in continuos touch with Shri Vipul D Borad. It appeared that mobile no ‘8980778185’ was saved in the name of ‘Nikhil India’ by Shri Vipul D Borad. It appeared that Shri Vipul D Borad had made/ received 27 calls with Shri Nikhil Prafulbhai Kanani during the period from 14.04.2022 to 17.04.2022. It appeared that prior to 14.05.2022 no call data between Shri Vipul D Borad & Shri Nikhil Prafulbhai Kanani was found in seized mobile of Shri Vipul D Borad. It also appeared that Shri Vipul D Borad had made two calls to Smt. Mital Nikhilbhai Kanani (mob 7623840657) wife of Shri Nikhil Kanani on 20.04.2022 and spoken to 1.19 minutes and 1.47 minutes

**Table 24: Details of Calls made by Shri Vipul D Borad to Shri Nikhil Prafulbhai Kanani and his wife**

#	Parties	Timestamp	Duration	Status	Source Info
134	Direction: Outgoing To 7623840657 Bhabhi Nikhil	20-04-2022 10:08:52(UTC+5:30)	00:01:19	Answered	Source:
117	Direction: Outgoing To 7623840657 Bhabhi Nikhil	20-04-2022 12:11:43(UTC+5:30)	00:01:47	Answered	Source:

**34.2.9** It appeared that Shri Mukesh Kumar Dhirajlal Kanani (mob no. 9978826005), the passenger/ carrier, who had made journey from Surat to Sharjah on 07.04.2022 and returned from Sharjah to Surat on 10.04.2022, was in continuos touch with Shri Vipul D Borad. It appeared that mobile no ‘9978826005’ was saved in the name of ‘Mukesh Kumar’ by Shri Vipul D Borad. It appears that Shri Vipul D Borad had made/ received calls 42times with Shri Mukesh Kumar Dhirajlal Kanani during the period from 19.01.2022 to 21.04.2022. It appeared that prior to 19.01.2022 no call data between Shri Vipul D Borad & Shri Mukesh Kumar Dhirajlal Kanani was found in seized mobile of Shri Vipul D Borad.

**34.2.10** It appeared that Shri Kalpesh Navinchandra Chhaswala (mob no. 8460825802), the passenger/ carrier, who had travelled from Surat to Sharjah on 11.04.2022 and returned from Sharjah to Surat on 13.04.2022, was in continuos touch with Shri Vipul D Borad. It appeared that Shri Vipul D Borad had made/ received calls 6 times on 10.04.2022 with Shri Kalpesh Navinchandra Chhaswala on his mobile no. 8460825802, details as below:

**Table 25: Details of Calls between Shri Vipul D Borad and Shri Kalpesh Navinchandra Chhaswala**

#	Parties	Timestamp	Duration	Status	Source Info
753	Direction: Outgoing  From	10-04-2022 16:51:39(UTC+5:30)	00:00:00	Not answered	Source: WhatsApp

	919898848150@s.whatsapp.net BABA  To 918460825802@s.whatsapp.net				
752	Direction: Outgoing  To 8460825802	10-04-2022 16:52:22(UTC+5:30)	00:00:00	Not answered	Source:
750	Direction: Incoming  From +918460825802	10-04-2022 16:55:43(UTC+5:30)	00:00:00	Missed	Source:
749	Direction: Incoming  From 918460825802@s.whatsapp.net  To 919898848150@s.whatsapp.net BABA	10-04-2022 16:56:09(UTC+5:30)	00:00:00	Missed	Source: WhatsApp
748	Direction: Outgoing  To +918460825802	10-04-2022 16:56:22(UTC+5:30)	00:02:11	Answered	Source:
735	Direction: Outgoing  To +918460825802	10-04-2022 20:07:42(UTC+5:30)	00:00:21	Answered	Source:

### 34.3 ANALYSIS OF VIDEO FOOTGE RETRIEVED FROM DVR INSTALLED IN THE PREMISES OF CRV JEWELS:

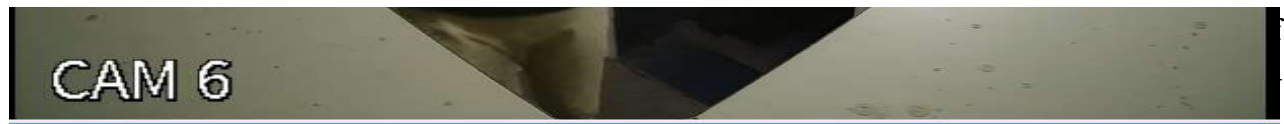
**34.3.1** It appeared that Shri Vipul D Borad and his associate had smuggled Gold through Surat International Airport on 10.04.2022, 13.04.2022 and 17.04.2022 and handed over the same on next morning to Shri Rambhai Maganbhai Suhagiya for onward delivery to Bullion firms. It appeared from the video footage on DVR seized from the premises of CRV Jewels that Shri Ankur Mansukhbhai Sakhreliya had visited CRV Jewels on 11.04.2022 at 10:49 AM and handed over a bag containing smuggled gold to Shri Rambhai Maganbhai Suhagiya. It also appeared that just before counting the smuggled gold biscuits, Shri Rambhai Maganbhai Suhagiya blocked the camera installed in locker room with the help of cover. It appeared that various persons belong to Harikala Bullions had visited on several occasions to CRV Jewels on 11.04.2022 and 12.04.2022 to collect gold biscuits from Shri Rambhai Maganbhai Suhagiya and further visited on regular intervals to deliver cash in return. It appeared that Shri Vipul D Borad and his accomplices had smuggled gold through Surat Airport on 13.04.2022 through passenger(s). Shri Navnit D Borad had visited the CRV Jewels on 14.04.2022 at



around 10.50 AM to deliver the smuggled Gold to Shri Rambhai Maganbhai Suhagiya. It appeared that various persons belong to Harikala Bullions had visited on several occasions to CRV Jewels on 14.04.2022 and 15.04.2022 to collect gold biscuits from Shri Rambhai Maganbhai Suhagiya and further visited on regular interval to deliver cash in return. It appeared that Shri Vipul D Borad and his accomplices had smuggled gold through Surat Airport on 17.04.2022 through passenger(s). Shri Vipul D Borad had visited the CRV Jewels on 18.04.2022 at around 9:55 AM to deliver the smuggled Gold to Shri Rambhai Maganbhai Suhagiya. It appeared that various persons belong to Harikala Bullions & Moon Star Inc. had visited on several occasions to CRV Jewels on 18.04.2022 and 19.04.2022 to collect gold biscuits from Shri Rambhai Maganbhai Suhagiya and further visited on regular interval to deliver cash in return. It also appeared from the Video footage that two persons were regularly visited to CRV Jewels to received cash from Shri Rambhai Maganbhai Suhagiya on behalf of Vipul Borad. The detailed analysis of video footage retrived from the DVR seized from the premises of CRV Jewels.

**34.3.2** The screen shot of video footage showing the action/movement of Shri Ankur Mansukhbhai Sakhreliya, Shri Navnit D Borad, Shri Vipul Borad and Shri Chetan Kathrotiya, Partner of CRV Jewesl and Rambhai Maganbhai Suhagiya was shown as below:

**(i)** Image below showing visit of Shri Ankur Mansukhbhai Sakhreliyain the shop of CRV Jewels on 11.04.2022 is as below:



**(iv)** Image below showing two persons belong to Shri Vipul D Borad had visited CRV Jewels on 11.04.2022 (12.14 hrs) to receive cash from Shri Rambhai Maganbhai Suhagiya in presence of Shri Chetan Kathrotiya. Shri Chetan Kathrotiya had carried cash from inside locker room.



**(v)** Image below showing a person belong to Moon Star Inc. had visited CRV Jewels with a bag full of cash on 11.04.2022 and went inside the locker room and handover the cash to Shri Rambhai Maganbhai Suhagiya.



**(vi)** Image below showing Shri Navnit Borad visited CRV Jewels on 14.04.2022 carrying a bag (seems heavy) to hand over the smuggled Gold biscuits to Shri Rambhai Maganbhai Suhagiya.



**(vii)** Image below showing visit of Shri Vipul D Borad at CRV Jewels on 18.04.2022 out side the locker room after handing over the smuggled Gold biscuits to Shri Rambhai Maganbhai Suhagiya.





**35. ANALYSIS OF DECLARATION FILED BY SHRI NAVNITKUMAR D BORAD ON 21.04.2022 BEFORE CUSTOMS, SHARJAH AIRPORT:**

**35.1** It appeared that Shri Navnit D Barod (Passport No. V6225106) had travelled to Sharjah on 21.04.2022 via flight IX171 from Surat and filed declaration No AIRC/ 2514 (Declaration Regarding impot of Cash (DRIC) for Passengers) before Customs, Sharjah Port, Customs and Free Zone Authority. The said declaration was in Arabic language and thus, free English translation of the said declaration was requested to Shri Mufaddal Shakir, Public Relations Officer, Aljamea tus Saifiyah, Arabic University, Deori Mubarak, Zampa Bazar, Surat vide letter F.No.DRI/AZU/SRU/B/INV-08 (INT-09)/2022 dated 13.01.2023.Shri Mufaddal Shakir vide letter dated 17.01.2023 submitted English translation of declaration No AIRC/ 2514 (Declaration Regarding import of Cash (DRIC) for Passengers) filed by Shri Navnitkumar D Borad. The scanned image of said declaration and English translation of said declaration is as under:

[IMAGE OF DECLARATION NO AIRC/ 2514]



[SCAN IMAGE OF ENGLISH TRANSLATION OF DECLARATION NO AIRC/ 2514]



**35.2.** It appeared that Shri Navnit D Barod had filed a declaration No AIRC/ 2514 before Customs Sharjah for currency of 4193530 (currency not mentioned). It appeared that there were two columns in the form for declaration of Cash at Sharjah Airport – (i) Amount declared in AED, and (ii) Amount declared in other currencies. It appeared that Shri Navnit D Borad had declared ‘4193530’ against column ‘Amount declared in other currencies’. It appeared that the cash declared by Shri Navnit D Borad was in the form of currency other than AED which was equivalent to the 4193530 AED. Thus, it appeared that Shri Navnit D Borad had carried the sales proceed of smuggled gold (smuggled on 17.04.2022) equivalent to Rs. 8,95,31,865/- [4193530 x 21.35 (Rate of exchange as per Notification No. 32/2022-Customs (NT) dated 07.04.2022)] from Surat to Sharjah.

**DOCUMENTS SUBMITTED BY SHRI NIKUNJ ARVINDBHAI SUTARIYA, PROPRIETOR OF M/S MAGIC HOLIDAYS, SURAT:**

**36.** It appeared from the documents submitted by Shri Nikunj Arvindbhai Sutariya, Proprietor of M/s Magic Holidays, Surat that Shri Nikunj Arvindbhai Sutariya had booked the tickets on behalf of Vipulbhai Dhirubhai Borad, Navnit Borad, Nilesh Borad and Baldev Manshukhbhai Sakhreliya andmaintained sales ledgers in the name of other persons viz. Goswami Gaurav, Malavia Sumitben Manishkumar, Dhavalkumar Premjibhai Patel, Patel Yamini. It appeared that Shri Nikunj Arvindbhai Sutariya raised the invoices in the name of “Goswami Gaurav” and “Malavia Sumitben Manishkumar”, “Dhavalkumar Premjibhai Patel” and “Patel Yamini” as per the demand of Shri Vipulbhai Dhirubhai Borad and his accomplices. It appeared that Shri Nikunj Arvindbhai Sutariyahad booked tickets for carriers of gold on behalf of Shri Vipul D Borad and recorded the details in sales ledger in the name of different peoples. The relevant entries in sales ledger maintained by Shri Nikunj Arvindbhai Sutariya, Proprietor of Magic Holidays pertaining to the person engaged in smuggling of Gold from UAE on 10.04.2022, 13.04.2022 and 17.04.2022 were as below:

**Table 26: Relevant Entries in Sales ledger maintained by Shri Nikunj Arvindbhai Sutariya, Proprietor of Magic Holidays**

GOSWAMI GAURAV (1720)		
Date	Narration	Reference
14/04/2022	Sales A/C (Hotel) Pax: DARSHAN CHHASWALA Admiral plaza hotel; CHECK IN:17-Apr-2022 CHECK OUT: 20-Apr-2022; STANDARD ROOM; ROOM ONLY	MHI00000020
14/04/2022	Sales A/C (Hotel) Pax: YAMINI PATEL Admiral plaza hotel; CHECK IN:17-Apr-2022 CHECK OUT: 20-Apr-2022; STANDARD ROOM; ROOM ONLY	MHI00000021
18/04/2022	Sales A/c (International Air Ticket); Pax: NILESHKUMAR DHIRUBHAI BORAD X 1. 20/04/2022 SHJ/STV IX172 Pnr:RJUASI	ITI00000136
18/04/2022	Sales A/c (International Air Ticket); Pax: YAMINI PREMJBHAI PATEL X 1. 20/04/2022 SHJ/STV IX172 Pnr:U1HWV2	ITI00000137
18/04/2022	Sales A/c (International Air Ticket); Pax: ARYAN CHINTUBHAI PANWALA X 1. 20/04/2022 SHJ/STV IX172 Pnr:K65RVX	ITI00000138
18/04/2022	Sales A/c (International Air Ticket); Pax: DARSHAN CHHASWALA X 2. 20/04/2022 SHJ/STV IX172 Pnr:DYKT0H	ITI00000139
18/04/2022	Sales A/c (International Air Ticket); Pax: DHAWALKUMAR PREMJBHAI PATEL X 1. 21/04/2022 STV/SHJ IX171 Pnr:PDWBNU	ITI00000140
18/04/2022	Sales A/c (International Air Ticket); Pax: NAVNITKUMAR DHIRUBHAI BORAD X 1. 21/04/2022 STV/SHJ IX171 Pnr:3LN9B1	ITI00000141
19/04/2022	Sales A/c (Hotel); Pax: VIPULKUMAR BORAD X 1. Admiral plaza hotel; CHECK IN:24-Apr-2022 CHECK OUT: 27-Apr-2022; STANDARD ROOM –DOUBLE; RAMADAN PROMOTION- BREAKFAST	MHI00000024
19/04/2022	Sales A/c (Hotel); Pax: DHAWALKUMAR PATEL X 1. Admiral plaza hotel; CHECK IN:20-Apr-2022 CHECK OUT: 24-Apr-2022; STANDARD BREAKFAST	MHI00000025
19/04/2022	Sales A/c (Visa) Pax: VIPULKUMAR DHIRUBHAI BORAD. DUBAI VISA	MVI00000061
20/04/2022	Sales A/c (International Air Ticket); Pax: NAVNITKUMAR BORAD X 1. 24/04/2022 SHJ/STV IX172 Pnr:KTQMAV	ITI00000172
20/04/2022	Sales A/c (International Air Ticket); Pax: DHAWALKUMAR PATEL X 1. 24/04/2022 SHJ/STV IX172 Pnr:NL186Y	ITI00000173
20/04/2022	Sales A/c (International Air Ticket); Pax: GOPALBHAI MULANI X 1. 24/04/2022 SHJ/STV IX172 Pnr:JSJQKU	ITI00000174
26/04/2022	Sales A/c (International Air Ticket); Pax: GOPALBHAI MULANI X 1. 27/04/2022 DXB/BOM IX248 Pnr:U8NYMS	ITI00000200
26/04/2022	Sales A/c (International Air Ticket); Pax: DHAWALKUMAR PREMJBHAI PATEL X 1. 27/04/2022 DXB/BOM IX248 Pnr:BIP75B	ITI00000201
MALAVIA SUMITABEN MANISHKUMAR (1734)		

04/04/2022	Sales A/c (Hotel) Pax: NAVNITKUMAR BORAD. Astoria hotel; CHECK IN:04-Apr-2022 CHECK OUT: 06-Apr-2022; STANDARD ROOM-DOUBLE NRF RATES- ROOM ONLY	MHI00000005
05/04/2022	Sales A/c (International Air Ticket); Pax: MUKESHKUMAR DHIRAJLAL KANANI X 1. 10/04/2022 SHJ/STV IX172 Pnr:A080TE	ITI00000043
07/04/2022	Sales A/c (International Air Ticket); Pax: VIVEK PREMJBHAI PATEL X 1. 11/04/2022 STV/SHJ IX171 Pnr:I0CSZI	ITI00000055
07/04/2022	Sales A/c (Hotel) Pax: BALDEV MANSUKHBAHI SAKHRELIYA. <i>Orchid vue hotel</i> ; CHECK IN:07-Apr-2022 CHECK OUT: 09-Apr-2022; STANDARD ROOM-DOUBLE ONLY	MHI00000014
11/04/2022	Sales A/c (International Air Ticket); Pax: ANKUR MANSUKHBHAI SAKHRELIYA X1. 14/04/2022 STV/SHJ/IX171 Pnr:CV9XAF	ITI00000086
11/04/2022	Sales A/c (International Air Ticket); Pax: GAURAVGIRI GOSWAMI X 1. 14/04/2022 STV/SHJ/IX171 Pnr:ZXGB44	ITI00000087
11/04/2022	Sales A/c (International Air Ticket); Pax: KALPESHKUMAR DESAI X 1. 14/04/2022 STV/SHJ IX171 Pnr:9L0QMK	ITI00000088
11/04/2022	Sales A/c (Visa); Pax:DESAI KALPESHKUMAR THAKARSHIBHAI DUBAI VISA URGENT	MVI00000022
11/04/2022	Sales A/c (Visa); Pax:MORADIYA RAKESH GOPALBHAI DUBAI VISA URGENT	MVI00000023
<b>DHAWALKUMAR PREMJBHAI PATEL (1681)</b>		
Date	Narration	Referance
05/04/2022	Sales A/c (International Air Ticket); Pax: BALDEV MANSUKHBHAI SAKHRELIYA X1. 10/04/2022 SHJ/STV IX172 Pnr:GS2Q9B	ITI00000020
05/04/2022	Sales A/c (International Air Ticket); Pax: NIKHIL PRAFULBHAI KANANI X3. 10/04/2022 SHJ/STV IX172 Pnr:ZL4THK	ITI00000024
05/04/2022	Sales A/c (International Air Ticket); Pax: MUKESHKUMAR KANANI X1. 07/04/2022 STV/SHJ IX171 Pnr:P90VL7	ITI00000025
07/04/2022	Sales A/c (International Air Ticket); Pax: VIPULKUMAR DHIRUBHAI BORAD X1. 11/04/2022 STV/SHJ IX171 Pnr:SOIHK9	ITI00000053
07/04/2022	Sales A/c (International Air Ticket); Pax:KALPESH NAVINCHANDRA CHHASWALA X1. 11/04/2022 STV/SHJ IX171 Pnr:O4QQJ1	ITI00000054
11/04/2022	Sales A/c (International Air Ticket); Pax: RAKESH MORADIYA X 1. 14/04/2022 STV/SHJ IX171 Pnr:YZE3K5	ITI00000089
12/04/2022	Sales A/c (International Air Ticket); Pax: VIVEK PREMJBHAI PATEL X 1. 13/04/2022 SHJ/ STV IX172 Pnr:DJJ0RQ	ITI00000112
12/04/2022	Sales A/c (International Air Ticket); Pax: VIPULKUMAR DHIRUBHAI BORAD X 1. 13/04/2022 SHJ/ STV/IX172 Pnr:VXQ700	ITI00000114
13/04/2022	Sales A/c (International Air Ticket);	ITI00000099

	Pax: BALDEV MANSUKHBHAISAKHRELIYA X1. 13/04/2022 SHJ/ STV/IX172 Pnr:S3Q387	
<b>PATEL YAMINI (1208)</b>		
Date	Narration	Reference
14/04/2022	Sales A/c (International Air Ticket); Pax: NIKHIL PRAFULBHAI KANANI X3. 18/04/2022 STV/SHJ IX171 Pnr:78P65K	ITI00000124
14/04/2022	Sales A/c (International Air Ticket); Pax: ANKUR MANSUKHBHAI SAKHRELIYA X1. 17/04/2022 SHJ/STV IX172 Pnr:PG0GL1	ITI00000125
14/04/2022	Sales A/c (International Air Ticket); Pax: GAURAVGIRI DINESHGIRI GOSWAMI X1. 17/04/2022 SHJ/STV IX172 Pnr:R59NZN	ITI00000126
14/04/2022	Sales A/c (International Air Ticket); Pax: KALPESHKUMAR THAKARSHIBHAI DESAI X1. 17/04/2022 SHJ/STV IX172 Pnr:HLHFE2	ITI00000127
14/04/2022	Sales A/c (International Air Ticket); Pax: RAKESH GOPALBHAI MORADIYA X1. 17/04/2022 SHJ/STV IX172 Pnr:8EY22K	ITI00000128

**37. FINANCIAL INVESTIGATION:**

**37.1** Shri Vipul Dhirubhai Borad had submitted bank statement for his account no. 40018865026 maintained with State Bank of India for the period from 01.01.2022 to 31.12.2022 and 01.01.2023 to 25.08.2023 under his statement recorded on 28.08.2023. On scrutiny of said account statement, no transaction of substantial amount had been noticed.

**37.2** Shri Baldev Mansukhbhai Sakhreliya has submitted copies of his Bank account statements for the period from 01.02.2022 to 30.04.2022 maintained with (i) State Bank of India, A/c- 32931284259, Savrkundla Branch, Amreli (ii) ICICI Bank A/c 724601000102, Yogi Chowk Branch, Surat, and (iii) Kotak Mahindra Bank account-9601347698 Sitanagar Branch, Varachha, Surat. On scrutiny of said account statement, no transaction of substantial amount has been noticed.

**37.3** Shri Navnitkumar Dhirubhai Borad under his statement dated 26.08.2022 had submitted bank statement for his account no. 32944137821 maintained with SBI Bank, MotaVarachha Branch, Surat for the period 01.02.2022 to 30.04.2022. On scrutiny of said account statement, no transaction of substantial amount had been noticed.

**38. CALCULATION OF DUTY EVASION:**

**38.1** It appeared that Shri Vipul D Borad and his associates had smuggled Gold biscuits of 10 tola each (116.6g each) on 10.04.2022, 13.04.2022, 17.04.2022 & 20.04.2022 through passengers at Surat International Airport and cleared the same from Customs area without payment of Customs duty. It appeared that the gold biscuits smuggled by the passengers on 20.04.2022 had already been seized at the CRV Jewels under panchnama dated 21.04.2022. The details of Customs duty evaded @ 38.5% (incl. SWS) on the gold smuggled by Shri Vipul Dhirubhai Borad & his associates in terms of Customs Baggage Declaration Regulation, 2013 was as under:

**Table 27: Customs Duty on the Smuggled Gold**

Date of smuggling of Gold	No. of biscuits (in 10 tola	Qty of Gold (No. of piece x 116.6) (in gram)	Tariff Value / Exchange rate Notification. (Notif No.	Assessable Value (Rs.)	Applicable Customs Duty @ 38.5% (Rs.)
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	<b>each)</b>				
10.04.2022	144	13292.24	31/2022-Cus (NT) dated 31.03.2022 &	63598583 (1329.224 x 623 x 76.80)	24485454
13.04.2022	115	13408.00	32/2022 Cus (NT) dated 07.04.2022	64152453 (1340.8 x 623 x 76.80)	24698694
17.04.2022	130	15158.00	33/2022-Cus (NT) dated 13.04.2022 & 32/2022 Cus (NT) dated 07.04.2022	73456880 (1515.8 x 631 x 76.80)	28280899
<b>TOTAL</b>	<b>389</b>	<b>41858.24</b>		<b>201207916</b>	<b>77465047</b>

**38.2** It appeared that the burden of proof in case of ‘Gold’ in terms of Section 123 of Customs Act, 1962 shall be laid on Shri Vipul D Borad and Shri Rambhai Maganbhai Suhagiya, partners in CRV Jewels with respect to proving that the goods are not smuggled. It appeared that both the persons i.e. Shri Vipul D Borad and Shri Rambhai Maganbhai Suhagiya accepted in their respective statements recorded u/s 108 of Customs Act, 1962 that they did not possess any documents relating to procurement of those goldbiscuits. They had failed to provide any documentary evidence to prove that the said gold was not smuggled. They have infact, agreed that the said goods had been smuggled.

**EXTENDED PERIOD:**

**39.** It appeared that Shri Vipul Dhribhai Borad had arranged persons who were ready to act as carriers and planned their to & fro tickets from Surat to Sharjah. Shri Vipul Dhirubhai D Borad would purchase gold in Sharjah through his accomplices, as accepted by him in his statement, and smuggle the same into India and hand it over to Shri Rambhai Maganbhai Suhagiya without cover of Invoice or Challan. Shri Vipul Dhirubhai Borad also accepted that no passengers/carriers who arrived from Sharjah had filed any declaration before Customs, Surat Airport in respect of the gold biscuits smuggled by them. It appeared that gold was smuggled by the syndicate led by Shri Vipul Dhirubhai Borad in collusion with the groups of passengers who smuggled the gold biscuits and did not pay customs duty at the material time. By supressing information regarding smuggled gold, these persons had consciously concerned themselves with smuggling of prohibited items and therefore, Section 28(4) of Customs Act, 1962, invoking extended period was applicable. Thus, the duty not levied and not paid by Shri Vipul Dhirubhai Borad during the period from 10.04.2022 to 17.04.2022 was required to be recovered under the provisions of Section 28(4) along with applicable interest under Section 28AA of Customs Act, 1962.

**40. LEGAL PROVISIONS:**

**40.1** The provisions of law, relevant to import of goods in general, the Policy and Rules relating to the import of gold, the liability of the goods for confiscation and liability of the persons concerned for penalty of improper/illegal imports under the provisions of the Customs Act, 1962 and other laws for the time being in force, are summarized as under:-

- i. Under ITC (HS) heading sub code 98030000, import of all dutiable articles, imported by a passenger or a member of a crew in his baggage is restricted and their import is allowed only in accordance with the provisions of the Customs Baggage Rules by saving clause 3(1)(h) of the Foreign Trade (Exemption from Application of Rules in Certain Case) Order, 1993.

**ii. 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.*

**iii. 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.*

**iv. Rule 11 of the Foreign Trade (Regulation) Rules, 1993- Declaration as to value and quality of imported goods:**

*On the importation into, or exportation out of, any customs ports of any goods, whether liable to duty or not, the owner of such goods shall in the Bill of Entry or the Shipping Bill or any other documents prescribed under the Customs Act, 1962 (52 of 1962), state the value, quality and description of such goods to the best of his knowledge and belief and in case of exportation of goods, certify that the quality and specification of the goods as stated in those documents, are in accordance with the terms of the export contract entered into with the buyer or consignee in pursuance of which the goods are being exported and shall subscribe a declaration of the truth of such statement at the foot of such Bill of Entry or Shipping Bill or any other documents.*

**v. Section 2 of the Customs Act, 1962: Definitions -**

*In this Act, unless the context otherwise requires,*

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

*(3A) "beneficial owner" means any person on whose behalf the goods are being imported or exported or who exercises effective control over the goods being imported or exported;*

*(14) "dutiable goods" means any goods which are chargeable to duty and on which duty has not been paid;*

*(22) "goods" includes-*

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

*(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;*

*(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 of the Customs Act 1962.*

**vi. Section 11A (a) of the Customs Act, 1962;**

*(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.*

**vii. Section 11H (a) of the Customs Act, 1962:**

*(a) '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.*

**viii. Section 28 of the Customs Act, 1962- Recovery of duties not levied or not paid or short-levied or short- paid or erroneously refunded. -**

(1) Where any duty has not been levied or not paid or short-levied or short-paid or erroneously refunded or any interest payable has not been paid part-paid or erroneously refunded for any reason other than the reasons of collusion or any wilful mis-statement or suppression of facts-

(a) the proper officer shall within two years from the relevant date serve notice on the person chargeable with the duty or interest which has not been so levied or paid or which has been short-levied or short-paid or to whom the refund has erroneously been made requiring him to show cause why he should not pay the amount specified in the notice;

**Provided** that before issuing notice the proper officer shall hold pre-notice consultation with the person chargeable with duty or interest in such manner as may be prescribed;

(b) the person chargeable with the duty or interest may pay before service of notice under clause (a) on the basis of-

(i) his own ascertainment of such duty; or

(ii) the duty ascertained by the proper officer

the amount of duty along with the interest payable thereon under section 28AA or the amount of interest which has not been so paid or part-paid.

**Provided** that the proper officer shall not serve such show cause notice where the amount involved is less than rupees one hundred.

(2) The person who has paid the duty along with interest or amount of interest under clause (b) of sub-section (1) shall inform the proper officer of such payment in writing who on receipt of such information shall not serve any notice under clause (a) of that sub-section in respect of the duty or interest so paid or any penalty leviable under the provisions of this Act or the rules made thereunder in respect of such duty or interest:

**Provided** that where notice under clause (a) of sub-section (1) has been served and the proper officer is of the opinion that the amount of duty along with interest payable thereon under section 28AA or the amount of interest as the case may be as specified in the notice has been paid in full within thirty days from the date of receipt of the notice no penalty shall be levied and the proceedings against such person or other persons to whom the said notice is served under clause (a) of sub-section (1) shall be deemed to be concluded.

(2) Where the proper officer is of the opinion that the amount paid under clause (b) of sub-section (1) falls short of the amount actually payable then he shall proceed to issue the notice as provided for in clause (a) of that sub-section in respect of such amount which falls short of the amount actually payable in the manner specified under that sub-section and the period of two years shall be computed from the date of receipt of information under sub-section (2).

(3) Where any duty has not been levied or not paid or has been short-levied or short-paid or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of,-

(a) collusion; or

(b) any wilful mis-statement; or

(c) suppression of facts,

by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been so levied or not paid or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice.

(5) Where any duty has not been levied or not paid or has been short-levied or short paid or the interest has not been charged or has been part-paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts by the importer or the exporter or the agent or the employee of the importer or the exporter, to whom a notice has been served under sub-section (4) by the proper officer, such person may pay the duty in full or in part, as may be accepted by him, and the interest payable

thereon under section 28AA and the penalty equal to fifteen per cent. of the duty specified in the notice or the duty so accepted by that person, within thirty days of the receipt of the notice and inform the proper officer of such payment in writing.

**ix. Section 28AA of Customs Act, 1962- Interest on delayed payment of duty. —**

(1) Notwithstanding anything contained in any judgment, decree, order or direction of any court, Appellate Tribunal or any authority or in any other provision of this Act or the rules made thereunder, the person, who is liable to pay duty in accordance with the provisions of section 28, shall, in addition to such duty, be liable to pay interest, if any, at the rate fixed under sub-section 2, whether such payment is made voluntarily or after determination of the duty under that section.

(2) Interest at such rate not below ten per cent. and not exceeding thirty-six per cent. per annum, as the Central Government may, by notification in the Official Gazette, fix, shall be paid by the person liable to pay duty in terms of section 28 and such interest shall be calculated from the first day of the month succeeding the month in which the duty ought to have been paid or from the date of such erroneous refund, as the case may be, up to the date of payment of such duty.

(3) Notwithstanding anything contained in sub-section (1), no interest shall be payable where,—

- (a) the duty becomes payable consequent to the issue of an order, instruction or direction by the Board under section 151A; and
- (b) such amount of duty is voluntarily paid in full, within forty-five days from the date of issue of such order, instruction or direction, without reserving any right to appeal against the said payment at any subsequent stage of such payment.

**x. Section 77 of the Customs Act 1962:**

The owner of baggage shall, for the purpose of clearing it, make a declaration of its contents to the proper officer.

**xi. Section 78 of the Customs Act 1962:**

The rate of duty and tariff valuation, if any, applicable to baggage shall be the rate and valuation in force on the date on which a declaration is made in respect of such baggage under section 77

**xii. Section 111 of Customs Act, 1962: 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;

.....

(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 trans-shipment, with the declaration for trans-shipment referred to in the proviso to sub-section (1) of section 54;

**xiii. 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,

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

shall be liable, -

(i) 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 the value of the goods or five thousand rupees, whichever is the greater;

(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher:

Provided that where such duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA is paid within thirty days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent. of the penalty so determined;

(iii) in the case of goods in respect of which the value stated in the entry made under this Act or in the case of baggage, in the declaration made under section 77 (in either case hereafter in this section referred to as the declared value) is higher than the value thereof, to a penalty not exceeding the difference between the declared value and the value thereof or five thousand rupees, whichever is the greater;

(iv) in the case of goods falling both under clauses (i) and (iii), to a penalty not exceeding the value of the goods or the difference between the declared value and the value thereof or five thousand rupees, whichever is the highest;

(v) in the case of goods falling both under clauses (ii) and (iii), to a penalty not exceeding the duty sought to be evaded on such goods or the difference between the declared value and the value thereof or five thousand rupees], whichever is the highest.

**xiv. Section 113: Confiscation of goods attempted to be improperly exported, etc.-**  
The following export goods shall be liable to confiscation: -

(c) 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 the Act or any other law for the time being in force;

**xv. Section 114- Penalty for attempt to export goods improperly, etc.-**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, -

(i) in the case of goods in respect of which any prohibition is in force under the 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 the Act, whichever is greater;*

**xvi. Section 114A - Penalty for short-levy or non-levy of duty in certain cases-**

*Where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under sub-section (8) of section 28] shall also be liable to pay a penalty equal to the duty or interest so determined:*

**Provided** *that where such duty or interest, as the case may be, as determined under sub-section (8) of section 28], and the interest payable thereon under section 28AA, is paid within thirty days from the date of the communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent of the duty or interest, as the case may be, so determined:*

**Provided** *further that the benefit of reduced penalty under the first proviso shall be available subject to the condition that the amount of penalty so determined has also been paid within the period of thirty days referred to in that proviso :*

**Provided** *also that where the duty or interest determined to be payable is reduced or increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, for the purposes of this section, the duty or interest as reduced or increased, as the case may be, shall be taken into account:*

**Provided** *also that in case where the duty or interest determined to be payable is increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, the benefit of reduced penalty under the first proviso shall be available if the amount of the duty or the interest so increased, along with the interest payable thereon under section 28AA, and twenty-five percent of the consequential increase in penalty have also been paid within thirty days of the communication of the order by which such increase in the duty or interest takes effect:*

**Provided** *also that where any penalty has been levied under this section, no penalty shall be levied under section 112 or section 114.*

**Explanation** *- For the removal of doubts, it is hereby declared that -*

*(i) the provisions of this section shall also apply to cases in which the order determining the duty or interest sub-section (8) of section 28 relates to notices issued prior to the date on which the Finance Act, 2000 receives the assent of the President;*

*(ii) any amount paid to the credit of the Central Government prior to the date of communication of the order referred to in the first proviso or the fourth proviso shall be adjusted against the total amount due from such person.*

**xvii. Section 123. Burden of proof in certain cases. -**

*(1) Where any goods to which this section applies are seized under this Act in the reasonable belief that they are smuggled goods, the burden of proving that they are not smuggled goods shall be -*

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

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

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

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

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

**xviii. THE BAGGAGE RULES, 2016 (Earlier Baggage Rules, 1998 as amended from time to time):**

RULE 7. Currency. - *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.*

**xix.** As per Customs Baggage Declaration Regulations, 2013 all passengers who come to India and having anything to declare or are carrying dutiable or prohibited goods shall declare their accompanied baggage in the prescribed form.

**xx.** Customs Notification No. 50 /2017 –Customs dated 30.06.2017, as amended, issued by the Central Government; and RBI Circular No. 25 dated 14.08.2013 [RBI/2013-14/187, AP (DIR Series)] permit the import of gold into India by eligible passenger/specified entities, subject to certain conditions.

**xxi.** In terms of the Circular No. 34/2013-Cus. issued by the Directorate General of Export Promotion vide F. No. DGEP/EOU/G & J/16/2009 dated 04.09.2013, import of gold is restricted and gold is permitted to be imported only by the agencies notified by DGFT which are as follows:

- Metals and Minerals Trading Corporation Limited (MMTC);
- Handicraft and Handloom Export Corporation (HHEC);
- State Trading Corporation (STC);
- Project and Equipment Corporation of India Ltd. (PEC);
- STC Ltd.;
- MSTC Ltd.;
- Diamond India Ltd. (DIL);
- Gems and Jewellery Export Promotion Council (G & J EPC);
- A star Trading House or a Premier Trading House under Paragraph 3.10.2 of the Foreign Trade Policy and
- Any other authorized by Reserve Bank of India (RBI).

Hence, the import of gold by any other persons/agencies other than the above mentioned is restricted in terms of the Circular No. 34/2013-Cus. issued by the Directorate General of Export Promotion and the same is liable for confiscation under the Customs Act, 1962.

**xxii.** The CBIC's instructions issued vide F. No. 495/6/97-Cus. VI dated 06.05.1996 and reiterated in letter F. No. 495/19/99-Cus VI dated 11.04.2000 clearly states that the import of goods in commercial quantity would not be permissible within the scope of the Baggage Rules, even on payment of duty.

**xxiii. As per Section 2(m) of the Foreign Exchange Management Act, 1999: In the Act, unless the context otherwise requires, -**  
(m) "foreign currency" means any currency other than Indian currency;

**xxix Notification No. FEMA – 6 (R)/RB-2015 dated 29/12/2015 {Foreign Exchange Management (Export and import of currency) Regulations, 2015} -**

**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.*

**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, -*
  - (i) *Cheques drawn on foreign currency account maintained in accordance with Foreign Exchange Management (Foreign Currency Accounts by a person resident in India) Regulations, 2000;*
  - (ii) *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;*
  - (iii) *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.*

**40.2** A combined reading of the above mentioned legal provisions under the Foreign Trade (Development and Regulation) Act, 1992 and the Customs Act, 1962, read with the notification and orders issued thereunder, it appeared that certain conditions had been imposed on the import of gold into India as a baggage by a passenger, in as much as, only passengers complying with certain conditions such as he/she should be of Indian origin or an Indian passport holder with minimum six months of stay abroad etc. can only import gold in any form and the same has to be declared to the Customs at the time of their arrival and applicable duty has to be paid in foreign currency. These conditions are nothing but restrictions imposed on the import of gold or gold jewellery through passenger baggage. The Hon'ble Supreme Court of India in the case of Sheikh Mohd. Omer Vs Collector of Customs, Calcutta, reported in 1983 (13) ELT 1439, clearly laid down that any prohibition applies to every type of prohibition which may be complete or partial and even a restriction on import was to an extent, a prohibition. Hence, the restriction imposed on import of gold through passenger baggage was to an extent, a prohibition.

#### **41. SUMMARY OF THE INVESTIGATION**

- a) During the search at the premises of CRV Jewels, Varachha, Surat on 21.04.2022, total 135 pieces of 10 tola each of foreign origin Gold biscuits were recovered from the floor of locker situated behind the cash counter of CRV Jewels. During the panchnama drawn at CRV Jewels, it appears that Shri Vipul D. Borad came with the said 135 pieces of 10 tola each of foreign origin Gold biscuits and handed them over, without cover of invoice, to Shri Rambhai Maganbhai Suhagiya, Partner in CRV Jewels, inside the locker room situated behind the cash counter of CRV jewels. It appears that each Gold biscuits of 10 tola each had marking of "Tigris Gold" or "ARG MELTER ASSAYER" and was of foreign origin.
- b) Shri Salim Jafarbai Daginawala, Gold Assayer, examined the yellow metal in the presence of independent panchas, Shri Rambhai Maganbhai Suhagiya and

Shri Vipul Borad and certified the purity of Gold, weight, rate of gold vide his valuation report Sr. No. 16 dated 22.04.2022 and ascertained the weight of 135 pieces of foreign origin Gold Biscuits as 15746.40 gm and its fair value as per market rate (as on 22.04.2022) at Rs. 8,58,17,880/- in total.

- c) 135 pieces of foreign origin Gold Biscuits weighing 15746.40 gm in total appeared to be smuggled goods, as Shri Vipul Borad and Shri Rambhai Maganbhai Suhagiya informed that they did not possess any documents relating to procurement of these gold biscuits/pieces. Therefore, the 135 number of UAE origin Gold Biscuits of 10 Tolas each weighing 15746.40 gm in total valued at Rs. 8,58,17,880/- (Eight Crores Fifty Eight Lakhs Seventeen Thousand Eight Hundred Eighty only) along with Navy Blue color bag having marking of HAIBOWY pertain to Shri Vipul Borad were placed under seizure vide Seizure Memo dated 25.04.2022 (DIN No. 202204DDZ10000000F62) under the provisions of Section 110 of Customs Act, 1962, under the reasonable belief that the same were liable to confiscation under the provisions of Customs Act, 1962.
- d) Statements of relevant persons were recorded u/s 108 of Customs Act, 1962 and it appears that messages relating to the said smuggling of gold were shared in a whatsapp group named "KHANAK 2021" by its members. The admin of the whatsapp group was Shri Nilesh D Borad and other members were Shri Vipul D Borad, Shri Baldev Mansukhbhai Sakhreliya, Shri Navnit D Borad, Shri Ankur Mansukhbhai Sakhreliya and Khanak new company. All the members formed a syndicate and were actively involved in smuggling of foreign origin gold biscuits. All the syndicate members were having knowledge of all the activities of smuggling of gold through chats on whatsapp "Khanak 2021".
- e) It appeared that the syndicate had also smuggled gold on 10.04.2022, 13.04.2022, 17.04.2022 through a group of passengers at Surat International Airport. After completion of relevant investigation, a Show Cause Notice No VIII/10-34-O&A/ADC/CRV/2022-23 dated 14.10.2022 was issued by the Additional Commissioner of Customs, Surat, restricted to seizure of 135 pieces of foreign origin Gold Biscuits of 10 tola each, weighing 15746.40 gm smuggled on 20.04.2022, under Section 124 of Customs Act, 1962.
- f) It appeared that Shri Baldev Mansukhbhai Sakhreliya received orders for supply of foreign origin smuggled gold biscuits from Shri Rambhai Maganbhai Suhagiya, Partner in CRV Jewels and conveyed the orders to Shri Vipul D Borad.
- g) It appeared that Shri Vipul D Borad managed various persons/ carriers and booked their ticket to Sharjah from Surat and after stay for 2 or 3 days booked returned ticket. It appeared that Shri Vipul D Borad had booked the tickets and hotel for the passengers through M/s Magic Holidays and paid charges in cash. It appeared that the ticket agent had never received any payment against tickets, Visa or Hotel booking from the passengers for whom tickets were booked by Shri Vipulbhai Dhirubhai Borad and his accomplices. Further, one of the syndicate members always travelled with the passengers for keeping an eye on them.
- h) It appeared that Shri Vipul D Borad or his associates managed to purchase gold in UAE on cash basis and after landing in India through Surat Airport he collected the smuggled gold outside the airport from the passengers and on the next morning brought the gold biscuits of UAE origin in his bag to CRV Jewels and handed them over to Shri Rambhai Maganbhai Suhagiya in his locker room situated behind the cash counter of CRV Jewels. The CCTV footage showed entry of Shri Ankur Mansukhbhai Sakhreliya on 11.04.2022, Shri

Navnit D. Borad on 14.04.2022 & Shri Vipul D Borad on 18.04.2022 into CRV Jewels showroom with the bag. The said smuggled gold were delivered to Shri Rambhai Maganbhai Suhagiya without cover of Invoice or Challan. Further, the CCTV footage installed at CRV jewels shows how Shri Rambhai Maganbhai Suhagiya used to cover the camera placed inside the locker during the delivery of the smuggled gold biscuits totally contrary to the purpose for which CCTV is installed and establishing his malafide intention.

- i) From the declaration of cash of '4193530' filed by Shri Navnit D Borad at Sharjah on 21.04.2022 it appears that Shri Navnit D Borad had carried sales proceeds of Rs. 8,95,31,865/- (approx.) to purchase the gold to be carried by the passengers accompanied with him. However, the passengers accompanying Shri Navnit D Borad on 21.04.2022 had changed their plan and returned without gold at Mumbai Airport.
- j) It appeared that Shri Navnit D Borad had carried foreign currency equivalent to 4193530 AED from India to UAE and had not followed the regulations prescribed under Foreign Exchange Management (Export and Import of currency) Regulations, 2015. This act of Shri Navnit D Borad falls under the category of illegal exports in terms of Section 11H(a) of the Customs Act, 1962 and the currency exported by them under his baggage was liable to confiscation under the provisions of section 113 of Customs Act, 1962.
- k) It appeared that Shri Rambhai Maganbhai Suhagiya, Partner of CRV Jewels had sold the smuggled gold biscuits to M/s Harikala Bullions and M/s Moon Star Inc. and received cash from them. Further, the cash received from buyer of gold had been handed over by Shri Rambhai Suhagiya to the representative of Shri Vipul D Borad. It appears that Shri Vipul D Borad had managed to send the cash through his associates to Sharjah for purchase of Gold to be smuggled by next set of passengers.
- l) It appeared that import of gold is restricted in terms of provisions prescribed under Customs Act and Foreign Trade Regulations. The gold may be imported only by eligible passengers in terms of Customs Notification No. 50/2017-Customs dated 30.06.2017 and by the agencies notified by the DGFT as per Circular No. 34/2023-Cus. Thus, the gold imported by any persons other than the eligible passengers and notified agency may be treated as illegal imports in terms of Section 11A(a) of the Customs Act and liable to confiscation under section 111 of the Customs Act, 1962.
- m) From the report received from Customs, Airport Surat, it appeared that no passengers/ carrier who arrived from Sharjah and departed to Sharjah had filed any declaration under section 77 of the Customs Act, 1962 before Surat Airport Customs authorities during the period from 07.04.2022 to 21.04.2022.
- n) Shri Vipul D Borad and Shri Rambhai Maganbhai Suhagiya accepted in their respective statements recorded u/s 108 of Customs Act, 1962 that they did not possess any documents relating to procurement of those gold.
- o) It appeared that Shri Vipul Dhirubhai Borad had hired the passengers who had smuggled the gold on behalf of Shri Vipul Dhirubhai Borad on 10.04.2022, 13.04.2022 and 17.04.2022. Thus, in terms of section 2(3A) of the Customs Act, 1962, Shri Vipul Dhirubhai Borad was the 'beneficial owner' of the smuggled gold.
- p) It appeared that prior to the seizure of 135 pieces of Gold biscuits on 21.04.2022, Shri Vipul D Borad & his associated had smuggled 389 pieces of Gold biscuits of 10 tola each totally 41.858 kg valued at Rs. 20,12,07,916/-.

Thus they had evaded the total Customs duty of Rs. 7,74,65,047/- (including SWS) which was required to be recovered along with applicable interest from Shri Vipul D Borad under the provisions of Customs Act, 1962.

#### **42. OVERSEAS REFERENCE**

A reference was made to the First Secretary (Trade), Trade Wing, Embassy of India, Dubai vide letter F.No. DRI/AZU/SRU-10/B/Inv-08(INT-09)2022 dated 20.06.2022 requesting to make enquiry relating to declaration filed by the passengers with Customs Authorities at Airport Sharjah/Dubai. The reply is awaited.

#### **43. CONFISCATION OF SEIZED GOLD:**

**43.1** It appeared that Shri Vipul Dhirubhai Borad formed a syndicate alongwith Shri Nilesh Borad, Shri Navnit Borad, Shri Baldev Sakhreliya and Shri Ankur Mansukhbhai Sakhreliya and used the whatsapp chat group in the name of “Khanak 2021” for smuggling of Gold from UAE through a flight scheduled to Surat from Sharjah. It appeared that Shri Vipul D Borad and others had hired a group of passengers for visit to Sharjah and on return they were required to carry the foreign origin gold on behalf of Shri Vipul D Borad. It appeared that during the travelling from Surat to Sharjah or Sharjah to Surat, one of the members of the syndicate accompanied the passengers so that they could not play mischief with Shri Vipul D Borad. In the meantime, on the day before the departure of passengers / carriers from Sharjah, Shri Vipul D Borad received order from Shri Rambhai Maganbhai Suhagiya, partner of CRV Jewels for a specific number of Gold biscuits of 10 tola each through his associate Shri Baldev Sakhreliya. Shri Rambhai Maganbhai Suhagiya had also quoted/offered a rate for per 10 grams of Gold to Shri Baldev Sakhreliya. After receiving the order from Rambhai Maganbhai Suhagiya, Shri Vipul D Borad managed to purchase Gold in UAE through his accomplices. It appeared that after landing at Surat airport, Shri Vipul D Borad or his associates collected the foreign origin gold biscuits from the passengers and managed to deliver the same either himself or through Shri Navnit D Borad or Shri Ankur Mansukhbhai Sakhreliya on the next morning to Shri Rambhai Maganbhai Suhagiya, partner in CRV Jewels. It appeared that after receiving the smuggled foreign origin Gold at CRV Jewels, Shri Rambhai Maganbhai Suhagiya called for delivery and handed over the same to pre-determined customers viz. Harikala Bullions and M/s Moon Star Inc.

**43.2** It appeared that Shri Rambhai Maganbhai Suhagiya had received 389 pieces of Gold biscuits of 10 tola each weighing 41.858 kg valued at Rs. 20,12,07,916/- and handed over to Harikala Bullions and M/s Moon Star Inc. It appeared that the said Gold biscuits were smuggled by a group of passengers through Surat International Airport on 10.04.2022, 13.04.2022, 17.04.2022 in contravention with the provisions of Foreign Trade Policy and the provisions of Customs Act, 1962. It appeared that 389 pieces of Gold biscuits of 10 tola each weighing 41.858 kg valued at Rs. 20,12,07,916/- were smuggled gold wherein applicable Customs duties had not been paid at the time of entry. Thus, it appeared that the 389 pieces of foreign origin gold biscuits of 10 tola each weighing 41.858 kg valued at Rs. 20,12,07,916/- (Twenty Crores Twelve Lakh Seven Thousand Nine Hundred Sixteen only) were liable for confiscation under the provisions of Section 111 (d) (i) (j) (l) & (m) of Customs Act, 1962.

44. Role played by Shri Vipul Dhirubhai Borad, Shri Nilesh Dhirubhai Borad, Shri Navnitkumar Dhirubhai Borad, Shri Baldev Sakhreliya, Shri Ankur Mansukhbhai Sakhreliya, Shri Rambhai Maganbhai Suhagiya, Shri Chetan Katharotiya, Shri Manishkumar Mansukhbhai Suhagiya, Shri Sagar Manubhai Shah and passengers:

#### **44.1 Shri Vipul Dhirubhai Borad:**

It appeared that Shri Vipul D Borad had played a vital role and was the mastermind behind the smuggling of 389 pieces of Gold biscuits of 10 tola each weighing 41.858 kg in total through Surat Airport on 10.04.2022, 13.04.2022 & 17.04.2022. It appeared that Shri Vipul D Borad had hired the passengers/ carriers to carry the gold from Sharjah in lieu of their holiday expenses for Sharjah/Dubai tour. Shri Vipul D Borad had received orders for Gold Biscuits from Shri Rambhai Maganbhai Suhagiya through Shri Baldev Sakhreliya to be smuggled in next coming days and executed the smuggling operation with the help of his accomplice. It appeared that Shri Vipul had managed to purchase the Gold biscuits in Sharjah and planned to carry it to India. It appeared that Shri Vipul D. Borad had stayed in same room with the carriers/ passengers viz. Kalpesh Chhaswala and Shri Vivek Patel in Admiral Plaza Hotel for 3 nights from 10.04.2022 to 13.04.2022 and returned on the same flight IX 172 on 13.04.2022. It appeared that Shri Vipul D. Borad had handed over 115 pc of Gold biscuits of 10 tola each weighing 13.408 kg in total to the passengers at Sharjah Airport on 13.04.2022. Shri Vipul D Borad (seat No. 21F) and Shri Baldev Sakhreliya (seat No. 19A) had accompanied the passengers travelling on 13.04.2022 to avoid any mischief by them. It appeared that after landing of flight IX 172 (Sharjah- Surat) at the Surat Airport on 17.04.2022, Shri Vipul D Borad received the Gold biscuits from passengers/carriers outside the airport. On the very next day i.e. on 18.04.2022, Shri Vipul D Borad had carried those gold biscuits to CRV Jewels and handed over the said gold biscuits to Shri Rambhai Maganbhai Suhagiya, partner of CRV Jewels in the locker room situated behind the cash counter of CRV jewels. It appeared that Shri Vipul D Borad had sent their persons to Shri Rambhai Maganbhai Suhagiya to collect the cash i.e. sales proceeds at CRV Jewels. Thus, it appeared that Shri Vipul D Borad was having knowledge that the 389 pieces of Gold biscuits of 10 tola each weighing 41.858 kg in total was smuggled through Surat International airport and no declaration was filed before the Customs authorities, which made the goods liable for confiscation.

#### **44.2 Shri Rambhai Maganbhai Suhagiya, Partner of CRV Jewels:**

It appeared that Shri Rambhai Maganbhai Suhagiya was one of the partners in CRV Jewels and cousin of Shri Vipul D Borad. Shri Rambhai Maganbhai Suhagiya had played a vital role for smuggling of 389 pieces of Gold biscuits of 10 tola each weighing 41.858 kg in total through Surat Airport. He placed order of 144 pc, 115 pc & 130 pc of Gold biscuits to Shri Baldev Sakhreliya on 09.04.2022, 12.04.2022 & 16.04.2022 respectively. He quoted the gold price to Shri Baldev Sakhreliya per tola on whatsapp. Shri Rambhai Maganbhai Suhagiya had received the smuggled foreign origin gold biscuits of 389 pieces of Gold biscuits of 10 tola each weighing 41.858 kg in total from Shri Ankur Mansukhbhai Sakhreliya on 11.04.2022, from Shri Navnit D. Borad on 14.04.2022 and from Shri Vipul D Borad on 18.04.2022 in the locker room of CRV Jewels. It appeared that he ordered those 389 pieces of Gold biscuits as per the requirement from bullion firms i.e. M/s Harikala Bullion and Moon Star Inc. He had identified the persons who came to CRV to receive Gold from him as the person belonging to Harikala Bullions and M/s Moon Star Inc., but he had not co-operated in investigation to reveal identity of those persons. It appeared that Shri Rambhai Maganbhai Suhagiya earned handsome commission on the brokerage on smuggled gold. It appeared that Shri Rambhai Maganbhai Suhagiya was directly indulging in sale of smuggled gold to Surat based bullion firms.

#### **44.3 Shri Chetan Katharotiya, Partner of CRV Jewels:**

It appeared that Shri Chetan Katharotiya was the second partner in CRV Jewels. Shri Chetan Katharotiya had played a vital role in dealing with the 389 pieces of Gold biscuits of 10 tola each weighing 41.858 kg in total. He was fully aware about the visit of Shri Ankur Mansukhbhai Sakhreliya on 11.04.2022 and Shri Navnit D Borad on 14.04.2022 with smuggled gold biscuits at CRV Jewels. It appeared that Shri Chetan Katharotiya was assisting Shri Rambhai Maganbhai Suhagiya in receiving the cash from the buyer of gold at counter of CRV Jewels and



kept the same in locker room. Further, he had also carried the cash from locker room to the counter to handover the same to the persons of Shri Vipul D Borad. He had identified the persons who came to CRV to receive Gold from Shri Rambhai Maganbhai Suhagiya as belonging to Harikal Bullions and M/s Moon Star Inc. but he had not co-operated in investigation to reveal identity of those persons. Shri Chetan Katharotiya was well aware about the dealing of smuggled gold biscuits from the premises of CRV Jewels and he also played an active role in dealing with sales proceeds of the smuggled gold. It appeared that being a partner in CRV Jewels, he earned handsome commission on the brokerage on smuggled gold.

#### **44.4 Shri Baldev Mansukhbhai Sakhreliya:**

Shri Baldev Mansukhbhai Sakhreliya had received the orders from Shri Rambhai Maganbhai Suhagiya, Partner in CRV Jewels for 144 pc of Gold biscuits at the rate of Rs 52850/- per tola on whats app on 09.04.2022. Further, Shri Baldev Sakhreliya had received the orders from Shri Rambhai Maganbhai Suhagiya, Partner of CRV Jewels for 115 pc of Gold biscuits at the rate of Rs 53250/- per tola on whats app on 12.04.2022 and for 130 pc of Gold biscuits at the rate of Rs 53650/- per tola on whats app on 16.04.2022 and conveyed the same to Shri Vipul D Borad. Shri Baldev Sakhreliya was fully aware about the smuggling of Gold Biscuits as the messages were frequently passed in the whatsapp group name “KHANAK 2021” wherein Shri Baldev Sakhreliya was also a member. It appeared that Shri Baldev Sakhreliya (seat No. 19A) had travelled on 13.04.2022 with Shri Vipul D Borad (seat No. 21F) on flight IX 172 from Sharjah to Surat and choosen seat in different row to keep watch on the passengers who carried gold to avoid any mischief by them. It appeared that Shri Baldev Sakhreliya had shared the Air tickets of passengers viz. Shri Rakesh Gopalbhai Moradiya, Shri Kalpeshkumar Thkarshibhai Desai and Shri Gauravgiri Dinesgiri Goswami and Shri Ankur Mansukhbhai Sakhreliya, all persons scheduled to travel from Sharjah to Surat on 17.04.2022 via flight IX-172, on 14.04.2022 in whatsapp group “KHANAK 2021”. It appeared that Shri Baldev Sakhreliya was also aware about the smuggling of gold through passengers at Surat International Airport. On being asked by Shri Rambhai Maganbhai Suhagiya on 14.04.2022 at 10:12:55 am that “*Kon avse*” (who will come) and in response Shri Baldev Sakhreliya replied on 14.04.2022 at 10:12:59 am “Navnit bhai”. It also appears from the CCTV footage of CRV Jewels that Shri Navnit D. Borad (Navnit bhai) visited CRV Jewels with smuggled gold in a bag on 14.04.2022 at 10:50 am and handed over the same to Shri Rambhai Maganbhai Suhagiya in the locker room of CRV Jewels. It appeared Shri Baldev Sakhreliya was a part of syndicate and played a vital role in smuggling of the 389 pieces of Gold biscuits of 10 tola each weighing 41.858 kg in total through Surat International Airport which are liable for confiscation.

#### **44.5 Shri Ankur Mansukhbhai Sakhreliya:**

Shri Ankur Mansukhbhai Sakhreliya was an active syndicate member involved in smuggling of gold biscuits. He was having the knowledge of smuggling from the chats taking place in “Khanak 2021” and from the picture of smuggled gold shared by Shri Vipul Borad in the night of 20.04.2022. Shri Ankur Mansukhbhai Sakhreliya had travelled to Sharjah on 14.04.2022 with a group of passengers via flight IX171 and returned from Sharjah on 17.04.2022 via flight IX 172 with the passengers who smuggled gold on 17.04.2022. Shri Ankur Mansukhbhai Sakhreliya had shared the photo of said passengers on “Khanak 2021” whatsapp group. To a question raised by Shri Vipul whether those are the passengers carrying gold, he had replied yes in the group. He also provided names of the five passengers travelling with him on that day to which Shri Baldev Sakhreliya commented as “Smuggler ni toli”. It appeared that one of the passengers viz. Shri Diveyesh Natvarbhai Tavadiya who had also travelled on 17.04.2022 on the same flight had accepted that he had carried 8 pc of gold Biscuits (932.8 gm) as per the proposal of Shri Ankur Mansukhbhai Sakhreliya and handed them over to Ankur Mansukhbhai Sakhreliya in the parking area of Surat Airport. Thus, it appeared that Shri Ankur

Mansukhbhai Sakhreliya was fully aware about the smuggling of Gold Biscuits as the messages were frequently passed on in the whats group name “KHANAK 2021” wherein Shri Ankur Mansukhbhai Sakhreliya was also a member. Thus, it appeared that Shri Ankur Mansukhbhai Sakhreliya was the person who handed over the 130 pc of Gold biscuits of 10 tola each weighing 15.158 kg in total to the passengers at Sharjah Airport on 17.04.2022 and accompanying the passengers on the same flight to Surat. It appeared that Shri Ankur Mansukhbhai Sakhreliya had delivered the 144 pc of smuggled Gold biscuits of 10 tola each weighing 13.292 kg in total to Shri Rambhai Maganbhai Suhagiya on 11.04.2022. It appeared that Shri Ankur Mansukhbhai Sakhreliya had visited CRV Jewels to collect the sales proceeds in cash from Rambhai Maganbhai Suhagiya on several occasions. It appeared Shri Ankur Mansukhbhai Sakhreliya was a part of the gold smuggling syndicate and played a vital role in smuggling of the 389 pieces of Gold biscuits of 10 tola each weighing 41.858 kg in total through Surat International Airport which were liable to confiscation.

#### **44.6 Nilesh Dhirubhai Borad:**

Shri Nilesh D Borad, brother of Shri Vipul D Borad had created a whatsapp group for business related to textile but after April, 2022 this group was used for exchange of information relating to smuggling of Gold from Sharjah. Shri Nilesh D. Borad was aware about the smuggling of Gold by his elder brother Shri Vipul D Borad. It appeared that Shri Nilesh Borad had forwarded the copy of Hotel Booking Voucher in the name of Mr. Vipulkumar Borad, Mr. Kalpesh Chhaswala & Mr. Vivek Patel to Shri Vipulbhai D Borad on whats app on 07.04.2022. Further copy of dummy Air ticket in the name of all three persons for flight AI 912- Air India from Dubai to Mumbai for journey on 24.04.2022 were also shared by Shri Nilesh D Borad to Shri Vipulbhai D Borad on whatsapp on 10.04.2022. It appeared that Shri Nilesh D Borad had shared contact number of Mr. Kalpesh Navinchandra Chhaswala, a passenger who had travelled with Shri Nilesh D Borad on 13.04.2022. It appears that Shri Nilesh D. Borad was a part of syndicate and played a vital role in smuggling of the 389 pieces of Gold biscuits of 10 tola each weighing 41.858 kg in total through Surat International Airport which are liable to confiscation.

#### **44.7 Shri Navnitkumar Dhirubhai Borad:**

Shri Navnitkumar Dhirubhai Borad, brother of Shri Vipul D Borad was an active member of whatsapp group “Khanak 2021” which was used for exchange of information relating to smuggling of Gold from Sharjah. Shri Navnit D. Borad was not only aware about the smuggling of Gold by his elder brother Shri Vipul D Borad & others but was actively participating in such activities. He travelled with two other passengers with sales proceeds of 41 lakh currency (equivalent to 8,95,31,865/-) to Dubai on 21.04.2022 and shared the declaration filed with Dubai Customs authorities on whatsapp group “Khanak 2021”. It appeared that Shri Navnit Dhirubhai Borad had delivered the 115 pc of smuggled Gold biscuits of 10 tola each weighing 13.408 kg in total to Shri Rambhai Maganbhai Suhagiya on 14.04.2022. It appeared that Shri Navnit Dhirubhai Borad had visited CRV Jewels to collect the sale proceeds in cash from Rambhai Maganbhai Suhagiya on several occasions. It appeared Shri Navnit Dhirubhai Borad was a part of syndicate and played a vital role in smuggling of the 389 pieces of Gold biscuits of 10 tola each weighing 41.858 kg in total through Surat International Airport which were liable for confiscation.

#### **44.8 Shri Sagar Manubhai Shah (Proprietor of Moons Star Inc., Surat):**

It appeared that Shri Sagar Manubhai Shah, Proprietor of Moon Star Inc. (Mob no. 9687099000) was in constant touch with Shri Rambhai Maganbhai Suhagiya during the relevant period i.e. from 16.04.2022 to 19.04.2022 through whatsapp call for the purchase of smuggled gold biscuits. It appeared that as per the ledger submitted by Shri Rambhai M. Suhagiya, CRV Jewels had no business transactions with Moon Star Inc. during April, 2022. It appeared that Shri Sagar

Manubhai Shah had purchased the consignments of 40 pieces of Foreign Origin gold of 10 tola each on 11.04.2022, and 130 pieces of Foreign Origin gold of 10 tola each on 18.04.2022 from Shri Rambhai Maganbhai Suhagiya, Partner in CRV Jewels. It appeared that the cut pieces of Gold having marking of “Tigris” and “ARG”, seized from M/s Moon Star Inc. were part of the consignment of UAE origin Gold Biscuits smuggled by Shri Vipul D Borad and sold to M/s Moon Star Inc on 18.04.2022 by Shri Ram bhai Suhagiya. It appeared that Shri Sagar Manubhai Shah had procured smuggled gold biscuits from Shri Rambhai Maganbhai Suhagiya and sent cash on several occasions through his persons to CRV Jewels.

#### **44.9 Shri Manishkumar Mansukhbhai Suhagiya, Manager/ Defacto Owner of Harikala Bullions, Surat:**

It appeared that Shri Manishkumar Mansukhbhai Suhagiya was managing the overall business of M/s Harikala Bullions and he had purchased 104 pieces of gold biscuits of 10 tolas each weighing 12.126 kg in total on 11.04.2022 from Shri Rambhai Maganbhai Suhagiya, Partner in CRV Jewels. He further purchased 115 pieces of Gold Biscuits of 10 tolas each weighing 13.408 kg in total on 14.04.2022 from Shri Rambhai Maganbhai Suhagiya, Partner of CRV Jewels. It appeared that as per the ledger submitted by Shri Rambhai M. Suhagiya, CRV Jewels had no business transactions with Harikala Bullions during April, 2022. It appeared that Shri Manishkumar Mansukhbhai Suhagiya was in constant touch with Shri Rambhai Maganbhai Suhagiya during the relevant period i.e. from 09.04.2022 to 21.04.2022 through whatsapp/ normal call for the purchase of smuggled gold biscuits. It appeared that Manishkumar Mansukhbhai Suhagiya had procured smuggled gold biscuits from Shri Rambhai Maganbhai Suhagiya and sent cash on several occasions through his person to CRV Jewels.

#### **44.10 Shri Hardik Rupareliya:**

It appeared that Shri Hardik Ruparilya had travelled via flight IX 172 from Sharjah to Surat on 10.04.2022 and carried the Gold biscuits on behalf of Shri Vipul D Borad. It appears that mobile no ‘8866438755’ was saved in the name of ‘Hardik jalpesh’ by Shri Vipul D Borad. It appeared that Shri Vipul D Borad had made/ received 12 calls from Shri Hardik Rupareliya alias Jalpesh during the period from 04.03.2022 to 15.04.2022. It appeared that Shri Hardik Rupareliya alias Jalpesh was known to Shri Vipul D Borad, but he denied in his statement that he knew Shri Vipul D Borad. Further, it appeared that Shri Hardik Rupareliya alias Jalpesh had also failed to produce the copy of travel tickets in support of his claim that tickets were booked by his relative. It appeared that Shri Hardik Ruparilya had carried the gold on behalf of Shri Vipul D Borad on 10.04.2022 as well as he had used his mother to carry the 25 pcs of Gold biscuit from Sharjah to Surat on 17.04.2022. Thus, it appeared that he was directly involved in smuggling of foreign origin gold biscuits of 10 tola each on 10.04.2022 & 17.04.2022 through Surat International Airport on behalf of Shri Vipul D Borad which were liable for confiscation.

#### **44.11 Shri Nikhil Prafullbhai Kanani:**

It appeared that Shri Nikhil Prafullbhai Kanani had travelled with his wife and infant daughter via flight IX 172 from Sharjah to Surat on 10.04.2022 and carried the Gold biscuits on behalf of Shri Vipul D Borad. Shri Nikhil Prafullbhai Kanani had returned to Sharjah on 18.04.2022 via flight IX 171. It appeared that the travel ticket of Shri Nikhil Prafullbhai Kanani and his family were booked by Shri Vipul D Borad through Magic Holidays. It appeared that Shri Nikhil Prafullbhai Kanani (mobile No. 8980778185) was in contact with Shri Vipul D Borad and his mobile number was saved in the phone of Vipul D Borad as “of ‘Nikhil India’”. It appeared that Shri Nikhil Prafullbhai Kanani was known well to Shri Vipul D Borad, but he denied in his statement to know Shri Vipul D Borad. Further, it appeared that Shri Nikhil Prafullbhai Kanani also failed to produce the copy of travel tickets in

support of his claim that tickets were booked at his own expences. Thus, it appeared that he was directly involved in smuggling of foreign origin gold biscuits of 10 tola each on 10.04.2022 through Surat International Airport on behalf of Shri Vipul D Borad which were liable to confiscation.

#### **44.12 Shri Mukesh Kumar Dhirajlal Kanani,**

It appeared that Shri Mukesh Kumar Dhirajlal Kanani went to Sharjah on 07.04.2022 and returned from Sharjah to Surat via flight IX 172 on 10.04.2022 and carried the Gold biscuits on behalf of Shri Vipul D Borad. It appeared that the travel ticket of Shri Mukesh Kumar Dhirajlal Kanani for Surat to Sharjah and return ticket from Sharjah to Surat were booked by Shri Vipul D Borad through Magic Holidays. It appeared that Shri Mukesh Kumar Dhirajlal Kanani(mobile No. 9978826005) was in contact with Shri Vipul D Borad and his mobile number was saved in mobile phone as "Mukesh Kumar" by Shri Vipul D Borad. It appeared that Shri Mukesh Kumar Dhirajlal Kanani was known well to Shri Vipul D Borad, but he denied in his statement to know Shri Vipul D Borad. Further, it appeared that Shri Mukesh Kumar Dhirajlal Kanani also failed to produce the copy of travel tickets in support of his claim that tickets were booked at his own expences. Thus, it appeared that he was directly involved in smuggling of foreign origin gold biscuits of 10 tola each on 10.04.2022 through Surat International Airport on behalf of Shri Vipul D Borad which were liable for confiscation.

#### **44.13 Shri Kalpesh Navinchandra Chhaswala,**

It appeared that Shri Kalpesh Navinchandra Chhaswalawent to Sharjah on 11.04.2022 and returned from Sharjah to Surat via flight IX 172 on 13.04.2022 and carried the Gold biscuits on behalf of Shri Vipul D Borad. It appeared that the travel ticket of Shri Kalpesh Navinchandra Chhaswala from Surat to Sharjah was booked by Shri Vipul D Borad through Magic Holidays. It appeared that Shri Kalpesh Navinchandra Chhaswala(mobile No. 8460825802) was in contact with Shri Vipul D Borad and had spoken two times on 10.04.2022 before departure to Sharjah. It appeared that Shri Kalpesh Navinchandra Chhaswalawas known well to Shri Vipul D Borad, but he denied in his statement to know Shri Vipul D Borad. Further, it appeared that Shri Kalpesh Navinchandra Chhaswala had also failed to produce the copy of travel tickets in support of his claim that tickets were booked by his relative Shri Vivek Premjibhai Patel who went out of India for study purpose. Thus, it appeared that Shri Kalpesh Navinchandra Chhaswala was directly involved in smuggling of foreign origin gold biscuits of 10 tola each on 13.04.2022 through Surat International Airport on behalf of Shri Vipul D Borad which were liable for confiscation.

#### **44.14 Shri Vivek Premjibhai Patel,**

It appeared that Shri Vivek Premjibhai Patel went to Sharjah on 11.04.2022 and returned from Sharjah to Surat via flight IX 172 on 13.04.2022 and carried the Gold biscuits on behalf of Shri Vipul D Borad. It appeared that the travel ticket of Shri Vivek Premjibhai Patel for Surat to Sharjah and return ticket from Sharjah to Surat were booked by Shri Vipul D Borad through Magic Holiday. Summons dated 27.10.2022 was issued to Shri Vivek Premjibhai Patel u/s 108 of Customs Act, 1962 but he had neither joined the investigation nor responded to Summons issued to him. Thus, it appeared that Shri Vivek Premjibhai Patel was directly involved in smuggling of foreign origin gold biscuits of 10 tola each on 13.04.2022 through Surat International Airport on behalf of Shri Vipul D Borad and which were liable for confiscation.

#### **44.15 Shri Gauravgiri Dineshgiri Goswami,**

It appeared that Shri Gauravgiri Dineshgiri Goswami went to Sharjah on 14.04.2022 and returned from Sharjah to Surat via flight IX 172 on 17.04.2022 and carried the Gold biscuits on behalf of Shri Vipul D Borad. It appeared that the travel ticket of Shri Gauravgiri Dineshgiri Goswami for Surat to Sharjah and return ticket

from Sharjah to Surat were booked by Shri Vipul D Borad through Magic Holiday. Summons dated 27.10.2022 was issued to Shri Gauravgiri Dineshgiri Goswami/s 108 of Customs Act, 1962 but he had neither joined the investigation nor responded to Summons issued to him. It appeared that Shri Gauravgiri Dineshgiri Goswami was a part of group of passengers who travelled with Shri Ankur Mansukhbhai Sakhreliya on 17.04.2022. It appeared that Shri Ankur Mansukhbhai Sakhreliya had shared their names and group photo on whats app group 'KHANAK 2021' and in response Shri Baldev Sakhreliya had commented on their name "*Smaglaro ni toli*". Thus, it appeared that Shri Gauravgiri Dineshgiri Goswami was directly involved in smuggling of foreign origin gold biscuits of 10 tola each on 17.04.2022 through Surat International Airport on behalf of Shri Vipul D Borad, which were liable for confiscation.

#### **44.16 Shri Rakesh Gopalbhai Moradiya,**

It appeared that Shri Rakesh Gopalbhai Moradiyawent to Sharjah on 14.04.2022 and returned from Sharjah to Surat via flight IX 172 on 17.04.2022 and carried the Gold biscuits on behalf of Shri Vipul D Borad. It appeared that the Visa & travel ticket of Shri Rakesh Gopalbhai Moradiya for Surat to Sharjah and return ticket from Sharjah to Surat were booked by Shri Vipul D Borad through Magic Holiday. It appeared that Shri Rakesh Gopalbhai Moradiya was a part of a group of passengers who travelled with Shri Ankur Mansukhbhai Sakhreliya on 17.04.2022. It appeared that Shri Ankur Mansukhbhai Sakhreliya had shared their names and group photo in whats app group 'KHANAK 2021' and in response Shri Baldev Sakhreliya had commented on their name "*Smaglaro ni toil*". Further, it appeared that Shri Rakesh Gopalbhai Moradiya had also failed to produce the copy of travel tickets in support of his claim that tickets were booked by his friend Shri Kalpesh Desai through Magic Holidays, Surat. Thus, it appeared that Shri Rakesh Gopalbhai Moradiyawas was directly involved in smuggling of foreign origin gold biscuits of 10 tola each on 17.04.2022 through Surat International Airport on behalf of Shri Vipul D Borad which were liable for confiscation.

#### **44.17 Shri Kalpeshkumar Desai,**

It appeared that Shri Kalpeshkumar Desaiwent to Sharjah on 14.04.2022 and returned from Sharjah to Surat via flight IX 172 on 17.04.2022 and carried the Gold biscuits on behalf of Shri Vipul D Borad. It appeared that the Visa and travel ticket of Shri Kalpeshkumar Desai for Surat to Sharjah and return ticket from Sharjah to Surat were booked by Shri Vipul D Borad through Magic Holidays. It appeared that Shri Kalpeshkumar Desaiwas a part of a group of passengers who travelled with Shri Ankur Mansukhbhai Sakhreliya on 17.04.2022. It appeared that Shri Ankur Mansukhbhai Sakhreliya had shared their names and group photo in whats app group 'KHANAK 2021' and in response Shri Baldev Sakhreliya had commented on their name "*Smaglaro ni toil*". Further, it appeared that Shri Kalpeshkumar Desaihas also failed to produce the copy of travel tickets in support of his claim that tickets were booked by him through Magic Holidays, Surat. Thus, it appeared that Shri Kalpeshkumar Desaiwas was directly involved in smuggling of foreign origin gold biscuits of 10 tola each on 17.04.2022 through Surat International Airport on behalf of Shri Vipul D Borad which were liable for confiscation.

#### **44.18 Ms. Vasantben Hasmukhbhai Rupareliya,**

It appeared that Ms. Vasantben Hasmukhbhai Rupareliya had travelled from Sharjah to Surat via flight IX 172 on 17.04.2022 and carried the Gold biscuits on behalf of Shri Vipul D Borad. It appeared that Ms. Vasantben Hasmukhbhai Rupareliya was a part of a group of passengers who had travelled with Shri Ankur Mansukhbhai Sakhreliya on 17.04.2022. It appeared that Shri Ankur Mansukhbhai Sakhreliya had shared her names and her photo in whats app group 'KHANAK 2021' and in response Shri Baldev Sakhreliya had introduced her as '*Jalpesh na Mammi*' (Mother of Jalpesh) and further commented on her photo "*Chokra sala smagling*".

*krave che*”&‘*Ava chokra koi na pake*’ (No one will grow up with such a boy). It appeared that son of Ms. Vasantben Hasmukhbhai Rupareliya i.e. Shri Hardik Rupareliya alias Jalpesh was known to Shri Vipul D Borad, but he, as well as his mother, Ms. Vasantben Hasmukhbhai Rupareliya denied in their statement to know Shri Vipul D Borad. Further, it appeared that Ms. Vasantben Hasmukhbhai Rupareliya has also failed to produce the copy of travel tickets in support of his claim that tickets were booked by her niece through Magic Holidays, Surat. Thus, it appeared that Ms. Vasantben Hasmukhbhai Rupareliya was directly involved in smuggling of 25 pcs of foreign origin gold biscuits of 10 tola each on 17.04.2022 through Surat International Airport on behalf of Shri Vipul D Borad which were liable for confiscation.

#### **44.19 Shri Divyesh Natvarbhai Tavadiya**

It appeared that Shri Divyesh Natvarbhai Tavadiya went to Sharjah on 14.04.2022 and returned from Sharjah to Surat via flight IX 172 on 17.04.2022 and carried the 8 pieces of Gold biscuits on behalf of Shri Vipul D Borad. It appeared that Shri Divyesh Natvarbhai Tavadiya was a part of a group of passengers who had travelled with Shri Ankur Mansukhbhai Sakhreliya on 17.04.2022. It appeared that Shri Ankur Mansukhbhai Sakhreliya had shared their names and group photo in whats app group ‘KHANAK 2021’ and in response Shri Baldev Sakhreliya had commented on their name “*Smaglaro ni toil*”. Further, it appeared that Shri Divyesh Natvarbhai Tavadiya had also failed to produce the copy of travel tickets in support of his claim that tickets were booked by Shri Niravbhai through Magic Holiday, Surat. It appeared that Shri Divyesh Natvarbhai Tavadiya accepted in his statement that Shri Ankur Mansukhbhai Sakhreliya had given him 8 pices of Gold biscuits after security clearance at Sharjah Airport and after arrival at Surat Shri Divyesh Natvarbhai Tavadiya returned the said gold biscuits to Ankur Mansukhbhai Sakhreliya. Thus, it appeared that Shri Divyesh Natvarbhai Tavadiya was directly involved in smuggling of 8 pieces of foreign origin gold biscuits of 10 tola each, which were liable for confiscation, on 17.04.2022 through Surat International Airport on behalf of Shri Ankur Mansukhbhai Sakhreliya / Shri Vipul D Borad.

#### **45. Penalty**

##### **45.1 Shri Vipul Dhirubhai Borad:**

It appeared that Shri Vipul D Borad with the help of Shri Rambhai Maganbhai Suhagiya and Shri Baldev Sakhreliya hatched the conspiracy for smuggling of Gold biscuits from Sharjah through Surat International Airport. He played an active role in hiring of carriers / passengers for carrying the gold from Sharjah to Surat and booked their air tickets and hotel for stay. He had played a vital role in smuggling of 389 pieces of gold biscuits of 10 tola each weighing 41.858 kg in total. It also appeared that Shri Vipul Dhirubhai Borad with the collusion of other persons/passengers had evaded the total Customs duty of Rs. 7,74,65,047/- (incl. SWS) on the gold biscuits smuggled through the passengers during the month of April, 2022. It appeared that he was having culpable mental state and the act of omission and commission made on his part for the smuggling of gold which were liable for confiscation, had rendered himself liable for penalty under Section 112 (a), 112 (b), & 114A of the Customs Act, 1962.

##### **45.2 Shri Rambhai Maganbhai Suhagiya, Partner of CRV Jewels:**

It appeared that Shri Rambhai Maganbhai Suhagiya had played a vital role in keeping and selling the smuggled gold from his premises CRV Jewels. It appeared that Shri Rambhai Maganbhai Suhagiya earned handsome commission on the brokerage on smuggled gold. It appeared that Shri Rambhai Maganbhai Suhagiya was directly indulging in sale of smuggled gold to Surat based bullion firms. It appeared that Shri Rambhai Maganbhai Suhagiya was dealing with receipt and delivery of smuggled Gold and its sales proceeds. It appeared that he was having culpable mental state and the act of omission and commission made on his part for

the smuggling of gold which were liable for confiscation, had rendered himself liable for penalty under Section 112 (a) & (b) of the Customs Act, 1962.

#### **45.3 Shri Chetan Katharotiya, Partner of CRV Jewels:**

It appeared that Shri Chetan Katharotiya had played a vital role in dealing with 389 pieces of Gold biscuits of 10 tola each weighing 41.858 kg in total. He was fully aware about the dealing of smuggled gold biscuits from the premises of CRV Jewels and he also played an active role in dealing with the sales proceeds of the smuggled gold. It appeared that being a partner in CRV Jewels, he earned handsome commission on the brokerage on smuggled gold. It appeared that he was having culpable mental state and the act of omission and commission made on his part for the smuggling of gold which were liable for confiscation, had rendered himself liable for penalty under Section 112(b) of the Customs Act, 1962.

#### **45.4 Shri Baldev Mansukhbhai Sakhreliya:**

It appeared that Shri Baldev Mansukhbhai Sakhreliya had received the orders from Shri Rambhai Maganbhai Suhagiya, Partner in CRV Jewels. Shri Baldev Sakhreliya was fully aware about the smuggling of Gold Biscuits as the messages were frequently passed in the whatsapp group name "KHANAK 2021" wherein Shri Baldev Sakhreliya was also a member. It appeared that Shri Baldev Sakhreliya abetted Shri Vipul D Borad in smuggling of Gold and he himself indulged in dealing with the goods which he knew were smuggled and are liable to confiscation. It appeared Shri Baldev Sakhreliya was a part of the gold smuggling syndicate and played a vital role in smuggling of the 389 pieces of Gold biscuits of 10 tola each weighing 41.858 kg in total through Surat International Airport. It appeared that he was having culpable mental state and the act of omission and commission made on his part for the smuggling of gold which was liable to confiscation, had rendered himself liable for penalty under Section 112 (a) & (b) of the Customs Act, 1962.

#### **45.5 Shri Ankur Mansukhbhai Sakhreliya:**

It appeared that Shri Ankur Mansukhbhai Sakhreliya was an active syndicate member involved in smuggling of gold biscuits. It appeared that Shri Ankur Mansukhbhai Sakhreliya was fully aware about the smuggling of Gold Biscuits as the messages were frequently passed in the whatsapp group name "KHANAK 2021" wherein Shri Ankur Mansukhbhai Sakhreliya was also a member. Thus, it appeared that Shri Ankur Mansukhbhai Sakhreliya was the person who handed over the 130 pc of Gold biscuits of 10 tola each weighing 15.158 kg in total to the passengers at Sharjah Airport on 17.04.2022 and accompanying the passengers on the same flight to Surat. It appeared Shri Ankur Mansukhbhai Sakhreliya was a part of syndicate and played a vital role in smuggling of the 389 pieces of Gold biscuits of 10 tola each weighing 41.858 kg in total through Surat International Airport. It appeared that he was having culpable mental state and the act of omission and commission made on his part for the smuggling of gold which were liable for confiscation, had rendered himself liable for penalty under Section 112 (a) & (b) of the Customs Act, 1962.

#### **45.6 Nilesh Dhirubhai Borad:**

It appeared that Shri Nilesh D. Borad was aware about the smuggling of Gold by his elder brother Shri Vipul D Borad. It appeared that Shri Nilesh Borad had forwarded the copy of Hotel Booking Voucher in the name of Mr. Vipulkumar Borad, Mr. Kalpesh Chhaswala & Mr. Vivek Patel and their return tickets to Shri Vipulbhai D Borad on whatsapp. It appeared Shri Nilesh D. Borad was a part of syndicate and played a vital role in smuggling of the 389 pieces of Gold biscuits of 10 tola each weighing 41.858 kg in total through Surat International Airport. It appeared that he was having culpable mental state and the act of omission and commission made on his part for the smuggling of gold which was liable for confiscation, had rendered himself liable for penalty under Section 112 (b) of the Customs Act, 1962.

#### **45.7 Shri Navnitkumar Dhirubhai Borad:**

It appeared that Shri Navnitkumar D Borad was not only aware about the smuggling of Gold by his elder brother Shri Vipul D Borad & others but was actively participating in such activities. He travelled with two other passengers with sales proceeds of foreign currency equivalent to 4193530 AED (equivalent to Indian rupees 8,95,31,865/- approx) to Sharjah on 21.04.2022 and shared the declaration filed with Sharjah Customs authorities on whatsapp group "Khanak 2021". It appeared that Shri Navnitkumar D Borad had smuggled foreign currency 4193530 AED out of India from Surat International Airport on 21.04.2022. Thus, it appeared that Shri Navnitkumar D Borad carried the foreign currencies illegally and with intention to smuggle the same out of India in violation of the said Act/Rules/Regulations in force. Regulation 7(3) and (4) of the Foreign Exchange Management (Export and import of currency) Regulations, 2015 would come into force only when a proper declaration before the Customs Officer had been made. It appeared that Shri Navnitkumar D Borad violated the restrictions imposed under Foreign Exchange Management (Export and import of currency) Regulations, 2015. Thus, the foreign currencies totally equivalent to Indian Rupees 8,95,31,865/- smuggled by Shri Navnitkumar D Borad appeared liable to confiscation under section 113(d) of the Customs Act, 1962. It also appeared that Shri Navnitkumar D Borad has rendered himself liable for penalty under the provisions of **section 114** of the Customs Act, 1962 by committing the said act. It appears that Shri Navnitkumar Dhirubhai Borad had indulged in delivery of smuggled Gold biscuits of 10 tola to Shri Rambhai Maganbhai Suhagiya and also collected the sale proceeds in cash from Rambhai Maganbhai Suhagiya on several occasions. It appeared Shri Navnit Dhirubhai Borad was a part of the gold smuggling syndicate and played a vital role in smuggling of the 389 pieces of Gold biscuits of 10 tola each weighing 41.858 kg in total through Surat International Airport. It appeared that he was having culpable mental state and the act of omission and commission made on his part for the smuggling of gold which was liable for confiscation, had rendered himself liable for penalty under Section 112 (a) & (b) of the Customs Act, 1962.

#### **45.8 Shri Sagar Manubhai Shah (Proprietor of Moon Star Inc., Surat):**

It appeared that Shri Sagar Manubhai Shah had purchased the consignments of 40 pieces of Foreign Origin gold of 10 tola each on 11.04.2022, and 130 pieces of Foreign Origin gold of 10 tola each on 18.04.2022 from Shri Rambhai Maganbhai Suhagiya, Partner of CRV Jewels. It appeared that Shri Sagar Manubhai Shah had procured smuggled gold biscuits from Shri Rambhai Maganbhai Suhagiya and sent cash on several occasions through his persons to CRV Jewels. It appeared that he was having culpable mental state and the act of omission and commission made on his part for the smuggling of gold which were liable for confiscation, had rendered himself liable for penalty under Section 112 (a) & (b) of the Customs Act, 1962.

#### **45.9 Shri Manishkumar Mansukhbhai Suhagiya, Manager/ Defacto owner of Harikala Bullions, Surat:**

It appeared that Shri Manishkumar Mansukhbhai Suhagiya was managing the overall business of M/s Harikala Bullions and he had purchased 104 pieces of gold biscuits of 10 tolas each, weighing 12.126 kg in total on 11.04.2022 and 115 pieces of Gold Biscuits of 10 tolas each weighing 13.408 kg in total on 14.04.2022 from Shri Rambhai Maganbhai Suhagiya, Partner in CRV Jewels. It appeared that he had made payment in cash to Shri Rambhai Maganbhai Suhagiya on several occasions through his (Shri Manishkumar Mansukhbhai Suhagiya) accomplices against the delivered gold. It appeared that Manishkumar Mansukhbhai Suhagiya had procured smuggled gold biscuits from Shri Rambhai Maganbhai Suhagiya and send cash on several occasions through his persons to CRV Jewels. It appeared that he was having culpable mental state and the act of omission and commission made on his part for the smuggling of gold which were liable for confiscation, had rendered himself liable for penalty under Section 112 (a) & (b) of the Customs Act, 1962.



**45.10 Shri Hardik Rupareliya:**

It appeared that Shri Hardik Ruparilya had carried the gold on behalf of Shri Vipul D Borad on 10.04.2022 as well as he had got his mother to carry the 25 pcs of Gold biscuit from Sharjah to Surat on 17.04.2022. Thus, it appeared that he was directly involved in smuggling of foreign origin gold biscuits of 10 tola each on 10.04.2022 & 17.04.2022 through Surat International Airport which were liable for confiscation. It appeared that he was having culpable mental state and the act of omission and commission made on his part for the smuggling of gold which were liable for confiscation, had rendered himself liable for penalty under Section 112 (a) & (b) and 114A of the Customs Act, 1962.

**45.11 Shri Nikhil Prafullbhai Kanani:**

It appeared that Shri Nikhil Prafullbhai Kanani had carried the Gold biscuits on behalf of Shri Vipul D Borad on 10.04.2022. It appeared that Shri Nikhil Prafullbhai Kanani was known to Shri Vipul D Borad, but he denied in his statement to know Shri Vipul D Borad. Thus, it appeared that he was directly involved in smuggling of foreign origin gold biscuits of 10 tola each, on 10.04.2022 through Surat International Airport on behalf of Shri Vipul D Borad which were liable for confiscation. It appeared that he was having culpable mental state and the act of omission and commission made on his part for the smuggling of gold which were liable for confiscation, had rendered himself liable for penalty under Section 112 (a) & (b) and 114A of the Customs Act, 1962.

**45.12 Shri Mukesh Kumar Dhirajlal Kanani,**

It appeared that Shri Mukesh Kumar Dhirajlal Kanani had carried the Gold biscuits on behalf of Shri Vipul D Borad on 10.04.2022. It appeared that Shri Mukesh Kumar Dhirajlal Kanani was known to Shri Vipul D Borad, but he denied in his statement to know Shri Vipul D Borad. It appeared that he was directly involved in smuggling of foreign origin gold biscuits of 10 tola each on 10.04.2022 through Surat International Airport on behalf of Shri Vipul D Borad which were liable for confiscation. It appeared that he was having culpable mental state and the act of omission and commission made on his part for the smuggling of gold which were liable for confiscation, had rendered himself liable for penalty under Section 112 (a) & (b) and 114A of the Customs Act, 1962.

**45.13 Shri Kalpesh Navinchandra Chhaswala,**

It appeared that Shri Kalpesh Navinchandra Chhaswala returned from Sharjah to Surat via flight IX 172 on 13.04.2022 and carried the Gold biscuits on behalf of Shri Vipul D Borad. It appeared that Shri Kalpesh Navinchandra Chhaswala was known very well to Shri Vipul D Borad, but he denied in his statement to know Shri Vipul D Borad. It appeared that Shri Kalpesh Navinchandra Chhaswala was directly involved in smuggling of foreign origin gold biscuits of 10 tola each on 13.04.2022 through Surat International Airport on behalf of Shri Vipul D Borad which were liable for confiscation. It appeared that he was having culpable mental state and the act of omission and commission made on his part for the smuggling of gold which were liable for confiscation, had rendered himself liable for penalty under Section 112 (a) & (b) and 114A of the Customs Act, 1962.

**45.14 Shri Vivek Premjibhai Patel,**

It appeared that Shri Vivek Premjibhai Patel went to Sharjah on 11.04.2022 and returned from Sharjah to Surat via flight IX 172 on 13.04.2022 and carried the Gold biscuits on behalf of Shri Vipul D Borad. It appeared that Shri Vivek Premjibhai Patel was directly involved in smuggling of foreign origin gold biscuits of 10 tola each on 13.04.2022 through Surat International Airport on behalf of Shri Vipul D Borad which were liable for confiscation. It appeared that he was having culpable mental state and the act of omission and commission made on his part for

the smuggling of gold which were liable for confiscation, had rendered himself liable for penalty under Section 112 (a) & (b) and 114A of the Customs Act, 1962.

#### **45.15 Shri Gauravgiri Dineshgiri Goswami,**

It appeared that Shri Gauravgiri Dineshgiri Goswami was a part of group passengers travelled with Shri Ankur Mansukhbhai Sakhreliya on 17.04.2022. It appeared that Shri Ankur Mansukhbhai Sakhreliya had shared their names and group photo in whats app group 'KHANAK 2021' and in response Shri Baldev Sakhreliya had commented on their name "*Smaglaro ni toli*". Thus, it appeared that Shri Gauravgiri Dineshgiri Goswami was directly involved in smuggling of foreign origin gold biscuits of 10 tola each on 17.04.2022 through Surat International Airport on behalf of Shri Vipul D Borad which were liable for confiscation. It appeared that he was having culpable mental state and the act of omission and commission made on his part for the smuggling of gold which were liable for confiscation, had rendered himself liable for penalty under Section 112 (a) & (b) and 114A of the Customs Act, 1962.

#### **45.16 Shri Rakesh Gopalbhai Moradiya,**

It appeared that Shri Rakesh Gopalbhai Moradiya was a part of a group of passengers who travelled with Shri Ankur Mansukhbhai Sakhreliya on 17.04.2022. It appeared that Shri Ankur Mansukhbhai Sakhreliya had shared their names and group photo in whats app group 'KHANAK 2021' and in response Shri Baldev Sakhreliya had commented on their name "*Smaglaro ni toli*". It appeared that Shri Rakesh Gopalbhai Moradiya was directly involved in smuggling of foreign origin gold biscuits of 10 tola each on 17.04.2022 through Surat International Airport on behalf of Shri Vipul D Borad which were liable for confiscation. It appeared that he was having culpable mental state and the act of omission and commission made on his part for the smuggling of gold which are liable for confiscation, had rendered himself liable for penalty under Section 112 (a) & (b) and 114A of the Customs Act, 1962.

#### **45.17 Shri Kalpeshkumar Desai,**

It appeared that Shri Kalpeshkumar Desai was a part of a group of passengers who travelled with Shri Ankur Mansukhbhai Sakhreliya on 17.04.2022. It appeared that Shri Ankur Mansukhbhai Sakhreliya had shared their names and group photo in whats app group 'KHANAK 2021' and in response Shri Baldev Sakhreliya had commented on their name "*Smaglaro ni toli*". It appeared that Shri Kalpeshkumar Desai was directly involved in smuggling of foreign origin gold biscuits of 10 tola each on 17.04.2022 through Surat International Airport on behalf of Shri Vipul D Borad which were liable for confiscation. It appeared that he was having culpable mental state and the act of omission and commission made on his part for the smuggling of gold which were liable for confiscation, had rendered himself liable for penalty under Section 112 (a) & (b) and 114A of the Customs Act, 1962.

#### **45.18 Ms. Vasantben Hasmukhbhai Rupareliya,**

It appeared that Ms. Vasantben Hasmukhbhai Rupareliya was a part of a group of passengers who travelled with Shri Ankur Mansukhbhai Sakhreliya on 17.04.2022. It appeared that Shri Ankur Mansukhbhai Sakhreliya had shared her name and her photo in whats app group 'KHANAK 2021' and in response Shri Baldev Sakhreliya had introduced her as '*Jalpesh na Mammi*' (Mother of Jalpesh) and further commented on her photo "*Ckokra sala smagling krave che*" & '*Ava chokra koi na pake*' (No one will grow up with such a boy). It appeared that Ms. Vasantben Hasmukhbhai Rupareliya was directly involved in smuggling of 25 pcs of foreign origin gold biscuits of 10 tola each on 17.04.2022 through Surat International Airport on behalf of Shri Vipul D Borad which were liable for confiscation. It appeared that he was having culpable mental state and the act of omission and commission made on his part for the smuggling of gold which were liable for

confiscation, had rendered himself liable for penalty under Section 112 (a) & (b), and 114A of the Customs Act, 1962.

#### **45.19 Shri Divyesh Natvarbhai Tavadiya**

It appeared that Shri Divyesh Natvarbhai Tavadiya was a part of a group of passengers who travelled with Shri Ankur Mansukhbhai Sakhreliya on 17.04.2022. It appeared that Shri Ankur Mansukhbhai Sakhreliya had shared their names and group photo in what's app group 'KHANAK 2021' and in response Shri Baldev Sakhreliya had commented on their name "*Smaglaro ni toli*". It appeared that Shri Divyesh Natvarbhai Tavadiya was directly involved in smuggling of 8 pieces of foreign origin gold biscuits of 10 tola each on 17.04.2022 through Surat International Airport on behalf of Shri Ankur Mansukhbhai Sakhreliya / Shri Vipul D Borad which were liable for confiscation. It appeared that he was having culpable mental state and the act of omission and commission made on his part for the smuggling of gold which were liable for confiscation, had rendered himself liable for penalty under Section 112 (a) & (b) and 114A of the Customs Act, 1962.

**46.** Since the smuggling used to take place through Surat International Airport, therefore, in terms of Section 110AA read with notification no. 28/2022 customs (NT) dated 31.03.2022, the proper officer for issuance of show cause notice in the instant case is the Pr. Commissioner / Commissioner of Customs, Ahmedabad.

#### **SHOW CAUSE:**

**47.** Therefore, **Shri Vipul Dhirubhai Borad, R/o 156, Yamuna Darshan Society, Mota Varachha, Surat** was called upon to show cause to the Principal Commissioner of Customs, Ahmedabad as to why:

- i. the 389 pieces of Gold biscuits of 10 tola each weighing 41.858 kg in total valued at **Rs. 20,12,07,916/- (Rupees Twenty Crore Twelve Lakh Seven Thousand Nine Hundred Sixteen only)** (assessable value) should not be confiscated under Section 111(d), 111(i), 111(j), 111(l) and 111(m) of the Customs Act, 1962; however, the said goods are not physically available for confiscation.
- ii. the Customs duty amounting to **Rs. 7,74,65,047/- (Rupees Seven Crore Seventy Four Lakh Sixty Five Thousand Forty Seven Only)** evaded by Shri Vipul Dhirubhai Borad on the said goods should not be demanded and recovered under Section 28(4) of the Customs Act, 1962;
- iii. Interest at applicable rate should not be recovered on the Customs duty as mentioned at (ii) above under Section 28 AA of the Customs Act, 1962;
- iv. Penalty should not be imposed under **Section 112(a) & (b) and Section 114A** of the Customs Act, 1962

**48.** Therefore, **Shri Navnitkumar Dhirubhai Borad, R/o 156, Yamuna Darshan Society, Mota Varachha, Surat**, (Email id-[boradnavneet156@gmail.com](mailto:boradnavneet156@gmail.com)) was called upon to show cause to the Principal Commissioner of Customs, Ahmedabad as to why:

- i. The foreign currency equivalent to 41,93,530 AED having value equivalent to Indian **Rs. 8,95,31,865/- (Rupees Eight Crores Ninety Five Lakhs Thirty One Thousand Eight Hundred Sixty Five only)** smuggled out of India in contravention of the provisions of Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulation, 2015, should not be confiscated under **Section 113 (d)** of the Customs Act, 1962.

- ii. Penalty should not be imposed under the provisions of **Section 112(a) & (b)** and **Section 114** of the Customs Act, 1962 on Shri Navnitkumar Dhirubhai Borad.

**49.** Therefore,

**(i) Shri Rambhai Maganbhai Suhagiya**, Partner of CRV Jewels, G4, Maitri Building, Lambe Hanuman Rd, Varachha, Surat, Gujarat 395006, R/o A-104, Merigold residency, Sarthana Jakatnaka, Varachha, Surat,

**(ii) Shri Baldev Mansukhbhai Sakhreliya**, R/o A-103, Kaveri Habitat, V T Nagar Road, Sarthana, Surat,

**(iii) Shri Ankur Mansukhbhai Sakhreliya**, R/o A-103, Kaveri Habitat, VT Nagar Road, Sarthana, Surat,

**(iv) Shri Sagar Manubhai Shah**, Proprietor of M/s Moon Star Inc, Shop No. 1/A &2,B, Rangrej Tower, Jada Khadi, Mahidarpura, Surat, residing at 38, Mahadev Nagar, Majuragate, Surat, and

**(v) Shri Manishkumar Mansukhbhai Suhagiya**, Manager/Defacto owner of M/s Harikala Bullion, No-323, Ground Floor, Lambe Hanuman Road, Varsha Society-1, Varachha, Surat, R/o- 6, Bhaktinandan Society Sector-1, Behind Radhe Residency, Near Sudama Chowk, Mota Varachha, Chorasi, Surat are hereby called upon to show cause to the Principal Commissioner of Customs, Ahmedabad as to why:

- i. Penalty should not be imposed upon them separately under **Section 112(a) & (b)** of the Customs Act, 1962.

**50.** Therefore,

**(i) Shri Chetan R Katharotiya**, Partner of CRV Jewels, G4, Maitri Building, Lambe Hanuman Rd, Varachha, Surat, Gujarat 395006, R/o A-101, Silverstone River, Near Royal Park, Laxmikant Ashram Road, Katargam, Surat and

**(ii) Shri Nilesh Dhirubhai Borad**, R/o 99, Valkeshvar Society, Mota Varachha, Surat 307512 were called upon to show cause to the Principal Commissioner of Customs, Ahmedabad as to why:

- i. Penalty should not be imposed upon them separately under **Section 112 (b)** of the Customs Act, 1962

**53.** Therefore,

**(i) Shri Hardik Rupareliya**,<sup>10</sup> , Jaldarshan Society, Nr. Dharmish, Varachha, Surat,

**(ii) Shri Nikhil Prafullbhai Kanani**, C-110, Gopinath Complex, Near Lajamani Chowk, Mota Varachha, Surat

**(iii) Shri Mukesh Kumar Dhirajlal Kanani**, 46, Sarita Vihar Society-01, Punagam to Bombay Market Road, Surat-395010

**(iv) Shri Kalpesh Navinchandra Chhaswala**, R/o 4/4418-19, Amli Sheri, Begumpura, Surat-395003,

**(v) Shri Vivek Premjibhai Patel**, R/o- 2, Harinandan Bungalows, Near Bhaktinandan Chok, Mota Varachha, Surat-394101,

**(vi) Shri Gauravgiri Dineshgiri Goswami**, R/o- Station Road, Bhimnath Temple, Chalal, Amreli-365630, Gujarat,

**(vii) Shri Rakesh Gopalbhai Moradiya**, R/o 57, Hans Society, Part-III, Near Sudama Chowk, Mota Varachha, Surat,

**(viii) Shri Kalpeshkumar Desai**, R/o E-102, Mamta Park Residency, Mota Varachha, Surat-394101,

**(ix) Ms. Vasantben Hasmukhbhai Rupareliya**, 10, Jaldarshan Society, Nr. Dharmish, Varachha, Surat and

**(x) Shri Divyesh Natvarbhai Tavadiya**, R/o- Khadi Falia, At/Po- Bodali, Tal- Jalalpore, Navsari were called upon to show cause to the Principal Commissioner of Customs, Ahmedabad, as to why:

- i. Penalty should not be imposed upon them separately under **Section 112(a) & (b)** of the Customs Act, 1962.

#### **54. DEFENCE SUBMISSIONS & PERSONAL HEARING**

##### **1. DEFENCE REPLY IN CASE OF S/SHRI KALPESH N. CHHASWALA, VIVEK PATEL, GAURAVGIRI D. GOSWAMI, VASANTBEN H. RUPARELIYA, HARDIK RUPARELIYA, NIKHIL KANANI**

Since, no defence reply was received from the above noticees a personal hearing, through Virtual Mode, was fixed on 10.03.2025, 17.03.2025 and a final one on 25.03.2025. Three opportunities were granted, however, the noticees failed to avail the same. In the said event, the charges proposed against the said noticees would be adjudicated on the basis of available records in the case.

##### **2. SHRI RAMBHAH MAGANBHAH SUHAGIYA**

(i) Shri Rambhai Maganbhai Suhagiya vide letter dated 23.01.2025 submitted his written submissions wherein he denied all the allegations levelled against him in the show cause notice and submitted that he was not involved in the alleged smuggling of gold biscuits of foreign origin through Surat Airport on 09.04.2022, 12.04.2022, 16.04.2022 and 20.04.2022.

(ii) he started a partnership firm named M/s CRV Jewels at G4, Maitri Building, Lambe Hanuman Road, Varachha, Surat in 2019 for trading of gold and silver jewellery along with Mr. Chetan Ranabhai Kagharotiya. However, the corona pandemic started in 2020 and hence their business could not flourish. They used to buy gold and silver jewellery from the open market and then sell it in the open market by adding their commission/profit. While doing business, he came in contact with Mr. Baldev Sakhrelia, a friend of my cousin Mr. Vipulbhai D Borad, who informed me that he wanted to sell gold to me if he gives him a reasonable rate. As they were already involved in trading of gold and silver jewellery, he agreed to it. Accordingly, on 09.04.2022, he contacted me on my mobile phone to get the rate of gold biscuits for 144 pieces of gold biscuits of 999 purity weighing 10 tolas and he took the rate from Harikala Bullion and Moon Star Inc. who quoted Rs. 52850/- per tola on which he was to get a commission of Rs. 20 per tola; that he conveyed the said rate to Shri Baldev Sakhrelia on WhatsApp. However, the deal was not finalized by them. Thereafter, on 12.04.2022, he again contacted me on my mobile phone to get the rate of gold biscuits for 115 pieces of gold biscuits of 999 purity weighing 10 tolas and he took the rate from Harikala Bullion who quoted Rs. 53250 per tola on which he was to get a commission of Rs. 20 per tola. He conveyed the said rate to Shri Baldev Sakhrelia on WhatsApp. However, the deal was again not finalized by him. Thereafter, Shri Baldev again contacted me on my mobile phone on 16.04.2022 to get the rate of 130 pieces of gold biscuits weighing 10 tolas of 999 purity and he took

the rate from Moon Star Inc. who quoted a rate of Rs. 53,650/- per tola on which he was to get a commission of Rs. 20 per tola; that he conveyed the said rate to Shri Baldev Sakhrelia on WhatsApp. However, the deal was again not finalized by him; that he found it strange that Shri Baldev Sakhrelia called thrice but the deal was not looped in by the broker but since he needed the money, he had no choice but to wait till the deal was finalised. Thereafter, Shri Baldev again contacted him on mobile phone on 19.04.2022 to get the rate of 135 pieces of gold biscuits weighing 10 tolas of 999 purity. He got the rate from Moon Star Inc. and Harikala Bullion who quoted Rs.54080/- per tola on which he was to get a commission of Rs.20 per tola. He conveyed the said rate to Mr.Baldev Sakhrelia on WhatsApp. He agreed to the said rate and informed me over telephone that Mr. Vipul D Borad will deliver the ordered quantity of gold biscuits on 21.04.2022. He also informed me that the gold biscuits are of foreign origin. As he was always dealing with legal gold only, therefore, he was under the impression that Mr. Vipul D Borad will come with the required documents/papers/invoices related to the gold and hence did not ask for the same.

(iii) On 21.04.2022 he came to M/s CRV Jewels at around 10:00 AM and opened the shop shutter. After few minutes his partner, Mr. Chetan Ranabhai Katharotia, their employee Mr. Vijaykumar Gandubhai Vekaria and their Sales Commission Agent, Mr. Shailesh P. Kaurat came to the shop. At around 10.10 AM Mr. Vipulbhai D Borad came to the shop with his bag and informed him that he had brought 135 gold biscuits of 999 purity weighing 10 tolas as discussed earlier. Before taking the delivery of gold biscuits, he wanted to check its quantity and purity and also wanted to check the papers related to it, however at that time Sales Commission Agent Mr.Shailesh P Korat was also present, so he asked Mr. Vipulbhai D Borad to come to the cabin located behind the cash counter of the shop. There, Mr. Vipulbhai D Borad handed over to him a total of 135 UAE origin gold biscuits of 10 tolas each. After receiving it, he went to the locker room along with Vipulbhai D Borad and arranged it on the floor to check the purity and count it. While checking the purity of the gold biscuits and counting the same, the DRI officials came to our shop and started searching CRV Jewels. The DRI officials also went to the locker room and saw that the said gold biscuits were lying on the floor of the locker room. On being asked by the officials, he told them that the said gold biscuits were brought by Shri Vipul Borad. On being asked by the officials about the documents like Bill of Entry, Packing List etc., he told them that it must be lying with Shri Vipul Borad as my plan was to first check the purity and quantity of the gold biscuits and if found correct, then check the papers, however, the DRI officials had arrived before he could ask for the papers. So, the officials asked Vipul Borad to show the papers of the gold biscuits, but he was surprised when he told me that he did not have any documents related to the purchase of these gold as it was smuggled from UAE.; that he was totally shocked to hear Mr. Vipul Borad tell that the gold biscuits he brought for sale were smuggled without any documents.Immediately it came to his mind that he had made a big mistake by trusting his cousin Mr. Vipul Borad and my cousin's friend Mr. Baldev Sakhrelia and he should have asked for the documents related to the gold biscuits first.

(iv) he immediately tried to inform the DRI officials by telling them the correct facts as discussed above that he was innocent in this case, but they were not ready to listen. He also asked Vipul Borad as to why he did not inform me earlier that gold biscuits were being smuggled, however, he did not give any reply. Thereafter he was questioned by the DRI officials about his role in smuggling of gold biscuits, in response to which he again told them the correct facts as discussed above, but they said that he was lying. Thereafter, a Panchnama was prepared by the officials and he was asked to sign it along with Vipul D Borad and others and that the DRI officials had forcefully made him sign the panchnama by way of threat.

(v) it was mentioned in para 10 of the show cause notice that Shri Vijaykumar Gandubhai Vaikariya, employee of M/s CRV Jewels in his statement dated 21.04.2022 had stated as follows:

*\*Mr. Vipulbhai D Borad had visited M/s CRV Jewellery 4 Maitri Building, Lamche Hanuman Road Barakhchhar Surat Gujarat about 3 times in last 02 months and every time he handed over the gold biscuits to Mr. Rambhai Maganbhai Suhania. When asked about the usage of foreign origin gold biscuits handed over by Mr. Vipulbhai D Borad, he stated that Mr. Rambhai Saganbhai Suhania sold those foreign origin gold biscuits to M/s Moon Star Bullion, Adakhadi, Sahidharpur Surat Gujarat and M/s Harikala Bullion, Lamche Hanuman Road, Varsha Society 1. Karachha, Surat.*

The above statement of Shri Vijaykumar Gandubhai Vekaria has been relied upon in the Show Cause Notice to frame charges against him. In this regard, he submits that it was true that Shri Vipulbhai D. Borad had visited M/s CRV Jewels about 3 times in the last two months but it was a lie that every time he gave me gold biscuits and that he sold those foreign origin gold biscuits to M/s Moon Star Bullion, Jadkhadi, Mahidharpura, Surat, Gujarat and M/s Harikala Bullion, Lambe Hanuman Road, Varsha Society 1, Varachha, Surat and that he did not know why Shri Vijaykumar Gandubhai Vekaria made such a false statement against him; that in view of the above, a cross examination of Shri Vijaykumar Mandubhai Vekariya be given to him.

(vi) Shri Shaileshkumar Purushottambhai Korat, Sales Commission Agent of M/s CRV Jewels statement dated 21.04.2022 has been relied to frame charges against him. In this regard, it is to submit that it was true that Shri Vipulbhai D. Borad visited M/s CRV Jewels about 3 times in the last two months but all other things mentioned in the statement given by Shri Shaileshkumar Purushottambhai Korat were completely false. In this regard, it is to submit that Shri Shaileshkumar Purushottambhai Korat was our sales commission agent who used to visit their shop on random basis. He usually visited their shop once a week and during the last two months from 21.04.2022 i.e. during the period 21.02.2022 to 21.04.2022, he must have visited our shop about 8 to 10 times and how could he know everything about his so called gold transactions with Shri Vipulbhai Borad, M/s Moon Star Bullion and M/s Harikala Bullion. How is this possible? Moreover, the words used by Mr. Shaileshkumar Purushottambhai Korat in his statement were matching with the words used by Mr. Vijaykumar Gandubhai Vekariya in his statement, which proved that this statement had been copied and pasted by the DRI officials instead of relying on real facts; that a cross examination of Shri Shaileshkumar Purushottambhai Korat also be provided.

(vii) Shri Vipulbhai Dhirubhai Borad statement dated 21.04.2022 has been relied to frame charges against him. In this regard, it is to be submitted that the above statement made by Shri Vipulbhai Dhirubhai Borad is completely false; that he had only informed Shri Baldev Sakhrelia through WhatsApp about the rates of gold biscuits procured from M/s Harikala Bullion and M/s Moon Star Inc., however, the deal was not finalized by him. Thus, the transactions mentioned by Shri Vipulbhai Dhirubhai Borad and the orders for pieces of gold biscuits in the above statement were never carried out and hence the statement made by Shri Vipul Borad was completely false; that in their business, it often happens that various customers ask for gold rates on *whatsapp* and they reply on *whatsapp*. However, giving rates on *whatsapp* did not mean that they had finalized the deal and some deals were not finalized even after giving rates.

(viii) Shri Vipulbhai Borad along with Shri Baldev Sakhrelia was planning to cheat him as they wanted to sell the smuggled gold biscuits through him by keeping in the dark. However, when Vipulbhai Borad was caught red handed by the DRI officials, he tried to involve me in the conspiracy so that the responsibility of both of them in the gold smuggling case was reduced; that a cross examination of Shri Vipulbhai Borad may be provided.

(ix) Statement of Shri Baldevbhai Mansukhbhai Sakhrelia had also been relied upon in the Show Cause Notice to frame charges against him. In the statement, Shri Baldevbhai Mansukhbhai Sakhrelia has stated that the intent of the three WhatsApp chats made by him on 16.04.2022, 12.04.2022 and 09.04.2022 was that he placed an order/booked for gold biscuits in the context. However, as discussed above, he only informed Shri Baldev Sakhrelia about the rates of gold biscuits taken from M/s Harikala Bullion and M/s Moon Star Inc. through *whatsapp*. But, the first three orders were not

finalized by him. In this regard, it was to be reiterated that in their business, it often happens that various customers ask for gold rates on *whatsapp* and that does not mean that they had finalised the deal; that the *whatsapp* chats of 09.04.2022, 12.04.2022 and 16.04.2022 were such deals that were not finalized. Thus, the order bookings mentioned by Shri Vipulbhai Dhiruai Borad in the above statement were never given by him and hence the statement made by Shri Vipul Borad was completely false. Even in the case of the last *whatsapp* chat made on 19.04.2022, he had conveyed the rates of gold biscuits taken from M/s Moon Star Inc. and Harikala Bullion and the deal was finalized by him as discussed above. Looking at the false statement given by Shri Baldev Sakhrelia above, it appeared that Shri Baldev Sakhrelia along with Shri Vipulbhai Borad were planning to defraud him as they wanted to sell the smuggled gold biscuits through him by keeping in the dark. However, when Vipulbhai Borad was caught red handed by the DRI officials, Shri Baldev Sakhrelia tried to involve me in their conspiracy so that the responsibility of both of them in the gold smuggling case was reduced; that a cross examination of Shri Baldev Sakhrelia may be provided.

(x) Statement of Shri Ankur Mansukhbhai Sakhrelia had also been relied upon in the show cause notice to frame the allegations against him. In this regard, it was to submit that Shri Ankurbhai had urgent need of money for his business purpose, which he used to return the same day or next day, and then he sent a person to collect the same; that was when he handed over the requested amount to him and left a message to Shri Ankurbhai on WhatsApp specifying the amount in coded form to ensure that the requested amount has been given. Thus, in the said chat he had sent him messages "70", "112" and "130" on different occasions and in response he replied "OK" every time, which means he took Rs. 70,000/-, Rs. 1,12,000/- and Rs. 1,30,000/- on different occasions from him. A cross examination of Shri Ankur Sakhrelia be provided.

(xi) The further allegation in the said show cause notice that he had also sold the smuggled gold biscuits to M/s Harikala Bullions and M/s Moon Star Inc., and received cash from them. Shri Sagar Manubhai Shah, owner of M/s Moon Star Inc., Surat had categorically denied that he has received 40 pieces and 130 pieces of UAE origin gold biscuits of 10 tola each from him on 11.04.2022 and 18.04.2022 respectively; that it was submitted that in para 32.2.1 of the show cause notice it is stated that when Shri Manishkumar Mansukhbhai Suhagiya of M/s Harikala Bullion, Surat was asked about the purchase of 115 gold biscuits of 10 tola each on 14.04.2022 and 104 gold biscuits of 10 tola each on 11.04.2022, he stated that he had never purchased gold biscuits of 10 tola each from Shri Ramai Maganbhai Suhagiya, partner in M/s CRV Jewels, Surat or from M/s CRV Jewels, Surat. Thus, it was clear from the statements given by Mr. Sagar Manubhai Shah, owner of M/s Moon Star Inc., Surat and Mr. Manishkumar Mansukhbhai Suhagiya of M/s Harikala Bullion, Surat that they had not purchased the gold biscuits. The analysis of his mobile phone did not give the correct picture and thus the said analysis was completely incorrect. In paragraph 34.3.2 of the show cause notice, some screenshots of the video footage had been shown and discussed; that the first photograph shows the visit of Shri Ankur Mansukhbhai Sakhrelia to CRV Jewel's shop on 11.04.2022. In this context, it was submitted that Shri Ankur Mansukhbhai Sakhrelia must have visited their shop on 11.04.2022, which does not prove anything. According to the show cause notice, in the second photograph Mr. Ankur Mansukhbhai Sakhrelia was going into the locker of CRV Jewels and that he had blocked the camera installed in the locker room on 11.04.2022. In this context, it was submitted that he was not trying to block the camera but was placing the bag on the shelf. Thus, again the photograph did not prove anything. According to the show cause notice, the third photograph showed a person from M/s Harikala Bullions visiting CRV Jewels and handing over the cash and receiving the gold on 11.04.2022. In this context, it was to be submitted that there was a person standing in the locker room did not prove that he had come to hand over the cash and receive the gold. Thus, again the image proves nothing. As per the show cause notice, the fourth photograph shows a person who was of Shri Vipul D. Borad who came to CRV Jewels to receive cash from him on 11.04.2022. In this context, it was submitted that Shri Vipul D. Borad was not visible in the photograph at all. Thus, in the show cause notice, Vipul D. Borad has been wrongly



identified and again the photograph did not prove anything. According to the show cause notice, the fifth photograph showed a person belonging to Moonstar Inc. who came to CRV Jewels on 11.04.2022 with a bag full of cash and came inside the locker room and handed over the cash to him. In this context, it is submitted that he was not seen in the photograph at all and thus it was wrongly concluded that the so-called cash was handed over to me. Thus, again the photograph did not prove anything. According to the show cause notice, the sixth photograph showed Mr Navneet Borad, who came to CRV Jewels on 14.04.2022 with a bag to hand over smuggled gold biscuits. In this context, it was to be submitted that if a person comes to their shop with a bag, it does not necessarily mean that the bag contained smuggled gold biscuits. It often happens that different persons come to our shop, some of whom bring bags, but it does not necessarily mean that the bag contains full of gold biscuits. Thus, again the image does not prove anything. As per the show cause notice, in the seventh photograph Mr. Vipul D. Borad was seen coming out of the locker room after handing over the smuggled gold biscuits to him at CRV Jewels on 18.04.2022. In this context, it is submitted that the person standing outside the locker room does not necessarily mean that he handed over the smuggled gold biscuits to him. Thus, again the photograph did not prove anything. Thus, all the seven photographs mentioned the show cause notice did not prove anything against him. Thus, conclusively, he was not at all involved in the smuggling of the referred gold biscuits and requested that no separate penalty be imposed on him under Section 112(a)(b) of the Customs Act, 1962.

A personal hearing, in Virtual Mode, was fixed on 10.03.2025, which was attended by Shri Manish Barot, Consultant on behalf of Shri Rambhai Suhagiya. He reiterated the submissions made in the written defence reply dated 23.01.2025.

### **3. DEFENCE REPLY-CHETAN KATHAROTIYA**

(i) In his defence reply dated 15.05.2024, it is submitted that he and Shri Rambhai Suhagiya, was the other partner of M/s CRV Jewels, who is the cousin of Shri Vipulbhai Borad and Nileshbhai Borad [both brothers] and that Shri Vipulbhai Borad used to visit the office of M/s CRV Jewels. In the statements of Shri Vijaybhai and Shaileshbhai, they have stated that all the activities with respect to give and take of smuggled goods and consideration received thereof was mutually managed by Shri Rambhai and Shri Vipulbhai. Further Shri Shaileshbhai also deposed that once the gold bars were supplied by Shri Vipulbhai, Shri Rambhai used to further sell/transfer these gold bars to M/s Moon Star Bullion and M/s Harikala Bullion; that if Shri Chetan Katharotiya was even remotely involved in the process of dealing with the smuggled goods, these persons would have disclosed the said fact by specifically deposing against him or against M/s CRV Jewels in particular. Therefore, a safe inference can be drawn that Shri Chetan Katharotiya had never participated in the dealing of the contraband goods.

(ii) In the statement of Shri Rambhai Suhagiya it was deposed that Shri Chetan Katharotiya had no knowledge of the purchase/sale of foreign origin gold biscuits as Shri Rambhai used to talk with Shri Baldev Sakhreliya and concerned persons of M/s Moon Star Bullion and M/s Harikala Bullion; that in the statement of Shri Rambhai Suhagiya he had nowhere stated that the Shri Chetan Katharotiya or M/s CRV Jewels were even remote beneficiaries of the transactions of 389 gold biscuits. It was also deposed that Shri Vipul Borad did not talk with Shri Chetan Katharotiya regarding bringing the goods and its delivery to Shri Vipul's men and that Shri Chetan Katharotiya. Therefore, the allegation that Shri Chetan Katharotiya harboured the syndicate in succouring the acquisition and purchase/sale of the gold bars completely fails.

(iii) From the statement of Shri Vipul Borad it had been clearly deposed by him that he had never dealt with Shri Chetan Katharotiya for supply of gold biscuits and, therefore, had it been the case there was no reason for Shri Vipulbhai Borad in suppressing his role. It is also submitted that no data was recovered by DRI officials

from the mobile phone of Shri Vipul Borad incriminating him. Also in the whatsapp group 'KHANAK 21', floated by the syndicate, he was never made part of the group, which shows that Shri Chetan Katharotiya was not involved in the smuggling activity.

(iv) It is submitted that the whatsapp group name was derived from the name of Shri Baldevbhai Sakhreliya's firm M/s Khanak Export and that nowhere in his statement, he has mentioned the name of Shri Chetan Katharotiya as the facilitator of the smuggled gold bars.

(v) From the statement of Shri Navnitkumar Borad also it is deposed that while visiting M/s CRV jewels, he dealt only with Shri Rambhai Suhagiya and not with Chetan Katharotiya.

(vi) In the statement of Shri Sagarbhai Shah of M/s Moon Star Inc. also he revealed that he dealt with only Shri Rambhai Suhagiya.

(vii) that no cogent evidence has been unearthed against Shri Chetan Katharotiya for referring him as an associate of Shri Vipulbhai Borad. In fact in the statement of Shri Chetan Katharotiya itself it was deposed that he had objected to the proposal floated by Shri Rambhai Suhagiya with respect to dealing in the smuggled gold; that all dealings in the smuggled gold were being exclusively handled by Shri Rambhai Suhagiya with the help of Shri Vipulbhai Borad; that all smuggled gold bars were possessed, retained, kept, concealed, purchased and thereafter sold by Shri Rambhai Suhagiya without any help from Shri Chetan Katharotiya and that just because he was the partner in M/s CRV Jewels, penalty cannot be imposed on him.

(viii) Shri Chetan Katharotiya, without suppressing the facts, had identified some persons associated with M/s Harikala Bullion who visited M/s CRV Jewels and received cash from Shri Rambhai Suhagiya and that he was unaware of the quantum of cash or the goods supplied thereafter by Shri Rambhai Suhagiya; that since he could not identify with specific names associated with M/s Harikala Bullion, he was termed as being non-cooperative in the investigation .

(ix) Without any substantial proof being attributed, it was drawn purely on conjecture and surmise that Shri Chetan Katharotiya had earned commission on the brokerage of smuggled gold; that no cash was recovered by DRI from his custody to suggest that such income was derived.

(x) Cross-examination of Shri Rambhai Suhagiya, Shri Vipulbhai Borad, Shri Nileshbhai Borad, Shri Ankur Sakhreliya and Shri Baldevbhai Sakhreliya may be granted to refute his charges.

#### **4. DEFENCE REPLY OF SHRI MANISHKUMAR MANSUKHBHAI SUHAGIYA**

(i) Shri Manishkumar Suhagiya vide letter dated 01.10.2024 filed his defence reply, wherein he submitted that in terms of evidences, except the statements of the co-accused there were no other independent cogent and corroborative evidence to suggest that any smuggled foreign origin gold was ever purchased from the main accused; that during the search of their premises and drawing of panchnama, no foreign origin gold procured by Shri Rambhai Suhagiya and sold to M/s Harikala Bullion could be connected or established; that there were no evidences to suggest that he had purchased the alleged smuggled gold from M/s CRV Jewels or was even aware of it.

(ii) Even if assumed, but not admitting, that the goods was purchased by him, no evidences were on record to show to whom the smuggled gold were sold, at what price, how the money was realized by him.

(iii) The statements of M/s CRV Jewels and the representatives, as well as the CCTV footage analysis vaguely state that two random persons belonging to M/s Harikala Bullion used to go to M/s CRV Jewels to deliver cash and collect gold; that

these persons were not identified much less by their names in the investigation nor any statements were recorded; that even the statement of co-accused show that they were also not aware of their names, but still suggested that the said persons were present on behalf of M/s Harikala Bullion.

(iv) He was not the part of *whatsapp* group 'Khanak' nor 'Dholi Ba No Vadlo' and that his name was unnecessarily dragged based on some random statements of co-accused without any corroborative evidences.

(v) They did not deal with M/s CRV Jewels for business except to sell gold and not purchases and that they were suppliers of legitimate gold to Shri Rambhai Suhagiya.

(vi) From the statements of Shri Rambhai Suhagiya and Shri Vipul Borad it was not clear who was actually involved in arranging for smuggling gold and sell to domestic buyers as the statement of Chetan Katharotiya stated that Shri Rambhai Suhagiya knew how much gold was sold to whom, whereas Shri Rambhai Suhagiya stated that Shri Chetan Katharotiya knew the same; that later Shri Rambhai Suhagiya deposed that Shri Vipul Borad had arranged to sell gold to M/s Harikala Bullions and only gave names of person who will visit to deliver cash and collect smuggled gold from M/s CRV Jewels, but did not identify any of them by name.

(vii) Placing some screen shots of CCTV footage and alleging that some person with a backpack was delivering money and collecting gold on behalf of Shri Manish Suhagiya, without identifying him, is purely presumptive and unsubstantiated and requires to be dropped.

(viii) It was inconceivable that it has been alleged that gold arrives by way of smuggling on same day or a day before the delivery thereof to buyers including him as alleged; that the order for buying smuggled gold is given 2 days before delivery and such gold is immediately imported into India through smuggling by passengers coming to Surat; Even if one assumes that smuggled gold order is placed for e.g., on 12.04.2022 @ 5.40 pm, as per contents of para 14.5 and statement of Shri Vipul Borad and smuggled gold is imported into India on 13.04.2022 and delivered to Shri Manish Suhagiya on 14.04.2022; that in such short notice it was practically impossible to send passengers abroad, buy gold and bring them back as alleged in the show cause notice; that buying tickets, sending passengers abroad and returning back to India takes time, and they admittedly spent few days in Sharjah as well, and it is impossible for anyone to have placed order on one day and get delivery of smuggled gold on the third day itself; that it was inconceivable that passengers travelled from Surat to Sharjah on dates or time, even before the gold order was placed upon Shri Rambhai Suhagiya, who in turn placed it on Shri Vipul Borad, and, therefore the theory adopted in the show cause notice was far-fetched and unsubstantiated.

(ix) Shri Chetan Kathrotiya in his statement that he was unaware of the matters and that the inclusion of Shri Manish Suhagiya in the smuggled gold was without authenticity and unsubstantiated and also that Shri Chetan was never arrested, unlike others; that therefore, Shri Manish Suhagiya had no role to play in the smuggling of gold.

(x) There was no evidence to show that gold were sold to Shri Manish Suhagiya, nor any evidence to show how and to whom such alleged smuggled gold was further sold; that the person collecting smuggled gold had also not been identified; that they had brought evidence and fact that they had not purchased gold from M/s CRV jewels, but instead sold the same; that the disputed brand, i.e. 'Tigris' or 'ARG' was never dealt by him and that the entire quantity of gold found in their premises was accounted for as having procured from legitimate sources and under proper invoices.

(xi) Shri Ashok Suhagiya was working part time as broker in Diamond and gold market and that Shri Ashok used to deliver gold to M/s CRV Jewels and he never collected gold, which was evident from call made on 21.04.2022; that no allegations

have been made against Shri Ashok Suhagiya as he was not identified in the CCTV footage, which shows that no person representing M/s Harikala Bullion was present in the premises.

A personal hearing, through Virtual Mode, was fixed on 10.03.2025, which was adjourned to 28.03.2025. Shri Saurabh Dixit, Advocate attended the hearing, on behalf of Shri Manish Kumar Suhagiya, and reiterated the submissions made in their written reply dated 01.10.2024.

## **5. DEFENCE REPLY OF SHRI VIPUL DHIRUBHAI BORAD**

Since, no defence reply was received from the above noticee a personal hearing, through Virtual Mode, was fixed on 10.03.2025. SSN Lawyers, representing on behalf of the above mentioned noticees, vide letter dated 10.03.2025 requesting for adjournment. Accordingly, another opportunity was granted on 17.03.2025. SSN lawyers vide letter dated 13.03.2025 requested for another adjournment. A third and final opportunity was granted on 25.03.2025. Again, SSN Lawyers vide letter dated 25.03.2025 again requested adjournment. Three opportunities were granted, however, the noticees failed to avail the same. The noticee, through SSN lawyers filed a defence reply dated 25.03.2025.

(i) He submitted that his statements were taken by the DRI officers by force, threat and intimidation and no start time or end time was mentioned; that the stereotype certificate under Section 138C was got signed by me without any date, time or witness which proves that the statement were recorded by force; that he may be granted cross-examination of Shri Nilesh Borad, Shri Baldev Sakhreliya Shri Vijaykumar Vekaria, Shri Shaileshkumar Korat, Shri Chetanbhai Katharotiya, Shri Rambhai Suhagiya, Shri Ankur Sakhreliya in view of the various decisions of Courts/Tribunals; that no gold was recovered from him; that statements of co-noticee cannot be adopted as legal evidence to penalise the accused unless the statements were corroborated with material particulars by independent evidences; that no penalty under Section 112(b) of the Customs Act, 1962 for all the reasons mentioned above and the Hon'ble Tribunal decision reported in Harshadbhai Savaliya V/s CC-2022 SCC Online CESTAT 3350; that in case no cross-examination was granted in their case, a speaking order may be passed in terms of jurisdictional High Court decision reported in Mahek Glazes Pvt. Ltd. V/s UOI reported in 2013(7) TMI 128-Gujarat High Court.

I find that 3 opportunities of personal hearing were granted to the noticee, however, he failed to appear. In the said event, the charges proposed against the said notice would be decided on the basis of his defence reply dated 25.03.2025 and the available records in the case.

## **6. DEFENCE REPLY OF SHRI NAVNIT DHIRUBHAI BORAD**

Since, no defence reply was received from the above noticee a personal hearing, through Virtual Mode, was fixed on 10.03.2025. SSN Lawyers, representing on behalf of the above mentioned noticees, vide letter dated 10.03.2025 requesting for adjournment. Accordingly, another opportunity was granted on 17.03.2025. SSN lawyers vide letter dated 13.03.2025 requested for another adjournment. A third and final opportunity was granted on 25.03.2025. Again, SSN Lawyers vide letter dated 25.03.2025 again requested adjournment. Three opportunities were granted, however, the noticees failed to avail the same. The noticee, through SSN lawyers filed a defence reply dated 25.03.2025.

(i) In the said defence reply, he submitted that the show cause notice was completely exculpatory and that no gold was recovered from him; that he denied making neither any currency declaration nor the translation of the declaration mentions about such declaration; that officers of the rank of intelligence officer/senior intelligence officer had no jurisdiction to investigate currency related violation under FEMA, 1999 and they relied on the judgment of Hon'ble CESTAT reported in CC V/s L.Rajkumar-

2013SCC Online CESTAT 325; that no substantial monetary transactions were found in his bank account; that photos and *whatsapp* chats do not connect him to any offence and that no panchnama was drawn before the forensic analysis of the phones from which the chats have been extracted nor any certificate under Section 138C of the Customs Act, 1962 were produced; that he may be granted cross-examination of Shri Vipul Borad, Shri Rambhai Suhagiya, Shri Nilesh Borad and Shri Baldev Sakhreliya view of the various decisions of Courts/Tribunals; that in case no cross-examination was granted in their case, a speaking order may be passed in terms of jurisdictional High Court decision reported in Mahek Glazes Pvt. Ltd. V/s UOI reported in 2013(7) TMI 128-Gujarat High Court; that statements of co-noticee cannot be adopted as legal evidence to penalise the accused unless the statements were corroborated with material particulars by independent evidences; that no penalty under Section 112(b) of the Customs Act, 1962 for all the reasons mentioned above and the Hon'ble Tribunal decision reported in Harshadbhai Savaliya V/s CC-2022 SCC Online CESTAT 3350.

I find that 3 opportunities of personal hearing were granted to the noticee, however, he failed to appear. In the said event, the charges proposed against the said notice would be adjudicated on the basis of his defence reply dated 25.03.2025 and the available records in the case.

#### **7. DEFENCE REPLY IN CASE OF SHRI BALDEV MANSUKHBHAI SAKHRELIYA**

Since, no defence reply was received from the above noticee a personal hearing, through Virtual Mode, was fixed on 10.03.2025. SSN Lawyers, representing on behalf of the above mentioned noticees, vide letter dated 10.03.2025 requesting for adjournment. Accordingly, another opportunity was granted on 17.03.2025. SSN lawyers vide letter dated 13.03.2025 requested for another adjournment. A third and final opportunity was granted on 25.03.2025. Again, SSN Lawyers vide letter dated 25.03.2025 again requested adjournment. Three opportunities were granted, however, the noticees failed to avail the same. The noticee, through SSN lawyers filed a defence reply dated 31.03.2025.

(i) In the said defence reply, he sought cross examination of Shri Rambhai Maganbhai Suhagiya, Shri Vipul D Borad in terms of section 138 B of the Customs Act 1962; that no gold was recovered from him as per the show cause notice and that whatever gold was seized were town seizures only; that Photos and WhatsApp chats did not connect him to any offence; that no panchnama had been drawn before forensic analysis of the phones, CCTV footage from which WhatsApp chats and photos had been extracted nor was there any certificate under section 138 C of the Customs Act, 1962, therefore no credibility could be given to electronic evidence or photos or WhatsApp chats or CCTV footage relied upon in the SCN; that he relied on the case law reported as Anshul Jain Versus CC-2023 SCC Online CESTAT 324A; that the show cause notice contained no independent evidence except statements recorded under custody of the DRI and there he cannot be imposed penalty under Section 112(b) and that they relied on the Tribunal decision reported in Hershadbhai Kantibhai Savaliya Versus CC-2022 SCC Online CESTAT 3350 and case of M/s Durlav Paul Versus CC-2025 SCC Online CESTAT 239.

I find that 3 opportunities of personal hearing were granted to the noticee, however, he failed to appear. In the said event, the charges proposed against the said notice would be adjudicated on the basis of his defence reply dated 31.03.2025 and the available records in the case.

#### **8. DEFENCE REPLY IN CASE OF SHRI ANKUR MANSUKHBHAI SAKHRELIYA**

Since, no defence reply was received from the above noticee a personal hearing, through Virtual Mode, was fixed on 10.03.2025. SSN Lawyers, representing on behalf of the above mentioned noticees, vide letter dated 10.03.2025 requesting for adjournment. Accordingly, another opportunity was granted on 17.03.2025. SSN lawyers vide letter dated 13.03.2025 requested for another adjournment. A third and final opportunity was granted on 25.03.2025. Again, SSN Lawyers vide letter dated 25.03.2025 again

requested adjournment. Three opportunities were granted, however, the noticees failed to avail the same. The noticee, through SSN lawyers filed a defence reply dated 31.03.2025.

(i) In the said defence reply, he sought cross examination of Shri Rambhai Maganbhai Suhagiya, Shri Vipul D Borad and Shri Baldev Mansukhbhai Sakhreliya in terms of section 138 B of the Customs Act 1962; that no gold was recovered from him as per the show cause notice and that whatever gold was seized were town seizures only; that Photos and WhatsApp chats did not connect him to any offence; that no panchnama had been drawn before forensic analysis of the phones, CCTV footage from which WhatsApp chats and photos had been extracted nor was there any certificate under section 138 C of the Customs Act, 1962, therefore no credibility could be given to electronic evidence or photos or WhatsApp chats or CCTV footage relied upon in the SCN; that he relied on the case law reported as Anshul Jain Versus CC-2023 SCC Online CESTAT 324A; that the show cause notice contained no independent evidence except statements recorded under custody of the DRI and there he cannot be imposed penalty under Section 112(b) and that they relied on the Tribunal decision reported in Hershadbhai Kantibhai Savaliya Versus CC-2022 SCC Online CESTAT 3350 and case of M/s Durlav Paul Versus CC-2025 SCC Online CESTAT 239.

I find that 3 opportunities of personal hearing were granted to the noticee, however, he failed to appear. In the said event, the charges proposed against the said notice would be adjudicated on the basis of his defence reply dated 31.03.2025 and the available records in the case.

#### **9. DEFENCE REPLY IN CASE OF SHRI MUKESH DHIRAJLAL KANANI**

Since, no defence reply was received from the above noticee a personal hearing, through Virtual Mode, was fixed on 10.03.2025. SSN Lawyers, representing on behalf of the above mentioned noticees, vide letter dated 10.03.2025 requesting for adjournment. Accordingly, another opportunity was granted on 17.03.2025. SSN lawyers vide letter dated 13.03.2025 requested for another adjournment. A third and final opportunity was granted on 25.03.2025. Again, SSN Lawyers vide letter dated 25.03.2025 again requested adjournment. Three opportunities were granted, however, the noticees failed to avail the same. The noticee, through SSN lawyers filed a defence reply dated 31.03.2025.

(i) In the said defence reply, he sought cross examination of Shri Vipul D Borad in terms of section 138 B of the Customs Act 1962; that no gold was recovered from him as per the show cause notice and that whatever gold was seized were town seizures only; that Photos and *whatsapp* chats did not connect him to any offence; that no panchnama had been drawn before forensic analysis of the phones, CCTV footage from which *whatsapp* chats and photos had been extracted nor was there any certificate under section 138 C of the Customs Act, 1962, therefore no credibility could be given to electronic evidence or photos or *whatsapp* chats or CCTV footage relied upon in the SCN; that he relied on the case law reported as Anshul Jain Versus CC-2023 SCC Online CESTAT 324A; that the show cause notice contained no independent evidence except statements recorded under custody of the DRI and there he cannot be imposed penalty under Section 112(b) and that they relied on the Tribunal decision reported in Hershadbhai Kantibhai Savaliya Versus CC-2022 SCC Online CESTAT 3350 and case of M/s Durlav Paul Versus CC-2025 SCC Online CESTAT 239.

I find that 3 opportunities of personal hearing were granted to the noticee, however, he failed to appear. In the said event, the charges proposed against the said notice would be adjudicated on the basis of his defence reply dated 31.03.2025 and the available records in the case.

#### **10. DEFENCE REPLY IN CASE OF SHRI DIVYESH N. TAVADIYA.**

Since, no defence reply was received from the above noticee a personal hearing, through Virtual Mode, was fixed on 10.03.2025. SSN Lawyers, representing on behalf of

the above mentioned noticees, vide letter dated 10.03.2025 requesting for adjournment. Accordingly, another opportunity was granted on 17.03.2025. SSN lawyers vide letter dated 13.03.2025 requested for another adjournment. A third and final opportunity was granted on 25.03.2025. Again, SSN Lawyers vide letter dated 25.03.2025 again requested adjournment. Three opportunities were granted, however, the noticees failed to avail the same. The noticee, through SSN lawyers filed a defence reply dated 31.03.2025.

(i) In the said defence reply, he sought cross examination of Shri Rambhai Maganbhai Suhagiya, Shri Vipul D Borad and Shri Baldev Mansukhbhai Sakhreliya in terms of section 138 B of the Customs Act 1962; that they had retracted his statement vide letter dated 11.11.2022 and that accordingly, no penalty could be imposed on him; that the relied on the case of M/s CG Versus Ganpati Overseas-2023 SCC Online SC 1259 relied upon in paragraph 11 of the judgement reported as Pintu Verma Versus CC-2023 SCC Online GESTAT 5833; that that no gold was recovered from him as per the show cause notice and that whatever gold was seized were town seizures only; that Photos and *whatsapp* chats did not connect him to any offence; that no panchnama had been drawn before forensic analysis of the phones, CCTV footage from which *whatsapp* chats and photos had been extracted nor was there any certificate under section 138 C of the Customs Act, 1962, therefore no credibility could be given to electronic evidence or photos or *whatsapp* chats or CCTV footage relied upon in the SCN; that he relied on the case law reported as Anshul Jain Versus CC-2023 SCC Online CESTAT 324A; that the show cause notice contained no independent evidence except statements recorded under custody of the DRI and there he cannot be imposed penalty under Section 112(b) and that they relied on the Tribunal decision reported in Hershadbhai Kantibhai Savaliya Versus CC-2022 SCC Online CESTAT 3350 and case of M/s Durlav Paul Versus CC-2025 SCC Online CESTAT 239.

I find that 3 opportunities of personal hearing were granted to the noticee, however, he failed to appear. In the said event, the charges proposed against the said notice would be adjudicated on the basis of his defence reply dated 31.03.2025 and the available records in the case.

#### **11. DEFENCE REPLY IN CASE OF SHRI NILESH BORAD.**

Since, no defence reply was received from the above noticee a personal hearing, through Virtual Mode, was fixed on 10.03.2025. SSN Lawyers, representing on behalf of the above mentioned noticees, vide letter dated 10.03.2025 requesting for adjournment. Accordingly, another opportunity was granted on 17.03.2025. SSN lawyers vide letter dated 13.03.2025 requested for another adjournment. A third and final opportunity was granted on 25.03.2025. Again, SSN Lawyers vide letter dated 25.03.2025 again requested adjournment. Three opportunities were granted, however, the noticees failed to avail the same. The noticee, through SSN lawyers filed a defence reply dated 31.03.2025.

(i) In the said defence reply, he submitted that no gold was recovered from him as per the show cause notice and that whatever gold was seized were town seizures only; that Photos and *whatsapp* chats did not connect him to any offence; that no panchnama had been drawn before forensic analysis of the phones, CCTV footage from which *whatsapp* chats and photos had been extracted nor was there any certificate under section 138 C of the Customs Act, 1962, therefore no credibility could be given to electronic evidence or photos or *whatsapp* chats or CCTV footage relied upon in the SCN; that he relied on the case law reported as Anshul Jain Versus CC-2023 SCC Online CESTAT 324A; that the show cause notice contained no independent evidence except statements recorded under custody of the DRI and there he cannot be imposed penalty under Section 112(b) and that they relied on the Tribunal decision reported in Hershadbhai Kantibhai Savaliya Versus CC-2022 SCC Online CESTAT 3350 and case of M/s Durlav Paul Versus CC-2025 SCC Online CESTAT 239.

I find that 3 opportunities of personal hearing were granted to the noticee, however, he failed to appear. In the said event, the charges proposed against the said notice would be adjudicated on the basis of his defence reply dated 31.03.2025 and the available records in the case.

## **12. DEFENCE REPLY IN CASE OF KALPESHKUMAR DESAI**

In the said defence reply dated 04.04.2025, he sought cross examination of Shri Nikunj Arvind Sutaria, Proprietor of M/s Magic Holidays, Shri Vipul Borad, Shri Baldev Sakhreliya and Shri Ankur Sakhreliya; that no gold was recovered from him as per the show cause notice and that whatever gold was seized were town seizures only; that Photos and *whatsapp* chats did not connect him to any offence; that no panchnama had been drawn before forensic analysis of the phones, CCTV footage from which *whatsapp* chats and photos had been extracted nor was there any certificate under section 138 C of the Customs Act, 1962, therefore no credibility could be given to electronic evidence or photos or *whatsapp* chats or CCTV footage relied upon in the SCN; that he relied on the case law reported as Anshul Jain Versus CC-2023 SCC Online CESTAT 324A; that the show cause notice contained no independent evidence except statements recorded under custody of the DRI and there he cannot be imposed penalty under Section 112(b) and that they relied on the Tribunal decision reported in Hershadbhai Kantibhai Savaliya Versus CC-2022 SCC Online CESTAT 3350 and case of M/s Durlav Paul Versus CC-2025 SCC Online CESTAT 239.

## **13. DEFENCE REPLY IN CASE OF SHRI RAKESH G. MORADIYA**

In the said defence reply dated 04.04.2025, he sought cross examination of Shri Nikunj Arvind Sutaria, Proprietor of M/s Magic Holidays, Shri Vipul Borad, Shri Baldev Sakhreliya and Shri Ankur Sakhreliya; that no gold was recovered from him as per the show cause notice and that whatever gold was seized were town seizures only; that Photos and *whatsapp* chats did not connect him to any offence; that no panchnama had been drawn before forensic analysis of the phones, CCTV footage from which *whatsapp* chats and photos had been extracted nor was there any certificate under section 138 C of the Customs Act, 1962, therefore no credibility could be given to electronic evidence or photos or *whatsapp* chats or CCTV footage relied upon in the SCN; that he relied on the case law reported as Anshul Jain Versus CC-2023 SCC Online CESTAT 324A; that the show cause notice contained no independent evidence except statements recorded under custody of the DRI and there he cannot be imposed penalty under Section 112(b) and that they relied on the Tribunal decision reported in Hershadbhai Kantibhai Savaliya Versus CC-2022 SCC Online CESTAT 3350 and case of M/s Durlav Paul Versus CC-2025 SCC Online CESTAT 239.

## **14. DEFENCE REPLY OF SHRI SAGAR MANUBHAI SHAH, PROPRIETOR OF M/S MOONSTAR INC.**

(i) Shri Sagar M. Shah vide his letter dated 24.03.2025 filed his defence reply, wherein he submitted that based upon the same set of facts and upon allegations of having dealt with the goods imported illegally by Shri Vipul Borad through M/s CRV Jewels had been instituted and concluded and, therefore, instituting another proceedings on the same allegation would amount to double jeopardy and would be barred by the principles of *res-judicata*; that the entire case was based on the statement of Shri Rambhai Suhagiya and is not corroborated by any other evidences; that the foreign origin gold cannot be presumed to be 'smuggled' goods and that he would be unaware that the gold was 'smuggled', which *sine qua non* for imposition of penalties under Section 112 of the Customs Act, 1962; that in the statement dated 04.03.2023, Shri Rambhai Suhagiya stated that it was Shri Vipul Borad that told him that some persons relating to M/s Harikala Bullion and M/s Moon Star Inc would come, but Shri Vipul Borad did not know the persons personally and that he had never met any persons concerning M/s Harikala Bullion and M/s Moon Star Inc.; that as per the statement dated 21.04.2022 of Shri Rambhai Suhagiya as soon as the gold arrived at M/s CRV Jewels through Shri Vipul Borad, the employees of M/s Harikala Bullion and



M/s Moon Star Inc would arrive at M/s CRV Jewels to collect the alleged smuggled gold, which meant that there would have some communication by Shri Rambhai Suhagiya to Shri Sagar Shah; that no cash was found from the premises of M/s CRV Jewels and M/s Moon Star Inc on the day of search by DRI; that no documents or records of private nature were gathered during the 2 years of investigation to show that there was any transaction between M/s CRV Jewels and M/s Moon Star Inc.; that his self-incriminatory statement dated 22.04.2022 was obtained under allurement of good behaviour and also from false protection from criminal liability, which cannot be relied as evidence against him; that the allegations against him cannot be proved merely based on the statements of co-accused that too when there was no primary evidence to corroborate transactions; that the burden to prove under Section 123 of the Customs Act, 1962 was restricted to confiscation proceedings and cannot be extended to penal proceedings and the indulgence in the acts of omissions and commissions attracting penal liability lied on the department depending upon the principles of quasi-criminal proceedings and cannot be sustained merely on suspicions, assumptions, presumptions and conjecture; that under Section 138B of the Customs Act, 1962, the veracity of the statements of co-accused, Shri Vijaykumar Vekaria, Shri Shaileshkumar Korat, Shri Chetanbhai Katharotiya, Shri Rambhai Suhagiya, Shri Vipul Borad and had to be established by cross-examination.

(ii) A personal hearing, in Virtual Mode, was granted to Shri Sagar Shah on 10.03.2025, which was adjourned to 25.03.2025. The personal hearing, in Virtual Mode, was attended by Shri Ashwini Kumar, Advocate on behalf of Shri Sagar Shah, wherein he reiterated the defence reply dated 24.03.2025 received by this office on 25.03.2025 and also sought 2 days time to submit copies of judgment in support to his defence and additional submissions. Shri Ashwini Kumar vide e-mail dated 28.03.2025 submitted copies of the following judgments:-

- (i) CHANDRA SHEKHAR R. SHUKLA V/s COMMR. OF CUS. (IMPORTS) NHAVA SHEVA reported in 2019 (370) E.L.T. 1449 (Tri. - Mumbai);
- (ii) JASWINDER SINGH V/s COLLECTOR OF CUSTOMS, NEW DELHI reported in 1996 (83) E.L.T. 175 (Tribunal)
- (iii) SHAKIL PATEL V/s COMMISSIONER OF CUSTOMS (GENERAL), MUMBAI reported in 2018 (361) E.L.T. 382 (Tri. - Mumbai)

## **DISCUSSION AND FINDINGS**

**55.** I have carefully gone through the records of the case and considered the written as well as oral submissions made by all the noticees in the matter.

**56.** Before going into the merits of the case, it would be pertinent to discuss the *modus-operandi* of the case and the role of the persons in the smuggling syndicate.

## **MODUS OPERANDI**

**57.** From the facts and evidences in this case, it is revealed that Shri Vipul Dhirubhai Borad, Shri Nilesh Dhirubhai Borad and Shri Navnitkumar Dhirubhai Borad [all brothers] organized a syndicate for smuggling of gold from Sharjah to Surat through various passengers/carriers. For this purpose, they befriended Shri Baldev Mansukhbhai Sakhreliya [a business partner of Shri Vipul Borad]. They also involved Shri Rambhai Maganbhai Suhagiya, and Shri Chetan Katharotiya, both Partners of M/s CRV Jewels, Surat for placing orders for gold in Sharjah and also to receive it in the premises of M/s CRV Jewels. After smuggled gold was received in the premises of M/s CRV Jewels, the same was sold by Shri Rambhai Maganbhai Suhagiya, Partner of M/s CRV Jewels, Surat to Shri Sagar Manubhai Shah, Proprietor of M/s Moon Star Inc., Surat and Shri Manishkumar Mansukhbhai Suhagiya, Manager of M/s Harikala Bullions, Surat [both bullion traders] on cash. Shri Vipul Borad or his brother Shri Navnit Borad or Shri Ankur Sakhreliya [brother of Baldev Mansukhbhai Sakhreliya] used to collect cash payment from Shri Rambhai Maganbhai Suhagiya, of M/s CRV Jewels, Surat and hand over the same to Shri Alpesh Virani, [a relative of Shri Baldev

Mansukhbhai Sakhreliya] who in turn used to send the money to Shri Dilipbhai/Anilbhai [relatives of Shri Baldev Mansukhbhai Sakhreliya] at Sharjah through different angadiyas. Shri Vipul Borad arranged for passengers/carriers to carry the gold from Sharjah and took care of their expenses for tickets, hotel stay. Shri Nilesh Borad created a *whatsapp* group by including all the above persons for exchange of information, like passengers tickets, hotel bills, passports etc. Shri Hardik Rupareliya, Shri Nikhil Prafulbhai Kanani, Shri Mukesh Kumar Dhiraj Kanani, Shri Kalpesh Navinchandra Chhaswala, Shri Vivek Premjibhai Patel, Shri Gauravgiri Dineshgiri Goswami, Shri Rakesh Gopalbhai Moradiya, Shri Kalpeshkumar Desai, Ms. Vasantben Hasmukhbhai Rupareliya, Shri Divyesh Natvarbhai Tavadiya were the passengers/carriers used by the syndicate to carry out the smuggling from the Surat International Airport.

**58.** By using the said modus, the syndicate had smuggled gold through Surat International Airport during the period from April, 2022. On the basis of specific intelligence, DRI seized 135 pieces of smuggled foreign origin Gold biscuits, weighing 15746.40 grams found in the premises of M/s CRV Jewels, Varachha, Surat on 25.04.2022 and seized 15 pieces of smuggled foreign origin Gold full/cut pieces, weighing 1317.30 grams found at the premises of M/s Moon Star Inc., Mahidharpura, Surat on 21.04.2022. The seized 135 pieces of smuggled foreign origin Gold biscuits, weighing 15746.40 grams in the premises of M/s CRV Jewels, Varachha, Surat on 25.04.2022 resulted in absolute confiscation under Section 111 of the Customs Act, 1962, by the Additional Commissioner of Customs, Surat vide OIO No.08/AR/ADC/SRT/2023-24 dated 29.09.2023 along with penalty imposed on Shri Vipul Dhirubhai Borad, Shri Rambhai Maganbhai Suhagiya, Partner of M/s. CRV Jewels, Shri Baldev Sakhreliya, Shri Ankur Sakhreliya, Shri Nilesh Dhirubhai Borad Shri Navnit Dhirubhai Borad Shri Darshan Navin Chandra Chhaswala under Section 112 of the Customs Act, 1962 for their active involvement in the smuggling activity and in case of seizure of 15 pieces of smuggled foreign origin Gold full/cut pieces, weighing 1317.30 grams at M/s Moon Star Inc., Mahidharpura, Surat on 21.04.2022 resulted in absolute confiscation vide OIO No.05/AR/ADC/SRT/2023-24 dated 05.09.2023 under Section 111 of the Customs Act, 1962 along with penalty imposed upon Shri Sagar M Shah, Proprietor of M/s. Moon Star Inc. under Section 112 of the Customs Act, 1962.

**59.** In furtherance to the above investigation, the same master-minds, and various other passengers/carriers were found to have been involved in the smuggling of 389 pieces of Gold biscuits, valued at Rs.20,12,07,916/- by adopting the same modus-operandi during the period from 10.04.2022 to 20.04.2022.

**60.** The issue for determination in this case is:-

(i) whether Shri Vipul Dhirubhai Borad was involved in the smuggling of 389 pieces of Gold biscuits, valued at Rs.20,12,07,916 during the period from 10.04.2022 to 20.04.2022 and whether the said goods were liable to confiscation under Section 111 of the Customs Act, 1962?

(ii) whether the Customs duty of Rs.7,74,65,047/- applicable on the smuggled gold as mentioned above is required to be recovered from Shri Vipul Dhirubhai Borad under Section 28(4) of the Customs Act, 1962 along with interest. Also, whether Shri Vipul Dhirubhai Borad is liable to penalty under Section 112 and Section 114A of the Customs Act, 1962?

(iii) whether Shri Navnitkumar Dhirubhai Borad was involved in smuggling of foreign currency from India equivalent to 41,93,530 AED, valued at Rs.8,95,31,865/- in contravention of the Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulation, 2015 and whether the same is liable to confiscation under Section 113 of the Customs Act, 1962? Also whether Shri Navnitkumar Dhirubhai Borad is liable to penalty under Section 112 and Section 114 of the Customs Act, 1962?

(iv) whether Shri Rambhai Maganbhai Suhagiya, Shri Baldev Mansukhbhai Sakhreliya, Shri Ankur Mansukhbhai Sakhreliya, Shri Sagar Manubhai Shah, Shri Manishkumar Mansukhbhai Suhagiya, Shri Chetan R Katharotiya, Shri Nilesh Dhirubhai Borad Shri Hardik Rupareliya, Shri Nikhil Prafullbhai Kanani, Shri Mukesh Kumar Dhirajlal Kanani, Shri Kalpesh Navinchandra Chhaswala, Shri Vivek Premjibhai Patel, Shri Gauravgiri Dineshgiri Goswami, Shri Rakesh Gopalbhai Moradiya, Shri Kalpeshkumar Desai, Ms. Vasantben Hasmukhbhai Rupareliya, Shri Divyesh Natvarbhai Tavadiya, were involved in the smuggling of gold from Surat International Airport and whether they were liable to penalty under Section 112 of the Customs Act, 1962.

The following evidences are on record:

**A. DIGITAL EVIDENCES**

1. Video footage of DVR seized from the premises of M/s CRV Jewels for 11.04.2022, 12.04.2022, 14.04.2022, 15.04.2022, 18.04.2022, 19.04.2022 and 21.04.2022 which shows the movements of Shri Ankur Mansukhbhai Sakhreliya, Shri Navnit Borad, Shri Vipul Borad, Shri Chetan Kathrotiya and Shri Rambhai Maganbhai Suhagiya. The screen shots from the video footage from the respective CCTV cameras were placed on record [appearing at para 33.1.1 to 33.1.4 and 34.3.2 above], wherein the exclusive evidences regarding:-

(i) handing over of gold biscuits in a bag by Shri Ankur Sakhreliya to Shri Rambhai Suhagiya and their movement towards the locker room for physical counting.

(ii) conscious blocking of camera of locker room by Shri Rambhai Suhagiya with a bag to hide the received smuggled gold.

(iii) Shri Rambhai Suhagiya handing over gold biscuits to the person of M/s Harikala Bullions, Surat and the receipt of cash by Shri Rambhai Suhagiya from the said person.

(iv) regular visits made by persons of M/s Harikala Bullions to hand over cash and receive smuggled gold.

(v) Shri Vipul Borad and Navnit Borad arriving with bag containing gold biscuits in separate incidents and exchange of cash.

**2. WHATSAPP CHATS RETRIEVED FROM MOBILES OF KEY PERSONS/GROUP**

**(i) WHATSAPP CHATS SHARED IN WHATSAPP GROUP “KHANAK 2021”**

Sr. No.	Date	Time (UTC+5:30)	Chat/Audio/Pdf from	Contents of Chat/audio
1	14.04.2022	16:54:02	Baldev	Shared a ticket of Air India Express of PNR 8EY22K
2	14.04.2022	16:54:02	Baldev	Shared a ticket of Air India Express of PNR HLHFE2
3	14.04.2022	16:54:03	Baldev	Shared a ticket of Air India Express of PNR R59NZN
4	14.04.2022	16:54:03	Baldev	Shared a ticket of Air India Express of PNR PG0GL1
5	15.04.2022	08:59:48	Vipul	Jay ho
6	17.04.2022	11:38:44	Vipul	<b>Aaj na apd caring vala na Pasport ma name hoye e mne send karjo ne</b>
7	17.04.2022	11:40:07	Ankur	Ha
8	17.04.2022	12:04:04	Ankur	Gauravgirir dineshgiri Goswami Rakesh Gopalbhai Moradiya Kalpeshkumar thakurbhai desai Rupareliya Vasantben hasmukhbhai Tavadia divyesh natvarbhai
9	17.04.2022	12:23:17	Baldev	<b>Smaglaro ni toil</b>
10	17.04.2022	12:24:55	Vipul	<b>Vasantben Pan</b>
11	17.04.2022	12:26:26	Baldev	<b>Jalpesh na Mammi</b>
12	17.04.2022	12:27:27	Vipul	Ha kelo che Jalpesh
13	17.04.2022	12:27:35	Vipul	Audio massage sent (could not be retrieved by RFSL)

14	17.04.2022	12:28:05	Baldev	Ha em rakhjo
15	17.04.2022	12:27:35	Vipul	Audio message sent (could not retrieved by RFSL)
16	17.04.2022	12:47:36	Ankur	Ok
17	17.04.2022	13:00:14	Vipul	Audio message sent (could not retrieved by RFSL)
18	17.04.2022	13:00:29	Vipul	Finaly
19	17.04.2022	13:44:05	Ankur	Ok
20	17.04.2022	13:44:23	Ankur	Audio message sent (could not retrieved by RFSL)
21	17.04.2022	15:23:42	Vipul	Audio message sent (could not retrieved by RFSL)
22	17.04.2022	15:24:02	Ankur	Ok
23	17.04.2022	17:05:46	Ankur	Sign done
24	17.04.2022	17:09:41	Ankur	Shared agroup photo of 4 male persons without mask
25	17.04.2022	17:09:41	Ankur	Shared a group photo of 4 male persons with mask
26	17.04.2022	17:09:41	Ankur	Shared photo of a lady passenger
27	17.04.2022	17:10:06	Ankur	Shared photo of himself (Ankur)
28	17.04.2022	17:13:44	Baldev	Bichara nu dhyan rakhje (Reply on photo of lady)
29	17.04.2022	17:15:23	Ankur	Ha ha
30	17.04.2022	17:15:49	Baldev	<b>Chokra sala smagling krave che</b>
31	17.04.2022	17:15:55	Ankur	Ha
32	17.04.2022	17:36:49	Vipul	<b>Ava chokra koi na pake</b> (Reply on post of 'Chokra sala smagling krave che')
33	18.04.2022	17:23:10	Baldev	Share eVisa of VipulD Borad
34	18.04.2022	17:23:10	Baldev	Share eVisa of Mukeshkumar D. Kanani
35	18.04.2022	17:23:11	Baldev	Share eVisa of Gopalbhai C. Mulani
36	18.04.2022	17:23:11	Baldev	Share eVisa of Dhavalkumar Premjibhai Patel
37	18.04.2022	17:53:50	Baldev	Share eVisa of Shlpaben Mukeshbhai Kanani
38	18.04.2022	17:53:50	Baldev	Share eVisa of Tanay Mukeshbhai Kanani
39	18.04.2022	17:54:49	Baldev	Share Air India Expres ticket of PNR 3LN9B1 of Navnit Borad
40	18.04.2022	17:54:49	Baldev	Share Air India Expres ticket of PNR PDWBNU of Dhavalkumar Premjibhai Patel
41	18.04.2022	17:54:50	Baldev	Share Air India Expres ticke of PNR QH6OV9 of Gopalbhai C. Mulani.
42	18.04.2022	17:55:25	Baldev	Navnitbhai Dhavalbhai Gopal Dte 21/04/22 srt to shj tot
43	18.04.2022	18:35:19	Baldev	Share pdf of eVisa of Deeptiben Vipulbhai Borad
44	21.04.2022	00:24:10	Vipul	Share Photo of gold biscuits scatterredon floor.
45	21.04.2022	06:30:44	Navnit	Share a photo of declaration AIRC/2514

I find that a picture of Gold Biscuits scattered on floor shared at 12.24 am on 21.04.2022 by Shri Vipul D Borad in *whatsapp* group “KHANAK 2021” was the picture of Gold smuggled on 20.04.2022 taken by Shri Vipul D Borad at his home in the night of 20.04.2022 and shared in the early morning in “KHANAK 2021” *whatsapp* group and that this was the same consignment which was later detained by DRI on 21.04.2022 at M/s CRV Jewels.

(ii) **WHATSAPP CHATS OF SHRI RAMBHAH SUHAGIYA WITH VARIOUS PERSONS**

1. *Whatsapp* chats by Shri Rambhai Suhagiya with Shri Vipul Borat retrieved from the mobile phone of Shri Rambhai Suhagiya and his response:

- Page No.1, printout of the screenshot of *whatsapp* chat dated 19.04.2022 (Tuesday) at 4.04 pm mentioned as “135\*54080”. On being asked, **Shri Rambhai Suhagiya clarified that he raised order for 135 piece of gold biscuits of 999 purity weighing 10 tola and 54080 means the price for the gold biscuits had been fixed @ Rs 54080/- per tola.**
- Further on Page No. 1, *whatsapp* chat dated 16.04.2022 (Saturday) at 3:38pm mentioned as “130\*53650”. On being asked, **Shri Rambhai Suhagiya clarified**

**that he raised order for 130 piece of gold biscuits of 999 purity weighing 10 tola and 53650 means the price for the gold biscuits had been fixed @ Rs 53650/- per tola.**

- Page No.2 printout of the screenshot of whatsapp chat dated 12.04.2022 at 5:40pm mentioned as “115\*53250”. On being asked, **Shri Rambhai Suhagiya clarified that he raised order for 115 pieces of gold biscuits of 999 purity weighing 10 tola and 53250 means the price for the gold biscuits had been fixed @ Rs 53250/- per tola.**
- Page No. 3 printout of the screenshots of whatsapp chat dated 09.04.2022 at 5:39pm mentioned as “144\*52850”. On being asked, **Shri Rambhai Suhagiya clarified that meaning of the said message was that he raised order for 144 piece of gold biscuits of 999 purity weighing 10 tola and 52580 means the price for the gold biscuits had been fixed @ Rs 52850/- per tola.**

On being asked he stated that all the above said orders had been placed by him as per the requirement from aforesaid mentioned bullion firms i.e. M/s Harikala Bullion and M/s Moon Star Inc. and that he just earned commission of Rs 20-30 thousand (approx.) on one tola of gold.

(iii) *Whatsapp* chats made with Shri Ankur (Baldev) (sic: name as saved on mobile phone) (Mob: +91-8758751949)

Sr. No.	Date	Time (UTC+5:30)	Chat/Audio from	Contents of Chat/audio
1	05.04.2022	19:17:57	Incoming call from Baldev	-
2	05.04.2022	19:37:41	Incoming call from Baldev	-
3	05.04.2022	19:40:53	Incoming call from Baldev	-
4	09.04.2022	17:12:57	Baldev	Hi
5	09.04.2022	17:13:00	Baldev	Rate plz
6	09.04.2022	17:14:18	Baldev	Final aapo
7	09.04.2022	17:14:25	Baldev	Yarji
8	09.04.2022	17:30:51	Baldev	Ok
9	09.04.2022	17:39:37	Rambhai	144*52850
10	11.04.2022	10:41:01	Rambhai	Ok
11	12.04.2022	17:28:37	Baldev	Hi
12	12.04.2022	17:35:32	Rambhai	Bolo
13	12.04.2022	17:35:38	Baldev	Rate
14	12.04.2022	17:35:46	Rambhai	53230
15	12.04.2022	17:35:58	Baldev	Final aapo
16	12.04.2022	17:36:08	Rambhai	Final
17	12.04.2022	17:36:14	Baldev	Nthi
18	12.04.2022	17:36:22	Rambhai	Ketla pis
19	12.04.2022	17:36:26	Baldev	114
20	12.04.2022	17:36:40	Rambhai	Weit (Wait)
21	12.04.2022	17:40:01	Rambhai	53250
22	12.04.2022	17:40:07	Baldev	Ok
23	12.04.2022	17:40:11	Baldev	115 pcs kro
24	12.04.2022	17:40:16	Rambhai	Ok
25	12.04.2022	17:40:18	Baldev	Thursday na delivery
26	12.04.2022	17:40:30	Rambhai	115*53250
27	12.04.2022	17:40:38	Rambhai	Ok
28	14.04.2022	10:12:47	Rambhai	Jay swaminarayan
29	14.04.2022	10:12:55	Baldev	Jay swaminarayan
30	14.04.2022	10:12:55	Rambhai	Kon avse (who wil come)

31	14.04.2022	10:12:59	Baldev	Navnit bhai
32	14.04.2022	10:12:47	Rambhai	Ok
33	14.04.2022	15:47:59	Incoming call from Baldev	-
34	14.04.2022	18:02:47	Incoming call from Baldev	-
35	16.04.2022	15:31:53	Incoming call from Baldev	-
36	16.04.2023	15:35:57	Ongoing call from Rambhai	-
37	16.04.2022	15:38:29	Rambhai	130*53650
38	19.04.2022	16:02:49	Incoming call from Baldev	-
39	19.04.2022	16:04:19	Rambhai	135*54080

It is very clear from the whatsapp chat that Shri Baldev Shakreliya had quoted price per tolas of gold biscuits to Shri Baldev Sakhreliya and raised order for 144 pieces of gold biscuits of 10 tola bar on a rate of Rs. 52850/- per tola to Shri Baldev Sakhreliya on 09.04.2022 and further placed order for 115 pieces @ Rs. 53250 per tola on 12.04.2022 and again placed order for 130 pieces @Rs. 53650 per tola on 16.04.2022 to Shri Baldev Sakhreliya and explanation of pages were given as below:

- Page No.4 (as page 1 to 3 were already given to the print outs taken on 22.03.2022) was the printout of whatsapp chat dated 11.04.2022 at 12:28pm, he stated that 70 means 70,000, for whatsapp message dated 11.04.2022 at 2:05pm, he stated that 112 means 1.12 Lakh, for whatsapp message dated 12.04.2022 at 2:32pm, he stated that 130 means 1.30 Lakh.

From the above, it is also very clear that Shri Rambhai Suhagiya sent messages to Shri Ankur Mansukhbhai Sakhreliya to collect cash from M/s CRV Jewels as and when cash was received. These *whatsapp* chats were corroborated with calls made by Shri Rambhai Suhagiya to Shri Ankur Mansukhbhai Sakhreliya on 11.04.2022 and 12.04.2022.

(iv) **WHATSAPP CHATS OF SHRI VIPULBHAI BORAD WITH VARIOUS PERSONS**

1. *Whatsapp* chats by Shri Vipulbhai Borad retrieved from his mobile phone and his response:

- “(i) Page 1 to 11:  
These printouts pertain to chats in the whatsapp group in the name of “KHANAK 2021” in my Samsung Galaxy phone. On being asked, I state that my younger brother Nilesch is group admin of ‘KHANAK 2021’ group and other members of this group are Ankur Shakreliya, Baldev, Khanak new company, & Navnit. Further, my explanation for each page is as under-
- Page 1- This is Declaration filed by Shri Navnit before UAE Customs (import of Cash) on 21.04.2022 wherein he declared Indian currency in cash of Rs. 41,93,530/-
  - Page 2- This is picture of Gold smuggled on 20.04.2022 taken by me at my home in the night of 20.04.2022 and shared in the early morning in “KHANAK 2021”. This was the Gold which was later detained by DRI on 21.04.2022 at CRV Jewels.
  - Page 3 to 5- These three pages are Air tickets of passengers (Mr. Navnitkumar Dhirubhai Borad, Mr. Gopalbhai Chhaganbhai Mulani & Mr. Dhawalkumar Premjibhai Patel) travelled from Surat to Sharjah on 21.04.2022.
  - Page 6 to 9- These pages are Tourist visa of two passengers (Mr. Gopalbhai Chhaganbhai Mulani & Mr. Dhawalkumar Premjibhai Patel) travelled on 21.04.2022 to Sharjah.
  - Page 10 – This is the group photo of passengers travelling on 17.04.2022 from Sharjah to Surat and carried Gold.
  - Page 11- This is screen shot of chat wherein list of passenger was shared by Shri Ankur Shakreliya, travelled on 17.04.2022.
  - Page 12 to 14- These three pages are Air tickets of passengers travelled from Sharjah to Surat on 17.04.2022 whose photo are in picture at page 11.

(vi) Page 15 to 16:

These printouts are pertain to whatsapp chats between me and my younger brother Shri Nilesh taken from my Samsung Galaxy phone, detail explanation for each page is as under-

- Page 15- This is the group photo of passengers travelled on 20.04.2022 from Sharjah to Surat and carried Gold.
- Page 16- This is screen shot of chat wherein list of passenger was shared by Shri Nilesh, travelled on 20.04.2022

(iii) Page 17:  
This printout pertains to whatsapp chats between me and Baldev (Mob. No. 9601347698) taken from my Samsung Galaxy phone wherein Shri Baldev convey me regarding booking of 135 pcs of Gold Biscuits by Shri Rambhai Maganbhai Suhagiya @ of Rs. 54080/- per tola.”

(v) **WHATSAPP CHAT FROM THE MOBILE OF SHRI VIPUL BORAD AND THE EXPLANATION GIVEN BY HIM AS UNDER:**

**Page 1 to 11:**

These printouts pertain to chats in the whatsapp group in the name of “KHANAK 2021” in Samsung Galaxy phone of Shri Vipul Borad. On being asked, I state that I am group admin of ‘KHANAK 2021” group and other members of this group are Vipul, Ankur, Baldev, Khanak new company, & Navnit. Further, my explanation for each page is as under-

- Page 1- This is Declaration filed by Shri Navnit Borad before UAE Customs (import of Cash) on 21.04.2022 wherein he declared Indian currency in cash of Rs. 41,93,530/-
- Page 2- This is picture of Gold smuggled on 20.04.2022 taken by my brother Shri Vipul D Borad at his home in the night of 20.04.2022 and shared in the early morning in “KHANAK 2021”. This was the Gold which later detained by DRI on 21.04.2022 at CRV Jewels.
- Page 3 to 5- These three pages are Air tickets of passengers (Mr. Navnitkumar Dhirubhai Borad, Mr. Gopalbhai Chhaganbhai Mulani & Mr. Dhawalkumar Premjibhai Patel) who travelled from Surat to Sharjah on 21.04.2022.
- Page 6 to 9- These pages are Tourist visa of two passengers (Mr. Gopalbhai Chhaganbhai Mulani & Mr. Dhawalkumar Premjibhai Patel) travelled on 21.04.2022 to Sharjah.
- Page 10 – This is the group photo of passengers who travelled on 17.04.2022 from Sharjah to Surat and I state that I do not recognize them.
- Page 11- This is screen shot of chat wherein list of passenger was shared by Shri Ankur Shakreliya, who travelled on 17.04.2022.
- Page 12 to14- These three pages are Air tickets of passengers who travelled from Sharjah to Surat on 17.04.2022 whose photo are in picture at page 11.

**Page 15 to 16:**

These printouts pertain to personal whatsapp chat between me and my elder brother Shri Vipul taken from his Samsung Galaxy phone, detailed explanation for each page is as under-

- Page 15-This is the group photo of passengers who travelled on 20.04.2022 from Sharjah to Surat who carried 135 pieces of smuggled gold.
- Page 16-This is screen shot of chat wherein list of passengers was shared by me to Shri Vipul who travelled on 18.04.2022. I explain that in the said photo the name of the person from left to right is: 1. I do not know her name, 2. Dipali Darshan Chhaswala, 3. Darshan Navinchandra Chhaswala, 4. Aryan Chintubhai Panwala and 5. Yamini Premji Patel. I further state that I know only Yamini Premji Patel and she introduced me to the other person at Dubai Airport. I shared the said photo as Shri Vipul D Borad asked me to send the photo of the persons travelling with me.

**Page 17:**

This printout pertains to whatsapp chats between Shri Vipul Borad and Baldev (Mob.No.9601347698) taken from his Samsung Galaxy phone wherein Shri Baldev has conveyed regarding booking of 135 pcs of Gold Biscuits by Shri Rambhai Maganbhai Suhagiya @ of Rs.54080/- per tola.

(vi) **WHATSAPP CHAT WITH SHRI BALDEV SAKHRELIYA UPDATING EACH OTHER REGARDING PURCHASING OF GOLD:**

Sr. No.	Date	Time (UTC+5:30)	Chat/Audio from	Contents of Chat/audio
1	19.04.2022	19:48:10	Vipul	Kal ma 4 ena book karje
2	19.04.2022	19:48:24	Baldev	Ok

3	20.04.2022	20:14:13	Baldev	54080/- ma book che
4	20.04.2022	20:14:25	Vipul	Ok
5	20.04.2022	20:14:37	Baldev	Pcs je aaape e tamne
6	20.04.2022	20:14:40	Baldev	Nilesh bhai
7	20.04.2022	20:14:40	Vipul	Ok
8	20.04.2022	20:14:53	Vipul	Jalpesh na 25 che
9	20.04.2022	20:14:54	Baldev	Apda 135 pcs to book che j
10	20.04.2022	20:14:59	Baldev	Ha ok
11	20.04.2022	20:15:05	Vipul	Ok

### **3. CALL LOGS FROM CONCERNED PERSONS**

(i) Shri Rambhai M Suhagiya had sent *whatsapp* message to Shri Ankur Mansukhbhai Sakhreliya to collect the cash from his shop viz. CRV Jewels. From the call logs of Shri Rambhai Maganbhai Suhagiya, Partner of CRV Jewels, it is also evident that he had called Shri Ankur Mansukhbhai Sakhreliya on the same day to collect the cash received in his office. The details of calls retrieved from the call log from the mobile of Shri Rambhai Maganbhai Suhagiya has been mentioned earlier at para 34.1.2.

(ii) It is also evident that Shri Rambhai Maganbhai Suhagiya passed the smuggled golds, as it was or in the same form, to Bullion firms viz. Harkala Bullion, Surat and M/s Moon Star Inc., Surat. After enquiry about the rate from Shri Baldev Sakhreliya, Shri Rambhai Maganbhai Suhagiya confirmed the rate from the buyer of smuggled gold and passed the rate to Shri Baldev Sakhreliya. On enquiry from Shri Baldev Sakhreliya on 09.04.2022 at 17.14 hrs, Shri Rambhai Maganbhai Suhagiya confirmed the rate from one of the buyer i.e. Harikala Bullions on *whatsapp* on mobile no. 919924621292 on 09.04.2022 at 17:36 hrs and confirmed to Shri Baldev Sakhreliya as "144\*52850". From the call logs of Shri Rambhai Maganbhai Suhagiya, retrieved from his seized mobile, it is also evident that Shri Rambhai Maganbhai Suhagiya received rate from M/s Harikala Bullion and conveyed to Shri Baldev Sakhreliya immediately. The summary of call made/ received between Shri Rambhai Maganbhai Suhagiya and Harikala Bullions has been mentioned earlier at para 34.1.3.

(iii) From the call logs of Shri Rambhai Maganbhai Suhagiya, retrieved from his seized mobile, it is also evident that Shri Rambhai Maganbhai Suhagiya also received rate from Moon Star Inc. (Prop. Shri Sagar Shah) and conveyed it to Shri Baldev Sakhreliya. The mobile no 9687099000 was used by Shri Sagar Shah, Prop. of Moon Star Inc., Surat and said mobile number was saved by Shri Rambhai Maganbhai Suhagiya in his mobile in the name of 'Moon Bullion Sagarbhai'. The summary of call made/ received between Shri Rambhai Maganbhai Suhagiya and Moon Star Inc. (Prop. Shri Sagar Shah) has been mentioned earlier at para 34.1.4.

(iv) From the call log of Shri Rambhai Maganbhai Suhagiya, retrieved from his mobile phone, it is also evident that Shri Rambhai Maganbhai Suhagiya was in constant touch with Shri Navnitkumar Dhirubhai Borad (8758125506). Shri Rambhai Maganbhai Suhagiya informed Shri Navnitkumar Dhirubhai Borad (Mob No. 8758125506) to collect the cash from M/s CRV Jewels whenever the cash were accumulated on account of sale of smuggled gold. The summary of call made/ received between Shri Rambhai Maganbhai Suhagiya and Shri Navnitkumar Dhirubhai Borad has been mentioned earlier at para 34.1.5.

(v) From call log retrieved from the mobile of Shri Vipul Dhirubhai Borad for the period from 08.10.2017 to 23.04.2022, it is evident that Shri Hardik Rupareliya, (the passenger/carrier), who had made journey from Sharjah to Surat on 10.04.2022, was in continuous touch with Shri Vipul D Borad. The mobile no '8866438755' was saved in the name of 'Hardik jalpesh' by Shri Vipul D Borad and he had made/ received 12 calls with Shri Hardik Rupareliya *alias* Jalpesh during the period from 04.03.2022 to 15.04.2022. Prior to 04.03.2022, no call data between Shri Vipul D Borad & Hardik



Rupareliya was found in seized mobile of Shri Vipul D Borad. The details of call made between Shri Vipul D Borad and Shri Hardik Rupareliya has been mentioned earlier at para 34.2.7.

(vi) Shri Nikhil Prafulbhai Kanani (the passenger/ carrier), who travelled with his family (wife & daughter) from Sharjah to Surat on 10.04.2022 and returned alone on 18.04.2023, was in continuous touch with Shri Vipul D Borad. The mobile no '8980778185' was saved in the name of 'Nikhil India' by Shri Vipul D Borad and it is evident that Shri Vipul D Borad had exchanged 27 calls with Shri Nikhil Prafulbhai Kanani during the period from 14.04.2022 to 17.04.2022. Prior to 14.05.2022 no call data between Shri Vipul D Borad & Shri Nikhil Prafulbhai Kanani was found in seized mobile of Shri Vipul D Borad. Call logs also show that Shri Vipul D Borad had made two calls to Smt. Mital Nikhilbhai Kanani, wife of Shri Nikhil Kanani on 20.04.2022 and spoken 1.19 minutes and 1.47 minutes respectively. The details of call made between Shri Vipul D Borad and Shri Nikhil Kanani has been mentioned earlier at para 34.2.8.

(vii) Shri Mukesh Kumar Dhirajlal Kanani (passenger/ carrier), who had made journey from Surat to Sharjah on 07.04.2022 and returned from Sharjah to Surat on 10.04.2022, was in continuous touch with Shri Vipul D Borad. The mobile no '9978826005' was saved in the name of 'Mukesh Kumar' by Shri Vipul D Borad. It is evident that Shri Vipul D Borad had exchanged calls 42 times with Shri Mukesh Kumar Dhirajlal Kanani during the period from 19.01.2022 to 21.04.2022. For the period prior to 19.01.2022 no call data between Shri Vipul D Borad & Shri Mukesh Kumar Dhirajlal Kanani was found in the seized mobile of Shri Vipul D Borad. The details of call made between Shri Vipul D Borad and Shri Mukesh Kanani has been mentioned earlier at para 34.2.9.

(viii) Shri Kalpesh Navinchandra Chhaswala (passenger/ carrier) who had travelled from Surat to Sharjah on 11.04.2022 and returned from Sharjah to Surat on 13.04.2022, was in continuous touch with Shri Vipul D Borad. Shri Vipul D Borad had made/ received calls 6 times on 10.04.2022 with Shri Kalpesh Navinchandra Chhaswala on his mobile no. 8460825802, The details of call made between Shri Vipul D Borad and Shri Kalpesh Chhaswala has been mentioned earlier at para 34.2.10.

## **B. DOCUMENTARY EVIDENCES**

1. A reference was made to the Deputy Commisisoner of Customs, Surat International Airport, Surat vide letter F.No.DRI/AZU/SRU/B/INV-08(INT-09)/2022 dated 17.06.2022 seeking the copies of (i) declaration filed by the passengers who had boarded from Surat in the flight to Sharjah during the period from 07.04.2022 to 21.04.2022; and (ii) declarations filed by the passengers who had landed at Surat airport from Sharjah during the period from 10.04.2022 to 20.04.2022. The Deputy Commissioner of Customs, Surat International Airport, Surat submitted vide letter F.No. I/01-03/AP/Misc.Corres/2021-22 dated 20.08.2022 as under:-

*“(i) There was no declaration filed by any passenger boarded at Surat to Sharjah during the period from 07.04.2022 to 21.04.2022; and*

*(ii) There were no declarations filed by any passenger landed at Surat airport from Sharjah during the period from 10.04.2022 to 20.04.2022.”*

This shows that the passengers/carriers of the smuggling syndicate did not carry any goods/items that merited filing of declaration before the Customs authorities either from Surat or Sharjah.

2. Shri Navnit D Barod had filed a declaration No AIRC/ 2514 before Customs Sharjah for currency of 4193530 (currency not mentioned as is evident in the scanned image available in the para 35 above). It is seen that there were two columns in the form for declaration of Cash at Sharjah Airport – (i) Amount declared in AED, and (ii) Amount declared in other currencies. Shri Navnit D Borad had declared '4193530' against

column 'Amount declared in other currencies', which suggested that the cash declared by Shri Navnit D Borad was in the form of currency other than AED which was equivalent to the 4193530 AED. Thus, it could be conclusively stated that Shri Navnit D Borad had carried the sales proceed of smuggled gold (smuggled on 17.04.2022) equivalent to Rs.8,95,31,865/- [4193530 x 21.35 (Rate of exchange as per Notification No. 32/2022-Customs (NT) dated 07.04.2022)] from Surat to Sharjah.

This clearly suggests that funds were gathered from the smuggled gold in Surat and cash were being transferred or carried by the master-mind to Sharjah to buy Gold.

3. From the documents submitted by Shri Nikunj Arvindbhai Sutariya, Proprietor of M/s Magic Holidays, Surat and passenger manifest of Flight IX-172 (Sharjah To Surat) which arrived on 10.04.2022, 13.04.2022 and 17.04.2022, Shri Vipul Borad identified the passengers who carried gold on his behalf, which is discussed at para No.29 and 29.1 above. From these documents, it is clearly seen that Shri Nikunj Arvindbhai Sutariya had booked the tickets on behalf of Shri Vipulbhai Dhirubhai Borad, Navnit Borad, Nilesh Borad and Baldev Manshukhbhai Sakhreliya and maintained **sales ledgers** in the name of other persons viz. Goswami Gaurav, Malavia Sumitben Manishkumar, Dhavalkumar Premjibhai Patel, Patel Yamini. Shri Nikunj Arvindbhai Sutariya raised the invoices in the name of "Goswami Gaurav" and "Malavia Sumitben Manishkumar", "Dhavalkumar Premjibhai Patel" and "Patel Yamini" at the behest of Shri Vipulbhai Dhirubhai Borad and his accomplices. It is very clear that Shri Nikunj Arvindbhai Sutariya had booked tickets for carriers of gold and booked hotels on behalf of Shri Vipul D Borad and recorded the details in sales ledger in the name of different persons. The relevant entries in sales ledger maintained by Shri Nikunj Arvindbhai Sutariya, Proprietor of Magic Holidays pertaining to the person engaged in smuggling of Gold from UAE on 10.04.2022, 13.04.2022 and 17.04.2022 has been mentioned in detail in para-36 above. These documentary evidences enabled the investigation to detect passengers/carriers used by the master minds to carry out smuggling of Gold by the syndicate through Surat International Airport.

4. On verification of the ledger maintained by M/s CRV Jewels by the investigation, no business transactions with M/s Harikala Bullions during April, 2022 were detected, which quashed the version of Shri Manishkumar Suhagiya of M/s Harikala Bullion that they sold gold to them and never purchased gold from M/s CRV Jewels. If that be the case, there should have been entries of sale by M/s Harikala Bullion in the ledger. Therefore, the version of Shri Manishkumar Suhagiya was misleading. Hence, it is very clear that the purchase of 104 pieces of Gold biscuits on 11.04.2022 and 115 pieces of gold biscuits on 14.04.2022 was made by M/s Harikala Bullions.

5. On verification of the ledger maintained by M/s CRV Jewels by the investigation, no business transactions with M/s Moon Star Inc. during April, 2022 were detected, which quashed the version of Shri Sagar Manubhai Shah of M/s Moon Star Inc., that they sold gold to them and never purchased gold from M/s CRV Jewels. If that be the case, there should have been entries of sale by M/s Moon Star Inc in the ledger. Therefore, the version of Shri Sagar Shah was misleading. Therefore, it is very clear that the purchase of 40 pieces of Gold biscuits on 11.04.2022 and 130 pieces of gold biscuits on 18.04.2022 was made by M/s Moon Star Inc.

### **C. CORROBORATIVE EVIDENCES**

(i) **Shri Vijaykumar Gandubhai Vekariya**, an employee of M/s CRV Jewels in his statement dated 21.04.2022 stated that Shri Rambhai arrived first at around 10.00 A.M. and opened the shop and that he identified Shri Vipulbhai D Borad who had come to M/s CRV Jewels around 10:15 AM on 21.04.2022 and handed over a backpack to Shri Rambhai Maganbhai Suhagiya; that during the search of CRV Jewels on 21.04.2022, the DRI officers recovered gold from the locker of M/s CRV Jewels; that he stated that Shri Vipulbhai Borad had come to give a parcel, containing Gold Biscuits to Shri Rambhai Maganbhai Suhagiya; that Shri Vipulbhai D Borad had visited M/s CRV Jewels, G4, Maitri Building, Lambe Hanuman Rd, Varachha, Surat, Gujarat around 3

times in the past 02 months and every time he handed over Gold Biscuits to Shri Rambhai Maganbhai Suhagiya; that on being asked regarding the use of foreign Origin Gold Biscuits handed over by Shri Vipulbhai D Borad, he stated that Shri Rambhai Maganbhai Suhagiya sold those foreign origin Gold Biscuits to M/s Moon Star Bullion, Jadakhadi, Mahidharpura, Surat, Gujarat and M/s Harikala Bullion, Lambe Hanuman Rd, Varsha Society 1, Varachha, Surat.

(ii) **Shri Shaileshkumar Parshottambhai Korat**, Sales Commission Agent of M/s CRV Jewels in his statement dated 21.04.2022, identified Shri Vipulbhai D. Borad who had come with a navy-blue colour bag and went to the cabin situated at backside of cash counter; that after some time, he went into the locker room and saw that Shri Rambhai Maganbhai Suhagiya and Shri Vipulbhai D. Borad were counting the foreign origin gold biscuits; that in the meantime, DRI officers came in M/s CRV Jewels and started search; that on being asked regarding Shri Vipulbhai D. Borad, he stated that he knew him from past 02 months and met him at M/s CRV Jewels, Varachha, Surat, when he had come to meet Shri Rambhai Maganbhai Suhagiya; that on being asked about the purpose of his (Vipulbhai D. Borad) visit at M/s CRV Jewels, he stated that he (Vipulbhai D. Borad) came to give a parcel containing gold biscuits to Shri Rambhai Maganbhai Suhagiya; that Shri Vipulbhai D. Borad had visited around 3-4 times at M/s CRV Jewels in past 02 months and every time he supplied gold biscuits to Shri Rambhai Maganbhai Suhagiya; that on being asked regarding what Shri Rambhai Maganbhai Suhagiya did with the gold biscuits supplied by Shri Vipulbhai D. Borad, he stated that Shri Rambhai Maganbhai Suhagiya used to sell those gold biscuits to M/s Moon Star Bullion, Jadakhadi, Mahidharpura, Surat or M/s Harikala Bullion, Lambe Hanuman Road, Varsha Society-1, Varachha, Surat; that when Shri Rambhai Maganbhai Suhagiya handed over the said gold biscuits to M/s Moon Star Bullion/ M/s Harikala Bullion, they gave him (Shri Rambhai Maganbhai Suhagiya) money in cash; that thereafter, Shri Vipulbhai D. Borad again visited M/s CRV Jewels and used to take money in cash for gold biscuits supplied to Shri Rambhai Maganbhai Suhagiya.

(iii) **Shri Chetanbhai R Katharotiya**, Partner of M/s CRV Jewels, in his statement dated 21.04.2022 stated that Shri Vipul D Borad was the maternal cousin brother of Shri Rambhai M Suhagiya and he visited the premises around 10:00 am; that on being asked regarding the purpose of visit of Shri Vipul D Borad, he stated that as per his knowledge, Shri Vipul D Borad visited the premises to meet Shri Rambhai M Suhagiya to hand over the gold biscuits; that as Shri Vipul D Borad was the cousin brother of Shri Rambhai M Suhagiya, he used to visit the premises of M/s CRV Jewels number of time to meet Shri Rambhai M Suhagiya; that on being asked regarding 135 pieces of yellow metal biscuits found in the locker room of the premises of M/s CRV Jewels he stated that the biscuits had been brought by Shri Vipul D Borad in his blue color laptop bag and had been given to Shri Rambhai M Suhagiya; that he and Shri Rambhai M Suhagiya used to sell those gold biscuits, which were brought by Shri Vipul D Borad, to M/s Moon Star Inc, Shop no. 1-A & 2, B Rangrej Tower, Jada Khadi, Mahidharpura, Surat and Harikala Bullion, Varsha Society, Bhagunagar, Varachha, Surat; that on being asked regarding payment transaction against sale of the gold biscuits to Moon Star Bullion, Harikala Bullion and purchase of the same from Shri Vipul D Borad; that on being asked regarding how many times Shri Vipul D Borad had handed over gold biscuits to Shri Rambhai M Suhagiya, he stated that Shri Rambhai M Suhagiya was in a better position to tell the same, however, it had happened 3 or 4 times in past 02 months.

(iv) **Shri Rambhai Maganbhai Suhagiya**, Partner of CRV Jewels in his statement dated 21/22.04.2022 admitted that at around 10.10 AM Shri Vipulbhai D Borad entered M/s CRV Jewels and they both went into the cabin; that Shri Vipulbhai D Borad handed over a total of 135 UAE origin Gold Biscuits of 10 Tola each; that after receiving the same he went into the Locker room and arranged the same on the floor for counting; that in the meantime, DRI officers came in the shop of M/s CRV Jewels around 10:25 AM and started search in the shop; that he admitted that Shri Vipulbhai Borad had

come to deliver Foreign Origin Gold Biscuits to him; that prior to this Shri Vipulbhai D Borad had delivered to him three consignments of 144, 115, & 130 Gold biscuits of Dubai/UAE Origin each of 10 tola on 11.04.2022, 14.04.2022 & 18.04.2022 respectively; that Shri Baldev Sakhreliya, a friend of Shri Vipulbhai D Borad contacted him on mobile phone to seek the rate of gold biscuits before delivery of foreign origin gold biscuits; that he quoted him the gold price on *whatsapp* and after finalizing the rate he sent the foreign origin smuggled gold biscuits through Shri Vipulbhai D Borad; that he admitted that he had sold the same in ‘as it was’ condition to his customers M/s Moon Star Inc, Jadakhadi, Mahidharpura, Surat, Gujarat and M/s Harikala Bullion, L.H. Road, Varsha Society, Varachha, Surat, Gujarat 395006; he admitted that he regularly made calls to M/s Moon Star & M/s Harikala Bullion to know the daily rate of gold in market; that he admitted that he had sold the foreign origin smuggled gold to M/s Moon Star Inc., therefore, the gold biscuits (cut pieces) with marking of Tigris and ARG UAE on it might be the same, which he sold to him, as they were mostly receiving such Dubai/UAE brand of gold pieces. Shri Rambhai Maganbhai Suhagiya that after raising the order (as per the requirements of the aforementioned two bullion firms) with Shri Baldev Sakhreliya. Shri Baldev Sakhreliya informed on a telephonic conversation that Shri Vipul D Borad would deliver the ordered quantity of gold biscuits on so and so date; that after receiving the same in his showroom, he informed the respective bullion firm i.e Shri Sagar Shah (Mob: +91-9687099000), proprietor of M/s Moon Star inc, Surat and Shri Manishbhai (Mob: +91-9978593937)/Shri Ashokbhai (Mob: +91-9925478392) of M/s Harikala Bullion, Surat and they used to send their employee within half an hour to receive the delivery; that once the gold biscuits reached to the premises of the bullion firms, they sent the cash through one person and after deducting his commission, he handed over the cash to Shri Vipul D Borad. Shri Rambhai Suhagiya admitted that he had received the following gold:

**Details of Foreign origin gold biscuits received by Shri Rambhai M Suhagiya**

Booking Date	No. of biscuits & Quoted Price	Gold biscuits received on	Delivered to
19.04.2022	135*54080	21.04.2022	Detained by DRI under panchnama dated 21.04.2022
16.04.2022	130*53650	18.04.2022	Moon Star Inc
12.04.2022	115*53250	14.04.2022	Harikala Bullion
09.04.2022	144*52850	11.04.2022	Harikala Bullion (104 Pc.) & Moon Star Inc (40 Pc)

He also admitted that with regard to the gold supplied by Shri Baldev Sakhreliya/Shri Vipul D Borad as mentioned in above table, he had never asked for the documents of the said gold biscuits and also stated that he had raised order with Shri Baldev Sakhreliya.

(v) **Shri Vipulbhai Dhirubhai Borad** in his statement dated 21/22.04.2022 admitted that he reached the shop of M/s CRV Jewels, G4, Maitri Building, L.H. Road, Varachha at around 10.15 hrs on 21.04.2022; that he accepted that he had brought the 135 Gold Biscuits of UAE origin in his Bag and handed over the same to Shri Rambhai Maganbhai Suhagiya in his strong room situated behind the cash counter of CRV Jewels; that Shri Rambhai Maganbhai Suhagiya was his cousin (son of his Bua) who was partner of CRV Jewels; that whenever he visited CRV Jewels, he dealt only with Shri Rambhai Maganbhai Suhagiya; that he admitted that he had handed over 144 Gold Biscuits of UAE origin each of 10 tolas to Shri Rambhai Maganbhai Suhagiya on 11.04.2022 in CRV Jewels, and after that he had handed over 115 Gold Biscuits of UAE origin each of 10 tolas on 14.04.2022; and 130 Gold Biscuits of UAE origin each of 10 tolas on 18.04.2022 to Shri Rambhai Maganbhai Suhagiya. Shri Vipulbhai Dhirubhai Borad further admitted that he had supplied 10 Tolas of UAE origin Gold Biscuits having different marking viz. Tigris UAE/ ARG UAE to Shri Rambhai Maganbhai Suhagiya on different occasions; that he was aware that Shri Rambhai Maganbhai

Suhagiya had sold the UAE origin Gold Biscuits to Moon Star Inc., Mahidharpura, as it was on the same day; that on that basis, he presumed that the cut piece of Gold having marking of "Tigris" and "ARG", detained from M/s Moon Star Inc. might be pertaining to consignment of smuggled UAE origin Gold Biscuits, which was sold by him to Shri Rambhai Maganbhai Suhagiya on 18.04.2022; that after purchase, Shri Baldevbhai Sakhreliya negotiated the rate of UAE origin Gold with Shri Rambhai Maganbhai Suhagiya and after finalisation of rate Shri Baldevbhai Sakhreliya conveyed to him the exact number of Gold Biscuits to be smuggled from UAE; that after arrival of carriers at Surat Airport, he received them and collected the Gold biscuits from them and handed over the same to Shri Rambhai Maganbhai Suhagiya next morning at his shop CRV Jewels, Varachha, Surat; that regarding the finance for purchase of Gold in UAE, Shri Vipulbhai Dhirubhai Borad stated that Shri Dilipbhai and Anilbhai, both from Dubai, financed the purchase of Gold in Dubai; that he with the help of Navnit (his younger brother), Ankur (Baldev's brother) collected the cash payment from Shri Rambhai Maganbhai Suhagiya within 1 to 3 days after delivery of Gold, and handed over the cash to Shri Alpesh Virani, who in turn sent the money to Dilipbhai/ Anilbhai at Sharjah through different Angadia. In his statement dated 23.04.2022, he disclosed the details of passengers/carriers, who worked on his behalf.

(vi) **Shri Nikunj Arvindbhai Sutariya**, Proprietor of M/s Magic Holidays, in his statement dated 28.04.2022 admitted that he and his employee Shri Raj Lungariya had mainly dealt with Shri Vipulbhai Dhirubhai Borad to book the tickets for the persons asked by Shri Vipulbhai Borad; that he had been booking tickets on behalf of Vipulbhai Dhirubhai Borad, Navnit Borad, Nilesh Borad and Baldev Manshukhbhai Sakhreliya since year 2020; that the invoices were raised in the name of "Goswami Gaurav" and "Malavia Sumitben Manishkumar" as per the demand of Shri Vipulbhai Dhirubhai Borad and his accomplices; that the payments were made by Shri Vipulbhai Dhirubhai Borad in cash and he used to send cash through various persons to his office; that payment of Rs 300000/- (approx.) was pending; that he had never received any payment for tickets, Visa or Hotel booking from the passengers whose tickets were booked by Shri Vipulbhai Dhirubhai Borad and his accomplices. On being asked regarding the details of the passengers for booking the tickets, he stated that the details of the passengers were forwarded to his office's whatsapp number 9726233309 by Vipulbhai Dhirubhai Borad, Navnit Borad, Nilesh Borad and Baldev Manshukhbhai Sakhreliya and the said details were used to book the tickets for those passengers from Surat to Sharjah and Sharjah to Surat in April-2022; that he had sent the confirmed tickets on whatsapp numbers of Vipulbhai Dhirubhai Borad (9712886203; 9898848150), Navnit Borad (9824011005), Nilesh Borad (9904294441) and Baldev Manshukhbhai Sakhreliya (9601347698) on their whatsapp numbers.

(vii) **Shri Baldev Mansukhbhai Sakhreliya** admitted that regarding entry into Gold smuggling trade in detail, he stated that Shri Vipul Borad had informed him that he was facing deep financial crisis and wanted fast money and requested him for a financial/monetary favour; that then, he introduced Shri Vipul D Borad to Shri Dilip Virani who was settled in Dubai. On being asked regarding arrangement of passengers who were ready to act as carrier and booking of their tickets, he stated that arrangements of passengers were done by Shri Vipul D Borad and tickets were booked by him (Vipul) through M/s Magic Holidays, Surat; that he stated that as per his knowledge, prior to this consignment (which was detained by DRI officers), Shri Vipul D Borad had smuggled gold into India 3 times in the month of April 2022, and the exact quantity of gold smuggled by him must be the same which was mentioned in the statement of Shri Rambhai Maganbhai Suhagiya 130@53650 per tola, 115@53250 per tola and 144@52850 per tola; that regarding the payment, he stated that Shri Ankur, his younger brother and Shri Navnit Borad, younger brother of Shri Vipul Borad collected the cash from Shri Rambhai Maganbhai Suhagiya at CRV Jewels and handed over the cash to Shri Alpesh Virani, a relative of Shri Dilip Virani, who in turn sent the money to Dilip Virani, Dubai;

(viii) **Shri Nilesh Dhirubhai Borad** in his statement dated 02.05.2022 stated that Shri Baldev Sakhreliya was an employee in his firm viz., Grand Hills General Trading LLC, Dubai; that on being asked regarding the procurement of Gold Biscuits of 10 Tolas in Dubai, UAE, he stated that he did not know who had purchased the said gold biscuits in Dubai and he had acted as per instructions of his elder brother Shri Vipul Borad; that he stated that the list of passengers who travelled with him on 18.04.2022 from Surat to Sharjah and from Sharjah to Surat on 20.04.2022 were as under:-

Date of Travel	Name of Passengers travelled	FROM/ TO
18 April, 2022	2. Me (Shri Nilesh Borad) 2. Yamini Premji Patel 3. Darshan Navinchandra Chhaswala 4. Dipali Darshan Chhaswala 5. Aryan Chintubhai Panwala	Surat to Sharjah
20 April, 2022	1. Me (Shri Nilesh Borad) 2. Yamini Premji Patel 3. Darshan Navinchandra Chhaswala 4. Dipali Darshan Chhaswala 5. Nehal Rakeshkumar Kachhadiya 6. Aryan Chintubhai Panwala Sakhreliya	Sharjah To Surat

(ix) **Shri Ankur Mansukhbhai Sakhreliya** in his statement dated 02.05.2022 stated that he knew Shri Vipulbhai Borad since 2018 as the brother of Shri Nilesh Borad & Navnit Borad who were the colleagues of his brother Shri Baldev Sakhreliya in Textile business; that on being asked regarding Shri Rambhai Maganbhai Suhagiya, Partner of CRV Jewels, he stated that he had met him in April, 2022 when Shri Vipul Borad asked him to collect cash from their shop CRV Jewels; that he had visited CRV Jewels three times to collect cash; that on being asked regarding the origin of the cash, he stated that he was not aware about the origin of the cash that time; that after the arrest of Shri Vipulbhai Borad & Shri Rambhai Maganbhai Suhagiya, a Partner of CRV Jewels he came to know that the origin of that cash was the sale proceeds of the foreign origin smuggled gold in question; that regarding whatsapp group and its members in the name of “Khanak 2021”, he stated that he was one of the member of this group and knew that during 2021, it was created for textile business for his brother’s firm Khanak Exports, but later on, it was used exclusively to pass messages and directions related to the smuggling of foreign origin gold; that when he was about to return from Dubai, Shri Vipulbhai Borad passed a message to meet a group of 4 male passengers who would smuggle Gold to Surat and share their photo and names as printed on the passport in the whatsapp group “Khanak 2021”; that he took a picture of the 4 male passengers (carriers) at Sharjah Airport and posted the same on the whatsapp group; that those four men carried foreign origin gold as per the directions of Shri Vipul Borad; that as per the directions of Shri Vipul Borad he posted the name of the said carriers i.e. Gauravgiri Dineshgiri Goswami, Rakesh Gopalbhai Moradiya, Kalpesh kumar Thakrshibhai Desai, Rupareliya Vasantben Hasmukhbhai and Tavadia Divyesh Natvarbhai in the same group; that he did not know that Mrs Rupareliya Vasantben Hasmukhbhai was carrying the gold or not, but she was travelling with the other 4 Gold carriers; that on being asked regarding how he knew the name of these Gold carriers, he stated that on the directions of Shri Vipul D Borad one of those 4 carriers contacted him on phone at Sharjah Airport and then he noted down their names from their passports; that he picked up cash from Shri Rambhai Maganbhai Suhagiya two times on 11.04.2022 and one time on 12.04.2022; that he perused the printout of screenshots taken from the mobile of Shri Rambhai Maganbhai Suhagiya and stated that this was printout of whats app chats dated 11.04.2022 and 12.04.2022 between him and Shri Rambhai Maganbhai Suhagiya; that in the said chats Shri Rambhai Maganbhai Suhagiya sent him the message on different occasions “70”, “113” & “130” and in response he replied “OK” every time, it meant that he had picked up Rs.70,00,000/-, Rs. 113,00,000/- & Rs. 130,00,000/- from Shri Rambhai Maganbhai Suhagiya on different occasions.

(x) **Shri Darshan Navinchandra Chhaswala**, in his statement dated 03.10.2022 he admitted that he and his wife Deepaliben had visited Dubai 3-4 times in search of jobs; that every time they had gone with Nileshbhai D Borad; that Nileshbhai D Borad used to book his and his wife's ticket and hotel room; that he had not paid money to Nileshbhai D Borad for ticket and hotel booking; that he and his wife had gone to UAE 3-4 times with Nileshbhai D Borad; that he knew Shri Vipulbhai Borad as the elder brother of Nileshbhai D Borad; that Nileshbhai D Borad took their passports and sent their names to Vipulbhai D Borad from his mobile; that he was not aware about the declaration of Gold filed by Nileshbhai D Borad before UAE customs authority on 20.04.2022 at Sharjah Airport; that Nileshbhai D Borad gave him 2 parcels on 20.04.2022 at Sharjah airport; that he didn't know what was inside those parcels; that he had kept those parcels in 02 different bags as they were heavy; that after landing at Surat airport, at the behest of Nileshbhai D Borad, the bag was taken out from the sight of custom officers; that no one was aware of those 02 parcels except him (Darshanbhai) and Nileshbhai D Borad.

I find that during one such venture Shri Darshan Chhaswala was found to have travelled with Shri Nilesh D. Borad on Flight IX 172 from Sharjah to Surat on 20.04.2022. The tickets of four other passengers and their Hotel stay at Sharjah were booked through M/s Magic Holidays on behalf of Shri Vipul D Borad. It was found that Shri Darshan Chhaswala was well aware about the smuggling of gold by Nilesh Borad and his brothers. It was found that Shri Nilesh Borad handed over the 135 pcs (10 tola each) of Gold biscuits to Shri Darshan Chhaswala to carry inside the flight and took it back from him after Customs clearance at Surat. It was found that Shri Darshan Chhaswala had carried 135 pieces of foreign origin gold biscuits of 10 tola each weighing 15746.40 gm on 20.04.2022 through Surat International Airport and was found to have directly involved in smuggling of 135 pieces of foreign origin gold biscuits of 10 tola each weighing 15746.40 gm on 20.04.2022 through Surat International Airport on behalf of Shri Nilesh Borad /Shri Vipul D Borad.

(xi) **Shri Divyesh Natvarbhai Tavadiya**, in his statement dated 11.11.2022 admitted that Shri Ankur Sakhareliya met him at Sharjah airport and asked him to carry some gold biscuits and, accordingly, hid 8 gold biscuits in his shoes and Shri Ankur Sakhareliya gave him Rs.15000/- for that work; that Shri Niravbhai told him to meet Shri Ankur Sakhareliya at Airport; that Shri Niravbhai shared his photo with Shri Ankur Sakhareliya and conveyed his location at airport and on that basis Shri Ankur Sakhareliya recognised him at the airport and met him; that before that he had not met Shri Ankur Sakhareliya; that Shri Ankur Sakhareliya handed over to him 8 gold biscuits after security clearance at Sharjah airport in waiting area; that after arriving in Surat, Shri Ankur Sakhareliya met him in the parking area of Surat airport and he handed back 8 gold biscuits to Shri Ankur Sakhareliya; that Shri Baldev Sakhareliya was calling him a 'smuggler' because he was carrying 08 gold biscuits in his shoes. Therefore, Shri Divyesh Natvarbhai Tavadiya was directly involved in smuggling of 8 pieces of foreign origin gold biscuits of 10 tola each on 17.04.2022 through Surat International Airport on behalf of Shri Ankur Mansukhbhai Sakhareliya / Shri Vipul D Borad.

(xii) It is also on record that by adopting the same modus-operandi, 135 pieces of foreign Origin Gold biscuits found to be imported through Surat International Airport totally weighing 15746.40 grams, valued at Rs.8,58,17,880 were seized from the premises of M/s CRV Jewels, Surat on 25.04.2022 and later confiscated under the provisions of Section 111 of the Customs Act, 1962 by the Additional Commissioner, Customs, Surat vide Order-in-Original No. 08/AR/ADC/SRT/2023-24 dated 29.09.2023. The Additional Commissioner, Customs, Surat vide the above mentioned order also imposed penalty on Shri Vipul Dhirubhai Borad, Shri Rambhai Maganbhai Suhagiya, Shri Baldev Sakhareliya, Shri Nilesh Dhirubhai Borad, Shri Navnit Dhirubhai Borad, Shri Darshan Navin Chandra Chhaswala under the provisions of Section 112 of the Customs Act, 1962 for their active role in the smuggling of gold.

(xiii) It is also on record that by adopting the same modus-operandi, 15 pieces of foreign Origin Gold biscuits found to be imported through Surat International Airport, totally weighing 1317.30 grams, valued at Rs.71,79,286/- were seized from the premises of M/s Moon Star Inc., Surat on 23.09.2022 and later confiscated the same under the provisions of Section 111 of the Customs Act, 1962 by the Additional Commissioner, Customs, Surat vide Order-in-Original No. 05/AR/ADC/SRT/2023-24 dated 05.09.2023. The Additional Commissioner, Customs, Surat vide the above mentioned order also imposed penalty on Shri Sagar Manubhai Shah under the provisions of Section 112 of the Customs Act, 1962 for his role in the smuggling of gold.

#### **D. CONCLUSION**

(i) I find that Shri Vipul Dhirubhai Borad formed a syndicate alongwith Shri Nilesh Borad, Shri Navnit Borad, Shri Baldev Sakhreliya and Shri Ankur Mansukhbhai Sakhreliya and used the *whatsapp* chat group in the name of "Khanak 2021" for smuggling of Gold from UAE through a flight scheduled to Surat from Sharjah. Shri Vipul D Borad and others had hired a group of passengers for visit to Sharjah and on return they carried the foreign origin gold on behalf of Shri Vipul D Borad. During travel from Surat to Sharjah or Sharjah to Surat, one of the members of the syndicate accompanied the passengers so as to ensure safety of the gold. On the day before the departure of passengers / carriers from Sharjah, Shri Vipul D Borad received order from Shri Rambhai Maganbhai Suhagiya, partner of M/s CRV Jewels for specific number of Gold biscuits of 10 tolas each through his associate, Shri Baldev Sakhreliya. Shri Rambhai Maganbhai Suhagiya had also quoted/offered a rate for per 10 grams of Gold to Shri Baldev Sakhreliya. After receiving the order from Rambhai Maganbhai Suhagiya, Shri Vipul D Borad purchased Gold from UAE through his accomplices. After landing at Surat airport, Shri Vipul D Borad or through his associates collected the foreign origin gold biscuits from the passengers and delivered the same the next morning either by himself or through Shri Navnit D Borad or Shri Ankur Mansukhbhai Sakhreliya to Shri Rambhai Maganbhai Suhagiya, partner of M/s CRV Jewels. After receiving the smuggled foreign origin Gold at M/s CRV Jewels, Shri Rambhai Maganbhai Suhagiya handed over the same to the persons of M/s Harikala Bullions and M/s Moon Star Inc.

(ii) Therefore, from the documentary, digital and corroborative evidences on record, I find that Shri Vipul Borad along with his accomplices had smuggled 389 pieces of Gold biscuits of 10 tola each, totally weighing 41.858 kg and valued at Rs.20,12,07,916. Accordingly, the said goods are liable for confiscation under Section 111(d), 111(i), 111(j), 111(l) and 111(m) of the Customs Act, 1962.

(iii) The aforementioned goods are not physically available for confiscation, and in such cases, redemption fine is imposable in light of the judgment in the case of **M/s. Visteon Automotive Systems India Ltd. reported at 2018 (009) GSTL 0142 (Mad)** wherein the Hon'ble High Court of Madras has observed as under:

*The penalty directed against the importer under Section 112 and the fine payable under Section 125 operate in two different fields. The fine under Section 125 is in lieu of confiscation of the goods. The payment of fine followed up by payment of duty and other charges leviable, as per sub-section (2) of Section 125, fetches relief for the goods from getting confiscated. By subjecting the goods to payment of duty and other charges, the improper and irregular importation is sought to be regularised, whereas, by subjecting the goods to payment of fine under sub-section (1) of Section 125, the goods are saved from getting confiscated. Hence, the availability of the goods is not necessary for imposing the redemption fine. The opening words of Section 125, "Whenever confiscation of any goods is authorised by this Act ....", brings out the point clearly. The power to impose redemption fine springs from the authorisation of confiscation of goods provided for under Section 111 of the Act. When once power of authorisation for confiscation of goods gets traced to the said Section 111 of the Act, we are of the opinion that the physical availability of goods is not so much relevant. The redemption fine is in fact to avoid such consequences flowing from Section 111 only. Hence, the payment of redemption fine saves the goods from getting confiscated. Hence, their physical availability does not have any significance for imposition of redemption fine under Section 125 of the Act. We accordingly answer question No. (iii).*



(iv) I also find that Hon'ble High Court of Gujarat by relying on this judgment, in the case of **Synergy Fertilchem Ltd. Vs. Union of India, reported in 2020 (33) G.S.T.L. 513 (Guj.)**, has held *inter alia* as under: -

“.

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**174. ....** In the aforesaid context, we may refer to and rely upon a decision of the Madras High Court in the case of *M/s. Visteon Automotive Systems v. The Customs, Excise & Service Tax Appellate Tribunal, C.M.A. No. 2857 of 2011, decided on 11th August, 2017* [\[2018 \(9\) G.S.T.L. 142 \(Mad.\)\]](#), wherein the following has been observed in Para-23;

“23. The penalty directed against the importer under Section 112 and the fine payable under Section 125 operate in two different fields. The fine under Section 125 is in lieu of confiscation of the goods. The payment of fine followed up by payment of duty and other charges leviable, as per sub-section (2) of Section 125, fetches relief for the goods from getting confiscated. By subjecting the goods to payment of duty and other charges, the improper and irregular importation is sought to be regularised, whereas, by subjecting the goods to payment of fine under sub-section (1) of Section 125, the goods are saved from getting confiscated. Hence, the availability of the goods is not necessary for imposing the redemption fine. The opening words of Section 125, “Whenever confiscation of any goods is authorised by this Act...”, brings out the point clearly. The power to impose redemption fine springs from the authorisation of confiscation of goods provided for under Section 111 of the Act. When once power of authorisation for confiscation of goods gets traced to the said Section 111 of the Act, we are of the opinion that the physical availability of goods is not so much relevant. The redemption fine is in fact to avoid such consequences flowing from Section 111 only. Hence, the payment of redemption fine saves the goods from getting confiscated. Hence, their physical availability does not have any significance for imposition of redemption fine under Section 125 of the Act. We accordingly answer question No. (iii).“

**175. We would like to follow the dictum as laid down by the Madras High Court in Para-23, referred to above.”**

Further, the Customs duty amounting to Rs.7,74,65,047/- on the smuggled goods is required to be recovered from Shri Vipul Borad under Section 28(4) of the Customs Act, 1962 along with interest.

**61.** Now, I come to the role of the persons involved in the smuggling syndicate.

### **1. SHRI VIPUL DHIRUBHAI BORAD**

From the digital, documents and corroborative evidences in the case, it transpires that Shri Vipul Borad was one of vital persons of the syndicate who managed passengers/carriers and booked their tickets *to and fro* from Surat to Sharjah and also booked hotels for their stay for 2 or 3 days through M/s Magic Holidays and paid charges in cash. After the passengers/carriers landed in Surat International Airport, the smuggled gold was collected from them by Shri Vipul Borad or through his associates. The smuggled gold biscuits were then handed over to Shri Rambhai Maganbhai Suhagiya, Partner of M/s CRV Jewels in the locker room situated behind the cash counter of M/s CRV Jewels. The CCTV footage showed entry of Shri Ankur Mansukhbhai Sakhreliya on 11.04.202, Shri Navnit D. Borad on 14.04.2022 & Shri Vipul D Borad on 18.04.2022 in the premises of M/s CRV Jewels showroom with the bag. No footage of handing over of licit documents, like Invoice or Challan by above persons to Shri Rambhai Maganbhai Suhagiya could be seen. Also, no licit documents against such handing over of gold biscuits were recovered from M/s CRV Jewels to prove the licit transactions.

### **A. DIGITAL EVIDENCES**

(i) I find from the screen shots of video footage of M/s CRV Jewels on 18.04.2022 [CAM 5 09:55:53 hrs], that Shri Vipul Borad's presence is visible in the premises of M/s CRV Jewels, with a bag to deliver the gold biscuits to Shri Rambhai Suhagiya, and also his presence outside the locker room after handing over the gold biscuits to Shri Rambhai Suhagiya.

- (ii) Screen shots of video footage of M/s CRV Jewels on 21.04.2022 [CAM 4 10:08:39 hrs] and [CAM 4 10:08:44 hrs], Shri Vipul Borad visit to M/s CRV Jewels with a bag, containing gold and was seen moving towards the locker room to deliver the gold biscuits to Shri Rambhai Suhagiya and was also seen entering the locker room with his bag.
- (iii) The following *whatsapp* chats between Shri Vipul Dhirubhai Borad and Shri Baldev Sakhreliya showing conversations regarding purchasing of gold:

Sr. No.	Date	Time (UTC+5:30)	Chat/Audio from	Contents of Chat/audio
1	19.04.2022	19:48:10	Vipul	<i>Kal ma 4 ena book karje</i>
2	19.04.2022	19:48:24	Baldev	<i>Ok</i>
3	20.04.2022	20:14:13	Baldev	<i>54080/- ma book che</i>
4	20.04.2022	20:14:25	Vipul	<i>Ok</i>
5	20.04.2022	20:14:37	Baldev	<i>Pcs je aape e tamne</i>
6	20.04.2022	20:14:40	Baldev	<i>Nilesh bhai</i>
7	20.04.2022	20:14:40	Vipul	<i>Ok</i>
8	20.04.2022	20:14:53	Vipul	<i>Jalpesh na 25 che</i>
9	20.04.2022	20:14:54	Baldev	<i>Apda 135 pcs to book che j</i>
10	20.04.2022	20:14:59	Baldev	<i>Ha ok</i>
11	20.04.2022	20:15:05	Vipul	<i>Ok</i>

- (iv) From the *whatsapp* chat retrieved from the mobile phone of Shri Vipul D Borad, it was evident that Shri Nilesh Borad (elder brother of Shri Vipul Borad) had sent Shri Vipul Borad, a group photo of passengers who had travelled on 20.04.2022 from Sharjah to Surat with him, along with their name viz Aryan Chintubhai Panwala, Yamini Premjibhai Patel, Chhaswala Darshan Navinchandra, Chhaswala Dipali Darshan bhai and Kachhadiy Nehal Rakesh Kumar between 4.39 pm to 4.41 pm on 20.04.2022. Shri Vipul Borad had identified 4 passengers out of 5 passengers shown in said group photo as (i) Dipali Darshan Chhaswala (ii) Darshan Navinchandra Chhaswala (iii) Aryan Chintubhai Panwala and (iv)Yamini Premji Patel. It was also evident that Shri Nilesh D Borad communicated with Shri Vipulbhai D Borad on whats app on 07.04.2022, wherein Hotel Booking Voucher for Check-in on 10-Apr-2022 and Check-out on 13-Apr-2022 in Admiral Plaza Hotel, Dubai in the name of Mr. Vipulkumar Borad, Mr. Kalpesh Chhaswala & Mr. Vivek Patel was shared. Further, copy of Air ticket in the name of all three persons for flight AI 912- Air India from Dubai to Mumbai for journey on 24.04.2022 were also shared by Shri Nilesh D Borad to Shri Vipulbhai D Borad on *whatsapp* on 10.04.2022.
- (v) The relevant chats shared in “KHANAK 2021” *whatsapp* group by members were as below:

Sr. No.	Date	Time (UTC+5:30)	Chat/Audio/Pdf from	Contents of Chat/audio
1	14.04.2022	16:54:02	Baldev	<i>Shared a ticket of Air India Express of PNR 8EY22K</i>
2	14.04.2022	16:54:02	Baldev	<i>Shared a ticket of Air India Express of PNR HLHFE2</i>
3	14.04.2022	16:54:03	Baldev	<i>Shared a ticket of Air India Express of PNR R59NZN</i>
4	14.04.2022	16:54:03	Baldev	<i>Shared a ticket of Air India Express of PNR PGOGL1</i>
5	15.04.2022	08:59:48	Vipul	<i>Jay ho</i>
6	17.04.2022	11:38:44	Vipul	<b><i>Aaj na apd caring vala na Pasport ma name hoye e mne</i></b>

				<b>send karjo ne</b>
7	17.04.2022	11:40:07	Ankur	Ha
8	17.04.2022	12:04:04	Ankur	Gauravgirir dineshgiri Goswami Rakesh Gopalbhai Moradiya Kalpeshkumar thakurbhai desai Rupareliya Vasantben hasmukhbhai Tavadia divyesh natvarbhai
9	17.04.2022	12:23:17	Baldev	<b>Smaglaro ni toil</b>
10	17.04.2022	12:24:55	Vipul	<b>Vasantben Pan</b>
11	17.04.2022	12:26:26	Baldev	<b>Jalpesh na Mammi</b>
12	17.04.2022	12:27:27	Vipul	Ha kelo che Jalpesh
13	17.04.2022	12:27:35	Vipul	Audio massage sent (could not be retrieved by RFSL)
14	17.04.2022	12:28:05	Baldev	Ha em rakhjo
15	17.04.2022	12:27:35	Vipul	Audio message sent (could not retrieved by RFSL)
16	17.04.2022	12:47:36	Ankur	Ok
17	17.04.2022	13:00:14	Vipul	Audio message sent (could not retrieved by RFSL)
18	17.04.2022	13:00:29	Vipul	Finaly
19	17.04.2022	13:44:05	Ankur	Ok
20	17.04.2022	13:44:23	Ankur	Audio message sent (could not retrieved by RFSL)
21	17.04.2022	15:23:42	Vipul	Audio message sent (could not retrieved by RFSL)
22	17.04.2022	15:24:02	Ankur	Ok
23	17.04.2022	17:05:46	Ankur	Sign done
24	17.04.2022	17:09:41	Ankur	Shared agroup photo of 4 male persons without mask
25	17.04.2022	17:09:41	Ankur	Shared a group photo of 4 male persons with mask
26	17.04.2022	17:09:41	Ankur	Shared photo of a lady passenger
27	17.04.2022	17:10:06	Ankur	Shared photo of himself (Ankur)
28	17.04.2022	17:13:44	Baldev	Bichara nu dhyan rakhje (Reply on photo of lady)
29	17.04.2022	17:15:23	Ankur	Ha ha
30	17.04.2022	17:15:49	Baldev	<b>Chokra sala smagling krave che</b>
31	17.04.2022	17:15:55	Ankur	Ha
32	17.04.2022	17:36:49	Vipul	<b>Ava chokra koi na pake</b> (Reply on post of ‘Chokra sala smagling krave che’)
33	18.04.2022	17:23:10	Baldev	Share eVisa of VipulD Borad
34	18.04.2022	17:23:10	Baldev	Share eVisa of Mukeshkumar D. Kanani
35	18.04.2022	17:23:11	Baldev	Share eVisa of Gopalbhai C. Mulani
36	18.04.2022	17:23:11	Baldev	Share eVisa of Dhavalkumar Premjibhai Patel
37	18.04.2022	17:53:50	Baldev	Share eVisa of Shlpaben Mukeshbhai Kanani
38	18.04.2022	17:53:50	Baldev	Share eVisa of Tanay Mukeshbhai Kanani
39	18.04.2022	17:54:49	Baldev	Share Air India Expres ticket of PNR 3LN9B1 of Navnit Borad
40	18.04.2022	17:54:49	Baldev	Share Air India Expres ticket of PNR PDWBNU of Dhavalkumar

				<i>Premjibhai Patel</i>
41	18.04.2022	17:54:50	Baldev	<i>Share Air India Expres ticke of PNR QH60V9 of Gopalbhai C. Mulani.</i>
42	18.04.2022	17:55:25	Baldev	<i>Navnitbhai Dhavalbhai Gopal Dte 21/04/22 srt to shj tot</i>
43	18.04.2022	18:35:19	Baldev	<i>Share pdf of eVisa of Deeptiben Vipulbhai Borad</i>
44	21.04.2022	00:24:10	Vipul	<i>Share Photo of gold biscuits scatterredon floor.</i>
45	21.04.2022	06:30:44	Navnit	<i>Share a photo of declaration AIRC/2514</i>

(vi) Further, a picture of Gold Biscuits scattered on floor was shared at 12.24 am on 21.04.2022 by Shri Vipul D Borad in *whatsapp* group “KHANAK 2021”, which was the picture of Gold smuggled on 20.04.2022 taken by him at his home in the night of 20.04.2022 and shared in the early morning in “KHANAK 2021” and was detained later by DRI on 21.04.2022 at M/s CRV Jewels.

(vii) From the call logs of the mobile pertaining to Shri Vipul Borad it is forthcoming that:

(i) he was continuously in contact with Shri Hardik Rupareliya during the period from 04.03.2022 to 15.04.2022 [passenger/carrier], who had made journey from Sharjah to Surat on 10.04.2022.

(ii) he was in contact with Shri Nikhil Kanani during the period from 14.04.2022 to 17.04.2022 [passenger/carrier], who had made journey from Sharjah to Surat on 10.04.2022.

(iii) he was in contact with Shri Mukesh Kanani during the period from 19.01.2022 to 21.04.2022 [passenger/carrier], who had made journey from Sharjah to Surat on 10.04.2022.

(iv) he was in contact with Shri Kalpesh Chhaswala on 10.04.2022 [passenger/carrier], who had made journey from Sharjah to Surat on 13.04.2022.

## **B. CORROBORATIVE EVIDENCES**

(i) From the statement dated 21.04.2022 of Shri Vijaykumar Gandubhai Vekariya, employee of M/s CRV Jewels, it is revealed that Shri Vipul Borad had visited M/s CRV Jewels around 3 times and every time he had handed over Gold biscuits to Shri Rambhai Suhagiya.

(ii) From the statement dated 21.04.2022 of Shri Shaileshkumar Korat, Sales Commission Agent of M/s CRV Jewels, it is revealed that Shri Vipul Borad had visited M/s CRV Jewels around 3-4 times and every time he had handed over Gold biscuits to Shri Rambhai Suhagiya and that Shri Vipul Borad also visited M/s CRV Jewels to collect cash for gold biscuits supplied to Shri Rambhai Suhagiya.

(iii) From the statement dated 21.04.2022 of Shri Chetan Katharotiya, Partner of M/s CRV Jewels, it is revealed that Shri Vipul Borad used to visit M/s CRV Jewels to meet Shri Rambhai Suhagiya to hand over smuggled gold biscuits; that he also revealed that as Shri Vipul D Borad was the cousin brother of Shri Rambhai M Suhagiya he used to visit the premises of M/s CRV Jewels a number of times; that he and Shri Rambhai M Suhagiya used to sell those gold biscuits to M/s Moon Star Inc, Shop no. 1-A & 2, B Rangrej Tower, Jada Khadi, Mahidharpura, Surat and Harikala Bullion, Varsha Society, Bhagunagar, Varachha, Surat;, which were brought by Shri Vipul D Borad and also stated that he had visited M/s CRV Jewels 3 or 4 times in past 02 months.

(iv) From the statement dated 21.04.2022, Shri Rambhai Suhagiya admitted that Shri Vipul Borad had delivered him three consignments of 144, 115, & 130 Gold biscuits of Dubai/UAE Origin each of 10 tola on 11.04.2022, 14.04.2022 & 18.04.2022 respectively; that he stated that Shri Baldev Sakhreliya, a friend of Shri Vipulbhai D Borad contacted him on mobile phone to seek the rate of gold biscuits before delivery of foreign origin gold biscuits; that he quoted to him the gold price on whats app and after finalizing the rate he sent the foreign origin smuggled gold biscuits through Shri Vipulbhai D Borad; that after raising the order with Shri Baldev Sakhreliya, Shri Vipul D Borad would deliver the ordered quantity of gold biscuits on the respective dates; that after receiving the same in his showroom, he informed the respective bullion firm M/s Moon Star Inc, Surat and M/s Harikala Bullion, Surat and they used to send their employee within half an hour to receive the delivery; that once the gold biscuits reached the premises of the bullion firms, they sent the cash through one person and after deducting his commission, he handed over the cash to Shri Vipul D Borad; that he admitted the gold biscuits consignment received as under:

<b>Booking Date</b>	<b>No. of biscuits &amp; Quoted Price</b>	<b>Gold biscuits received on</b>	<b>Delivered to</b>
19.04.2022	135*54080	21.04.2022	Detained by DRI under panchnama dated 21.04.2022
16.04.2022	130*53650	18.04.2022	Moon Star Inc
12.04.2022	115*53250	14.04.2022	Harikala Bullion
09.04.2022	144*52850	11.04.2022	Harikala Bullion (104 Pc.) & Moon Star Inc (40 Pc)

Shri Rambhai Suhagiya also stated that he had never asked Shri Vipul Borad for the documents of the said gold biscuits nor he had possession of any invoices for the smuggled gold.

(v) In the statement dated 21.04.2022, 23.04.2022, Shri Vipul Borad admitted that the first time he had handed over 144 Gold Biscuits of UAE origin each of 10 tolas to Shri Rambhai Maganbhai Suhagiya on 11.04.2022 in CRV Jewels, and after that he had handed over 115 Gold Biscuits of UAE origin each of 10 tolas on 14.04.2022; and 130 Gold Biscuits of UAE origin each of 10 tolas on 18.04.2022 to Shri Rambhai Maganbhai Suhagiya; that as he was facing financial crisis, and during a visit to Sharjah in the immediate past, he planned to smuggle Gold Biscuits from Sharjah; that he enquired with Shri Rambhai Maganbhai Suhagiya, his cousin, for sale opportunities of Gold of 10 Tolas in Surat; that initially Shri Rambhai Maganbhai Suhagiya denied the offer to sell Gold of 10 Tolas, but later on he agreed to sell the Gold biscuits of 10 Tolas on commission basis; that he managed 3 to 4 persons/ carriers and booked their tickets to Sharjah from Surat, and after stay for 2 or 3 days booked returned ticket; that at the time of returning from Sharjah to Surat, each carrier/person carried 30 to 40 biscuits in their shoes, and after landing at Surat, he collected the gold biscuits from them outside the Airport and delivered the same to Shri Rambhai Maganbhai Suhagiya at CRV Jewels, Varachha the next morning; that he admitted that he had supplied 10 Tolas of UAE origin Gold Biscuits having different marking viz. Tigris UAE/ ARG UAE to Shri Rambhai Maganbhai Suhagiya on different occasions; that he revealed that Shri Dilipbhai and Anilbhai, both from Dubai, financed the purchase of Gold in Dubai; that he with the help of Navnit (his younger brother), Ankur (Baldev's brother) collected the cash payment from Shri Rambhai Maganbhai Suhagiya within 1 to 3 days after delivery of Gold, and handed over the cash to Shri Alpesh Virani, who in turn sent the money to Dilipbhai/ Anilbhai at Sharjah through different Anagadia; that he had handed over the smuggled gold to Shri Rambhai Suhagiya without cover of invoice or challan; that he admitted and shared the name of passengers/carriers who arrived on 10.04.2022, 13.04.2022, 17.04.2022 and 20.04.2022 at Surat Airport with the smuggled gold;

(vi) From the statement dated 28.04.2022 of Shri Nikunj Sutariya, Proprietor of M/s Magic Holidays, Surat, it was revealed that he had been booking tickets on behalf of Vipulbhai Dhirubhai Borad, Navnit Borad, Nilesh Borad and Baldev Manshukhbhai Sakhreliya; that in the sales ledger of Shri Vipulbhai Dhirubhai Borad for April 2022, the invoices were raised in the name of "Goswami Gaurav" and "Malavia Sumitben Manishkumar" as per the demand of Shri Vipulbhai Dhirubhai Borad and his accomplices; that the payments were made by Shri Vipulbhai Dhirubhai Borad in cash and he used to send cash through various persons to his office; that payment of Rs 300000/- (approx.) was pending; that he had never received any payment for tickets, Visa or Hotel booking from the passengers whose tickets were booked by Shri Vipulbhai Dhirubhai Borad and his accomplices; that the details of the passengers were forwarded to his office's whatsapp number 9726233309 by Vipulbhai Dhirubhai Borad, Navnit Borad, Nilesh Borad and Baldev Manshukhbhai Sakhreliya and the said details were used to book the tickets for those passengers from Surat to Sharjah and Sharjah to Surat in April-2022; that he had sent the confirmed tickets on whatsapp numbers of Vipulbhai Dhirubhai Borad (9712886203; 9898848150), Navnit Borad (9824011005), Nilesh Borad (9904294441) and Baldev Manshukhbhai Sakhreliya (9601347698) on their *whatsapp* numbers.

(vii) From the statement dated 02.05.2022 of Shri Baldev Sakhreliya, he admitted that he had met Shri Vipul D Borad, through his brother Shri Nilesh Borad as Shri Nilesh Borad and he had done the business of textile; that in the month of March, 2022 Shri Vipul D Borad met him and asked that he wanted to start some business activities in Dubai but he had financial difficulties and needed a person who can finance him; that as he (Baldev) used to visit Dubai for his business purpose, he knew one person in the name of Shri Dilip Virani, his distant relative who was engaged in the business of Diamond Trading, so he introduced Shri Vipul D Borad to Shri Dilip Virani; that as per his knowledge Shri Dilip Virani used to give money to Shri Vipul D Borad for his Gold business; he stated that before two months Shri Vipul Borad had informed him that he was facing deep financial crisis and wanted fast money and requested him for a financial/monetary favour; that then, he introduced Shri Vipul D Borad to Shri Dilip Virani who was settled in Dubai; that he stated that arrangements of passengers were done by Shri Vipul D Borad and tickets were booked by him (Vipul) through M/s Magic Holidays, Surat; that he revealed that Shri Vipul D Borad had smuggled gold into India 3 times in the month of April 2022, and the exact quantity of gold smuggled by him were 130@53650 per tola, 115@53250 per tola and 144@52850 per tola; that he never handed over the Gold Biscuits to Shri Rambhai Maganbhai Suhagiya of CRV Jewels as Shri Vipul Borad had handed over the smuggled Gold Biscuits to Shri Rambhai Maganbhai Suhagiya of CRV Jewels on last three occasions; that Shri Ankur, his younger brother and Shri Navnit Borad, younger brother of Shri Vipul Borad collected the cash from Shri Rambhai Maganbhai Suhagiya at CRV Jewels and handed over the cash to Shri Alpesh Virani, a relative of Shri Dilip Virani, who in turn sent the money to Dilip Virani, Dubai; that he had never collected cash from Shri Rambhai Maganbhai Suhagiya against smuggled Gold.

(viii) In his statement dated 02.05.2022 Shri Nilesh Dhirubhai Borad stated that he had visited Sharjah, Dubai on 18.04.2022 and returned on 20.04.2022 to India; that he had declared 999.0 purity gold before Customs authority but he did not know the exact quantity and after declaring the gold before Dubai Customs authorities he had handed over the gold and papers to a person whose mobile number he had deleted; that Shri Vipul Borad had asked him to declare the said 135 gold biscuits before Dubai Customs authorities and also asked him to hand over to one of the person who had arrived at airport whose number was deleted by him; that he stated that the list of passengers who travelled with him on 18.04.2022 from Surat to Sharjah and from Sharjah to Surat on 20.04.2022 were as under:-

**Details of Passengers who travelled along with Nilesh Borad on 18.04.2022**

<b>Date of Travel</b>	<b>Name of Passengers travelled</b>	<b>FROM/ TO</b>
18 April, 2022	3. Me (Shri Nilesh Borad) 2. Yamini Premji Patel 3. Darshan Navinchandra Chhaswala 4. Dipali Darshan Chhaswala 5. Aryan Chintubhai Panwala	Surat to Sharjah
20 April, 2022	1. Me (Shri Nilesh Borad) 2. Yamini Premji Patel 3. Darshan Navinchandra Chhaswala 4. Dipali Darshan Chhaswala 5. Nehal Rakeshkumar Kachhadiya 6. Aryan Chintubhai Panwala Sakhreliya	Sharjah To Surat

(ix) In the statement dated 21.04.2022 Shri Ankur Mansukhbhai Sakhreliya stated that he knew Shri Vipulbhai Borad since 2018 as the brother of Shri Nilesh Borad & Navnit Borad who were the colleagues of his brother Shri Baldev Sakhreliya in Textile business; that on being asked regarding Shri Rambhai Maganbhai Suhagiya, Partner of CRV Jewels, he stated that he had met him in April, 2022 when Shri Vipul Borad asked him to collect cash from their shop CRV Jewels; that he had visited CRV Jewels three times to collect cash; that on being asked regarding the origin of the cash, he stated that he was not aware about the origin of the cash that time; that after the arrest of Shri Vipulbhai Borad & Shri Rambhai Maganbhai Suhagiya, a Partner of CRV Jewels he came to know that the origin of that cash was the sale proceeds of the foreign origin smuggled gold in question; that regarding whatsapp group and its members in the name of “Khanak 2021”, he stated that he was one of the member of this group and knew that during 2021, it was created for textile business for his brother’s firm Khanak Exports, but later on, it was used exclusively to pass messages and directions related to the smuggling of foreign origin gold; that when he was about to return from Dubai, Shri Vipulbhai Borad passed a message to meet a group of 4 male passengers who would smuggle Gold to Surat and share their photo and names as printed on the passport in the whatsapp group “Khanak 2021” and took a picture of the 4 male passengers (carriers) at Sharjah Airport and posted the same on the whatsapp group; that those four men carried foreign origin gold as per the directions of Shri Vipul Borad; that as per the directions of Shri Vipul Borad he posted the name of the said carriers i.e. Gauravgiri Dineshgiri Goswami, Rakesh Gopalbhai Moradiya, Kalpesh kumar Thakrshibhai Desai, Rupareliya Vasantben Hasmukhbhai and Tavadia Divyesh Natvarbhai in the same group; that he admitted that as per the directions of Shri Vipulbhai D Borad he used to go to Shri Rambhai Maganbhai Suhagiya at his shop M/s CRV Jewels to pick up cash; that he picked up cash from Shri Rambhai Maganbhai Suhagiya two times on 11.04.2022 and one time on 12.04.2022; that in the chats Shri Rambhai Maganbhai Suhagiya sent him the message on different occasions “70”, “113” & “130” and in response he replied “OK” every time, it meant that he had picked up Rs.70,00,000/-, Rs. 113,00,000/- & Rs. 130,00,000/- from Shri Rambhai Maganbhai Suhagiya on different occasions.

(x) From the statement dated 03.10.2022 of Shri Darshan Navinchandra Chhaswala, it was revealed that he and his wife Deepaliben had visited Dubai 3-4 times in search of jobs; that every time they had gone with Nileshbhai D Borad; that Nileshbhai D Borad used to book his (Darshanbhai) and his wife's ticket and hotel room; that he had not paid money to Nileshbhai D Borad for ticket and hotel booking; that he and his wife had gone to UAE 3-4 times with Nileshbhai D Borad to find a job as they did not have much income in Surat; that as they did not get any good job there, both of them came back with Nileshbhai D Borad after 2-3 days; that he knew Shri Vipulbhai Borad as the elder brother of Nileshbhai D Borad; that every time when they planned to

visit Sharjah, he used to talk to Nileshbhai D Borad only; that the last time he himself, his wife, his wife's sister Yaminiben and her son Aryan went to Sharjah with Nileshbhai D Borad on 18.04.2022 and they returned on 20.04.2022; that Nileshbhai D Borad took their passports and sent their names to Vipulbhai D Borad from his mobile; that he was not aware about the declaration of Gold filed by Nileshbhai D Borad before UAE customs authority on 20.04.2022 at Sharjah Airport; that Nileshbhai D Borad gave him (Darshanbhai) 2 parcels on 20.04.2022 at Sharjah airport; that he didn't know what was inside those parcels; that he had kept those parcels in 02 different bags as they were heavy; that after landing at Surat airport, at the behest of Nileshbhai D Borad, the bag was taken out from the sight of custom officers.

(xi) From the statement dated 11.11.2022 of Shri Divyesh Natvarbhai Tavadiya, he stated that Shri Ankur Sakhareliya met him at Sharjah airport and asked him to carry some gold biscuits; that he accepted his (Mr. Ankur Sakhareliya) offer and hid 8 gold biscuits in his shoes and Shri Ankur Sakhareliya gave him Rs.15000/- for that work; that Shri Niravbhai told him to meet Shri Ankur Sakhareliya at Airport; that Shri Niravbhai shared his photo with Shri Ankur Sakhareliya and conveyed his location at airport and on that basis Shri Ankur Sakhareliya recognised him at the airport and met him; that before that he had not met Shri Ankur Sakhareliya; that Shri Ankur Sakhareliya handed over to him 8 gold biscuits after security clearance at Sharjah airport in waiting area; that after arriving in Surat, Shri Ankur Sakhareliya met him in the parking area of Surat airport and he handed back the 8 gold biscuits to Shri Ankur Sakhareliya.

(xii) From the statement dated 22.04.2022 of Shri Sagar Manubhai Shah, Proprietor of M/s Moon Star Inc., he admitted that he had done trading of 130 pieces of UAE origin Gold Biscuits 10 tolas each from Shri Rambhai Maganbhai Suhagiya, Partner in CRV Jewels on 18.04.2022; that he had negotiated with Shri Rambhai Maganbhai Suhagiya for supply of UAE origin Gold on two occasions and received 40 pieces of gold biscuits (10 Tola each) on 11.04.2022 and 130 piece of UAE origin Gold Biscuits (10 tolas each) on 18.04.2022 and these were sold on cash basis to various customers and he did not have their details; that he had no idea how the gold was procured by Shri Rambhai Maganbhai Suhagiya as neither he enquired with him nor he informed him the mode of procurement.

(xiii) It is on record that 135 pieces of foreign Origin Gold biscuits found to be imported through Surat International Airport totally weighing 15746.40 grams, valued at Rs.8,58,17,880 were seized from the premises of M/s CRV Jewels, Surat on 25.04.2022 following the same *modus-operandi*. Similarly, on the same *modus-operandi*, 15 pieces of foreign Origin Gold biscuits found to be imported through Surat International Airport, totally weighing 1317.30 grams, valued at Rs.71,79,286/- were seized from the premises of M/s Moon Star Inc., Surat on 23.09.2022.

### **C. DEFENCE**

Shri Vipul Borad in his defence reply dated 25.03.2025 has mainly argued on the following points:-

(i) His statements dated 21/22.04.2022 and 23.04.2022 was taken by force, threat and intimidation by the DRI officers.

The said relevant statements of Shri Vipul Borad have been recorded voluntarily under Section 108 of the Customs Act, 1962. Moreover, Shri Vipul Borad has never retracted the same till date, hence such allegations made are purely academic and without any evidence. Therefore, the same is rejected.

(ii) No gold was recovered from him.

Merely non-recovery of gold cannot be a ground to acquit Shri Vipul Borad, especially as he was one of the king-pins of the smuggling syndicate. There are enough



digital, documentary and corroborative evidences on record and have been discussed in detail above. None of these evidences have been categorically denied by Shri Vipul Borad in his defence, which validates his role in the smuggling activity.

(iii) Cross examination of Shri Nilesh Borad, Shri Baldev Sakhreliya Shri Vijaykumar Vekaria, Shri Shaileshkumar Korat, Shri Chetanbhai Katharotiya, Shri Rambhai Suhagiya, Shri Ankur Sakhreliya.

In the instant case, I find that the statements of the co-noticees, whose cross-examination has been sought, have not been retracted at any stage. Further, no points of argument have been put forth for cross examination. Primary evidences of the details of smuggled gold have been brought on record in the show cause notice and the same has not been denied by Shri Vipul Borad at any stage. Therefore, the permission sought by Shri Vipul Borad to cross-examine the persons was denied by the competent authority and was duly communicated to him vide letter No. VIII/10-01/Pr.Commr/O&A/2024-25 dated 16.05.2025. The documentary and digital evidences, oral corroborative statements of the other master-minds of the syndicate on record clearly show that Shri Vipul Borad as one of the master-mind of the whole syndicate of smuggling of gold from Dubai/Sharjah to India through Surat airport.

Moreover, I find that cross examination cannot be claimed as a matter of right and is not violative of the principles of Natural Justice. I rely on the judgment of the Hon'ble Supreme Court in case of Surjeet Singh Chhabra v. U.O.I., 1997 (89) E.L.T. 646 (S.C.), wherein it has been held that failure to give opportunity to cross examine the witnesses is not violative of principle of natural justice: *(relevant extracts reproduced)*

*"3..... It is true that the petitioner had confessed that he purchased the gold and had brought it. He admitted that he purchased the gold and converted it as a Kara. In this situation, bringing the gold without permission of the authority is in contravention of the Customs Duty Act and also FERA. When the petitioner seeks for cross-examination of the witnesses who have said that the recovery was made from the petitioner, necessarily an opportunity requires to be given for the cross-examination of the witnesses as regards the place at which recovery was made. Since the dispute concerns the confiscation of the jewellery, whether at conveyor belt or at the green channel, perhaps the witnesses were required to be called. But in view of confession made by him, it binds him and, therefore, in the facts and circumstances of this case the failure to give him the opportunity to cross-examine the witnesses is not violative of principle of natural justice. It is contended that the petitioner had retracted within six days from the confession. Therefore, he is entitled to cross-examine the panch witnesses before the authority takes a decision on proof of the offence. We find no force in this contention. The Customs officials are not police officers. The confession, though retracted, is an admission and binds the petitioner. So there is no need to call Panch witnesses for examination and cross-examination by the petitioner."*

I find that Shri Vipul Borad has not provided any specific points/questions/reasons for cross examination. I rely on the judgment of the Hon'ble Tribunal in case of Dipu Das V/s Commissioner of Customs (port), Kolkata reported in 2010 (261) E.L.T. 408 (Tri. - Kolkata) *(relevant extracts reproduced)*

*"7.....Regarding the submission that the Original Authority has not given permission for cross-examination of the concerned persons, it is noticed that the matter was considered by the Commissioner afresh in pursuance of the Remand Order dated 12-8-2004. On the earlier round of litigation, no direction for permitting cross-examination was given by the Tribunal. At any rate, the request for cross-examination was made without giving any reasons. In adjudication proceedings, cross-examination cannot be claimed as a matter of right on mere asking for it, without furnishing reasons for the same."*

I also place reliance on the judgment of Hon'ble Tribunal in case of Commissioner of Customs, Hyderabad V/s Tallaja Impex reported in 2012(279) ELT-433(Tri.-Bangalore), wherein it is held that in a quasi-judicial proceedings, strict rules need not be followed and that cross examination cannot be claimed as a matter of right.

**"6.1** I have carefully considered the submissions from both sides and perused the records. The show-cause notice proposed confiscation of 600 cylinders imported in the name of M/s. Tallaja Impex. There is no mention of any seizure of consignments imported in the name of M/s. Tallaja Impex. The original authority not only ordered absolute confiscation of 600 cylinders but also ordered to dispose of the seized cylinders in terms of Board's letter vide F. No. 711/79/2000-Cus. (AS) dated 26th December 2001. The verification caused by the Commissioner (Appeals) revealed that there was no seizure of goods involved. However, perusal of the records indicate that Sri Lakshminarayana has admitted importing 600 gas cylinders by hiding them in some of the six consignments imported in the name of M/s. Tallaja Impex. This statement of Sri Lakshminarayana has not been shown to have been retracted. On the other hand, Sri K. Sai Prasad, Partner of M/s. Tallaja Impex has agreed with the statement given by Sri Lakshminarayana. **When Sri Sai Prasad, Partner has himself admitted the import as alleged in the show-cause notice, and when he has not retracted his statement, the need for permitting cross examination of co-accused, in my considered opinion, is not necessary. In a quasi judicial proceedings, strict rules of evidence need not to be followed. Cross examination cannot be claimed as a matter of**

***right. Of course, no offence should be established merely based on the statement of third party and without corroborative evidence and without granting cross examination of person whose statement alone is relied upon....” [emphasis supplied]***

(iv) Statements of co-noticee cannot be adopted as legal evidence to penalize the accused unless the statements were corroborated with material particulars by independent evidence and no such independent evidences were on record in the show cause notice.

Primary evidences of the details of smuggled gold have been brought on record in the show cause notice. The documentary and digital evidences, oral corroborative statements of the other master-minds of the syndicate on record clearly show that Shri Vipul Borad as one of the master-mind of the whole syndicate of smuggling of gold from Dubai/Sharjah to India through Surat airport. Therefore, the argument of Shri Vipul Borad that no independent evidences were on record to corroborate the statements of co-noticee, is false and devoid of any merits.

## **D. CONCLUSION**

From the above digital, documentary and corroborative evidences, it is amply clear that Shri Vipul Borad in connivance with Shri Baldev Sakhreliya, Shri Rambhai Suhagiya and other accomplices was instrumental in the smuggling of 389 pieces of gold biscuits, totally weighing 41.858 kgs through the Surat International Airport on 10.04.2022, 13.04.2022 and 17.04.2022 and, therefore, Customs duty amounting to Rs. 7,74,65,047 is required to be recovered under Section 28(4) of the Customs Act, 1962 along with interest. Shri Vipul Borad is also liable to penalty under the Section 114A of the Customs Act, 1962 for the above transgression.

## **2. SHRI RAMBHAH MAGANBHAH SUHAGIYA, PARTNER OF M/S CRV JEWELS**

From the digital, documents and corroborative evidences in the case, it emerges that Shri Rambhai Suhagiya, Partner of M/s CRV Jewels was one of the key player in the smuggling racket. He used to place orders for the gold after quoting the gold rates with Shri Baldev Sakhreliya and subsequently, used to receive the smuggled gold in M/s CRV Jewels, from Shri Navnit Borad, Shri Vipul Borad or Shri Ankur Sakhreliya. The smuggled gold was then, sold to the bullion firms, M/s Harikala Bullions and M/s Moon Star on commission basis.

## **A. DIGITAL EVIDENCES**

1. Video footage of DVR seized from the premises of M/s CRV Jewels for 11.04.2022, 12.04.2022, 14.04.2022, 15.04.2022, 18.04.2022, 19.04.2022 and 21.04.2022 shows the movements of Shri Ankur Mansukhbhai Sakhreliya, Shri Navnit Borad, Shri Vipul Borad, Shri Chetan Kathrotiya and Shri Rambhai Maganbhai Suhagiya. The screen shots from the video footage from the respective CCTV cameras were placed on record [**appearing at para 33.1.1 to 33.1.4, 33.2 34.3.2 above**], wherein the exclusive evidences regarding:-

(i) handing over of gold biscuits in a bag by Shri Ankur Sakhreliya to Shri Rambhai Suhagiya and their movement towards the locker room for physical counting.

(ii) conscious blocking of camera of locker room by Shri Rambhai Suhagiya with a bag to hide the received smuggled gold.

(iii) Shri Rambhai Suhagiya handing over gold biscuits to the person of M/s Harikala Bullions, Surat and the receipt of cash by Shri Rambhai Suhagiya from the said person.

(iv) regular visits made by persons of M/s Harikala Bullions to hand over cash and receive smuggled gold.

(v) Shri Vipul Borad and Navnit Borad arriving with bag containing gold biscuits in separate incidents and exchange of cash.

2. WHATSAPP CHATS OF SHRI RAMBHAH SUHAGIYA WITH VARIOUS PERSONS

(i) The following *whatsapp* chats by Shri Rambhai Suhagiya with Shri Vipul Borat retrieved from the mobile phone of Shri Rambhai Suhagiya and his response:

- Page No.1, printout of the screenshot of whatsapp chat dated 19.04.2022 (Tuesday) at 4.04 pm mentioned as “135\*54080”. On being asked, **Shri Rambhai Suhagiya clarified that he raised order for 135 piece of gold biscuits of 999 purity weighing 10 tola and 54080 means the price for the gold biscuits had been fixed @ Rs 54080/- per tola.**
- Further on Page No. 1, whatsapp chat dated 16.04.2022 (Saturday) at 3:38pm mentioned as “130\*53650”. On being asked, **Shri Rambhai Suhagiya clarified that he raised order for 130 piece of gold biscuits of 999 purity weighing 10 tola and 53650 means the price for the gold biscuits had been fixed @ Rs 53650/- per tola.**
- Page No.2 printout of the screenshot of whatsapp chat dated 12.04.2022 at 5:40pm mentioned as “115\*53250”. On being asked, **Shri Rambhai Suhagiya clarified that he raised order for 115 pieces of gold biscuits of 999 purity weighing 10 tola and 53250 means the price for the gold biscuits had been fixed @ Rs 53250/- per tola.**
- Page No. 3 printout of the screenshots of whatsapp chat dated 09.04.2022 at 5:39pm mentioned as “144\*52850”. On being asked, **Shri Rambhai Suhagiya clarified that meaning of the said message was that he raised order for 144 piece of gold biscuits of 999 purity weighing 10 tola and 52580 means the price for the gold biscuits had been fixed @ Rs 52850/- per tola.**

On being asked he stated that all the above said orders had been placed by him as per the requirement from aforesaid mentioned bullion firms i.e. M/s Harikala Bullion and M/s Moon Star Inc. and that he just earned commission of Rs 20-30 thousand (approx.) on one tola of gold.

(ii) *Whatsapp* chats made with Shri Ankur (Baldev)

Sr. No.	Date	Time (UTC+5:30)	Chat/Audio from	Contents of Chat/audio
1	05.04.2022	19:17:57	Incoming call from Baldev	-
2	05.04.2022	19:37:41	Incoming call from Baldev	-
3	05.04.2022	19:40:53	Incoming call from Baldev	-
4	09.04.2022	17:12:57	Baldev	Hi
5	09.04.2022	17:13:00	Baldev	Rate plz
6	09.04.2022	17:14:18	Baldev	Final aapo
7	09.04.2022	17:14:25	Baldev	Yarji
8	09.04.2022	17:30:51	Baldev	Ok
9	09.04.2022	17:39:37	Rambhai	144*52850
10	11.04.2022	10:41:01	Rambhai	Ok
11	12.04.2022	17:28:37	Baldev	Hi
12	12.04.2022	17:35:32	Rambhai	Bolo
13	12.04.2022	17:35:38	Baldev	Rate
14	12.04.2022	17:35:46	Rambhai	53230
15	12.04.2022	17:35:58	Baldev	Final aapo
16	12.04.2022	17:36:08	Rambhai	Final
17	12.04.2022	17:36:14	Baldev	Nthi
18	12.04.2022	17:36:22	Rambhai	Ketla pis
19	12.04.2022	17:36:26	Baldev	114
20	12.04.2022	17:36:40	Rambhai	Weit (Wait)

21	12.04.2022	17:40:01	Rambhai	53250
22	12.04.2022	17:40:07	Baldev	Ok
23	12.04.2022	17:40:11	Baldev	115 pcs kro
24	12.04.2022	17:40:16	Rambhai	Ok
25	12.04.2022	17:40:18	Baldev	Thursday na delivery
26	12.04.2022	17:40:30	Rambhai	115*53250
27	12.04.2022	17:40:38	Rambhai	Ok
28	14.04.2022	10:12:47	Rambhai	Jay swaminarayan
29	14.04.2022	10:12:55	Baldev	Jay swaminarayan
30	14.04.2022	10:12:55	Rambhai	Kon avse (who wil come)
31	14.04.2022	10:12:59	Baldev	Navnit bhai
32	14.04.2022	10:12:47	Rambhai	Ok
33	14.04.2022	15:47:59	Incoming call from Baldev	-
34	14.04.2022	18:02:47	Incoming call from Baldev	-
35	16.04.2022	15:31:53	Incoming call from Baldev	-
36	16.04.2023	15:35:57	Ougoiing call from Rambhai	-
37	16.04.2022	15:38:29	Rambhai	130*53650
38	19.04.2022	16:02:49	Incoming call from Baldev	-
39	19.04.2022	16:04:19	Rambhai	135*54080

It is very clear from the whatsapp chat that Shri Baldev Shakreliya had quoted price per tola of gold biscuits to Shri Baldev Sakhreliya and raised order for 144 pieces of gold biscuits of 10 tola bar at rate of Rs. 52850/- per tola to Shri Baldev Sakhreliya on 09.04.2022 and further placed order for 115 pieces @ Rs. 53250 per tola on 12.04.2022 and again placed order for 130 pieces @Rs. 53650 per tola on 16.04.2022 to Shri Baldev Sakhreliya and explanation of pages were given as below:

- Page No.4 (as page 1 to 3 were already given to the print outs taken on 22.03.2022) was the printout of whatsapp chat dated 11.04.2022 at 12:28pm, he stated that 70 means 70,000, for whatsapp message dated 11.04.2022 at 2:05pm, he stated that 112 means 1.12 Lakh, for whatsapp message dated 12.04.2022 at 2:32pm, he stated that 130 means 1.30 Lakh.

From the above, it is also very clear that Shri Rambhai Suhagiya sent messages to Shri Ankur Mansukhbhai Sakhreliya to collect cash from M/s CRV Jewels as and when cash was received. These *whatsapp* chats were corroborated with calls made by Shri Rambhai Suhagiya to Shri Ankur Mansukhbhai Sakhreliya on 11.04.2022 and 12.04.2022.

(iii) Calls made by Shri Rambhai Suhagiya with M/s Harikala Bullions for the period from 09.04.2022 to 22.04.2022 [**covered in para 34.1.3 above**] clearly corroborates the evidences of sale of the smuggled gold. Similarly, calls made by Shri Rambhai Suhagiya with M/s Moon Star Inc. for the period from 16.04.2022 to 19.04.2022 [**covered in para 34.1.4 above**] clearly corroborates with the evidences of sale of the smuggled gold.

(iv) From the call log for the period from 11.04.2022 to 19.04.2022 [**covered in para 34.1.5 above**] of Shri Rambhai Maganbhai Suhagiya, it is clearly seen that he was in constant touch with Shri Navnitkumar Dhirubhai Borad (8758125506). Corroborating the relevant statements, it is evident that Shri Rambhai Maganbhai Suhagiya informed Shri Navnitkumar Dhirubhai Borad (Mob No. 8758125506) to collect the cash from CRV Jewels whenever the cash were accumulated on account of sale of smuggled gold.

**B. CORROBORATIVE EVIDENCES**

(i) **Shri Vijaykumar Gandubhai Vekariya**, an employee of M/s CRV Jewels in his statement dated 21.04.2022 admitted that Shri Vipulbhai D Borad had come to M/s

CRV Jewels around 10:15 AM on 21.04.2022 and handed over a backpack to Shri Rambhai Maganbhai Suhagiya and during the search of CRV Jewels on 21.04.2022, the DRI officers recovered gold from the locker of M/s CRV Jewels. He also admitted that Shri Vipulbhai Borad had come to give a parcel, containing Gold Biscuits to Shri Rambhai Maganbhai Suhagiya and that Shri Vipulbhai D Borad had visited M/s CRV Jewels around 3 times in the past 02 months and every time he handed over Gold Biscuits to Shri Rambhai Maganbhai Suhagiya. He also admitted that the foreign Origin Gold Biscuits handed over by Shri Vipulbhai D Borad to Shri Rambhai Maganbhai Suhagiya were sold to M/s Moon Star Bullion, Jadakhadi, Mahidharpura, Surat, Gujarat and M/s Harikala Bullion, Lambe Hanuman Rd, Varsha Society 1, Varachha, Surat.

(ii) **Shri Shaileshkumar Parshottambhai Korat**, Sales Commission Agent of M/s CRV Jewels in his statement dated 21.04.2022, identified Shri Vipulbhai D. Borad who had come with a navy-blue colour bag and went to the cabin situated at backside of cash counter and after some time, he went into the locker room and saw that Shri Rambhai Maganbhai Suhagiya and Shri Vipulbhai D. Borad were counting the foreign origin gold biscuits; that in the meantime, DRI officers came in M/s CRV Jewels and started search; that on being asked regarding Shri Vipulbhai D. Borad, he stated that he knew him from past 02 months and met him at M/s CRV Jewels, Varachha, Surat, when he had come to meet Shri Rambhai Maganbhai Suhagiya; that Vipulbhai D. Borad came to give a parcel containing gold biscuits to Shri Rambhai Maganbhai Suhagiya. He also admitted that Shri Vipulbhai D. Borad had visited around 3-4 times at M/s CRV Jewels in past 02 months and every time he supplied gold biscuits to Shri Rambhai Maganbhai Suhagiya and Shri Rambhai Maganbhai Suhagiya used to sell the gold biscuits to M/s Moon Star Bullion, Jadakhadi, Mahidharpura, Surat or M/s Harikala Bullion, Lambe Hanuman Road, Varsha Society-1, Varachha, Surat and Shri Rambhai Suhagiya used to receive money in cash.

(iii) **Shri Chetanbhai R Katharotiya**, Partner of M/s CRV Jewels, in his statement dated 21.04.2022 stated that as Shri Vipul D Borad was the cousin brother of Shri Rambhai M Suhagiya and he used to visit the premises of M/s CRV Jewels a number of times to meet Shri Rambhai M Suhagiya and also admitted that 135 pieces of yellow metal biscuits found in the locker room of the premises of M/s CRV Jewels was brought by Shri Vipul D Borad in his blue color laptop bag and was given to Shri Rambhai M Suhagiya. He and Shri Rambhai M Suhagiya used to sell those gold biscuits, which were brought by Shri Vipul D Borad, to M/s Moon Star Inc, Shop no. 1-A & 2, B Rangrej Tower, Jada Khadi, Mahidharpura, Surat and Harikala Bullion, Varsha Society, Bhagunagar, Varachha, Surat; that on being asked regarding payment transaction against sale of the gold biscuits to Moon Star Bullion, Harikala Bullion and purchase of the same from Shri Vipul D Borad. He also admitted that Shri Vipul D Borad had handed over gold biscuits to Shri Rambhai M Suhagiya.

(iv) **Shri Rambhai Maganbhai Suhagiya**, Partner of CRV Jewels in his statement dated 21/22.04.2022 admitted that at around 10.10 AM Shri Vipulbhai D Borad entered M/s CRV Jewels and they both went into the cabin; that Shri Vipulbhai D Borad handed over a total of 135 UAE origin Gold Biscuits of 10 Tola each; that after receiving the same he went into the Locker room and arranged the same on the floor for counting; that in the meantime, DRI officers came in his shop M/s CRV Jewels around 10:25 AM and started search in the shop; he admitted that Shri Vipulbhai Borad had come to deliver Foreign Origin Gold Biscuits to him; that prior to this Shri Vipulbhai D Borad had delivered to him three consignments of 144, 115, & 130 Gold biscuits of Dubai/UAE Origin each of 10 tola on 11.04.2022, 14.04.2022 & 18.04.2022 respectively; Shri Baldev Sakhreliya, a friend of Shri Vipulbhai D Borad contacted him on mobile phone to seek the rate of gold biscuits before delivery of foreign origin gold biscuits; he quoted him the gold price on *whatsapp* and after finalizing the rate he sent the foreign origin smuggled gold biscuits through Shri Vipulbhai D Borad; he admitted that he had sold the same in 'as it was' condition to his customers M/s Moon Star Inc,

Jadakhadi, Mahidharpura, Surat, Gujarat and M/s Harikala Bullion, L.H. Road, Varsha Society, Varachha, Surat, Gujarat 395006; he regularly made calls to M/s Moon Star & M/s Harikala Bullion to know the daily rate of gold in market; he admitted that he had sold the foreign origin smuggled gold to M/s Moon Star Inc., therefore, the gold biscuits (cut pieces) with marking of Tigris and ARG UAE on it might be the same, which he sold to him, as they were mostly receiving such Dubai/UAE brand of gold pieces; after raising the order (as per the requirements of the aforementioned two bullion firms) with Shri Baldev Sakhreliya. Shri Baldev Sakhreliya informed on a telephonic conversation that Shri Vipul D Borad would deliver the ordered quantity of gold biscuits on so and so date and after receiving the same in his showroom, he informed the respective bullion firm, i.e Shri Sagar Shah (Mob: +91-9687099000), proprietor of M/s Moon Star inc, Surat and Shri Manishbhai (Mob: +91-9978593937)/Shri Ashokbhai (Mob: +91-9925478392) of M/s Harikala Bullion, Surat and they used to send their employee within half an hour to receive the delivery; once the gold biscuits reached the premises of the bullion firms, they sent the cash through one person and after deducting his commission, he handed over the cash to Shri Vipul D Borad. Shri Rambhai Suhagiya admitted that he had received the following gold as under:

Details of Foreign origin gold biscuits received by Shri Rambhai M Suhagiya

Booking Date	No. of biscuits & Quoted Price	Gold biscuits received on	Delivered to
19.04.2022	135*54080	21.04.2022	Detained by DRI under panchnama dated 21.04.2022
16.04.2022	130*53650	18.04.2022	Moon Star Inc
12.04.2022	115*53250	14.04.2022	Harikala Bullion
09.04.2022	144*52850	11.04.2022	Harikala Bullion (104 Pc.) & Moon Star Inc (40 Pc)

He also admitted that he had raised order for gold with Shri Baldev Sakhreliya and with regard to the gold supplied by Shri Baldev Sakhreliya/Shri Vipul D Borad as mentioned in above table, he had never asked for the documents of the said gold biscuits nor did have any documents to prove the licit procurement of gold.

(v) **Shri Vipulbhai Dhirubhai Borad** in his statement dated 21/22.04.2022 admitted that he reached the shop of M/s CRV Jewels, G4, Maitri Building, L.H. Road, Varachha at around 10.15 hrs on 21.04.2022; he accepted that he had brought 135 Gold Biscuits of UAE origin in his Bag and handed over the same to Shri Rambhai Maganbhai Suhagiya in his strong room situated behind the cash counter of CRV Jewels; that Shri Rambhai Maganbhai Suhagiya was his cousin (son of his Bua) who was partner of CRV Jewels; that whenever he visited CRV Jewels, he dealt only with Shri Rambhai Maganbhai Suhagiya; he admitted that he had handed over 144 Gold Biscuits of UAE origin each of 10 tolas to Shri Rambhai Maganbhai Suhagiya on 11.04.2022 in CRV Jewels, and after that he had handed over 115 Gold Biscuits of UAE origin each of 10 tolas on 14.04.2022; and 130 Gold Biscuits of UAE origin each of 10 tolas on 18.04.2022 to Shri Rambhai Maganbhai Suhagiya. Shri Vipulbhai Dhirubhai Borad further admitted that he had supplied 10 Tolas of UAE origin Gold Biscuits having different marking viz. Tigris UAE/ ARG UAE to Shri Rambhai Maganbhai Suhagiya on different occasions; that he was aware that Shri Rambhai Maganbhai Suhagiya had sold the UAE origin Gold Biscuits to Moon Star Inc., Mahidharpura, as it was on the same day; that on that basis, he presumed that the cut piece of Gold having marking of “Tigris” and “ARG”, detained from M/s Moon Star Inc. was pertaining to consignment of smuggled UAE origin Gold Biscuits, which was sold by him to Shri Rambhai Maganbhai Suhagiya on 18.04.2022; after purchase, Shri Baldevbhai Sakhreliya negotiated the rate of UAE origin Gold with Shri Rambhai Maganbhai Suhagiya and after finalisation of rate Shri Baldevbhai Sakhreliya conveyed to him the exact number of Gold Biscuits to be smuggled from UAE; after arrival of carriers at Surat Airport, he received them and collected the Gold biscuits from them and handed over the same to Shri Rambhai

Maganbhai Suhagiya next morning at his shop CRV Jewels, Varachha, Surat; regarding the finance for purchase of Gold in UAE, Shri Vipulbhai Dhirubhai Borad stated that Shri Dilipbhai and Anilbhai, both from Dubai, financed the purchase of Gold in Dubai; he with the help of Navnit (his younger brother), Ankur (Baldev's brother) collected the cash payment from Shri Rambhai Maganbhai Suhagiya within 1 to 3 days after delivery of Gold, and handed over the cash to Shri Alpesh Virani, who in turn sent the money to Dilipbhai/ Anilbhai at Sharjah through different Angadia.

(vi) Shri Baldev Mansukhbhai Sakhreliya admitted that Shri Vipul D Borad had smuggled gold into India 3 times in the month of April 2022, and the exact quantity of gold smuggled by him was the same which was mentioned in the statement of Shri Rambhai Maganbhai Suhagiya 130@53650 per tola, 115@53250 per tola and 144@52850 per tola; that regarding the payment, he stated that Shri Ankur, his younger brother and Shri Navnit Borad, younger brother of Shri Vipul Borad collected the cash from Shri Rambhai Maganbhai Suhagiya at CRV Jewels and handed over the cash to Shri Alpesh Virani, a relative of Shri Dilip Virani, who in turn sent the money to Dilip Virani, Dubai;

(vii) **Shri Ankur Mansukhbhai Sakhreliya** in his statement dated 02.05.2022 stated that he had met Shri Rambhai Maganbhai Suhagiya, Partner of CRV Jewels, in April, 2022 when Shri Vipul Borad asked him to collect cash from their shop M/s CRV Jewels; that in the *whatsapp* chats, Shri Rambhai Maganbhai Suhagiya sent him the message on different occasions "70", "113" & "130" and in response he replied "OK" every time, it meant that he had picked up Rs.70,00,000/-, Rs. 113,00,000/- & Rs. 130,00,000/- from Shri Rambhai Maganbhai Suhagiya on different occasions.

(viii) Shri Sagar Manubhai Shah, Proprietor of M/s Moon Star Inc., in his statement dated 22.04.2022 admitted that he had done trading of 130 pieces of UAE origin Gold Biscuits 10 tolas each with Shri Rambhai Maganbhai Suhagiya, Partner in CRV Jewels on 18.04.2022. He admitted that he had negotiated with Shri Rambhai Maganbhai Suhagiya for supply of UAE origin Gold on two occasions and received 40 pieces of gold biscuits (10 Tola each) on 11.04.2022 and 130 pieces of UAE origin Gold Biscuits (10 tolas each) on 18.04.2022, and these were sold on cash basis to various customers.

### **C. DEFENCE**

Shri Rambhai Maganbhai Suhagiya in his defence has primarily argued that:

(i) that he had business with Mr. Baldev Sakhrelia, who was a friend of his cousin Mr. Vipulbhai D Borad, and he wanted to sell gold at a reasonable rate. As they were already involved in trading of gold and silver jewellery, he agreed to it and accordingly, on 09.04.2022, Shri Baldev Sakhreliya contacted on his mobile phone to get the rate of gold biscuits and was later informed Shri Vipul D Borad would deliver the ordered quantity of gold biscuits on 21.04.2022 and that he presumed that Shri Vipul Borad will come with the required documents/papers/invoices related to the gold and hence did not ask for the same; that on 21.04.2022 on receipt of gold from Shri Vipul Borad he wanted to first check the purity and quantity of the gold biscuits and if found correct, then check the papers, however, the DRI officials had arrived before he could ask for the papers. So, the officials asked Vipul Borad to show the papers of the gold biscuits, but he did not have any documents related to the purchase of these gold as it was smuggled from UAE.; that he had made a big mistake by trusting his cousin Mr. Vipul Borad and his cousin's friend Mr. Baldev Sakhrelia and he should have asked for the documents related to the gold biscuits first.

This submissions made by Shri Rambhai Suhagiya is clearly an afterthought and cannot be accepted. From the evidences, it is very clear that Shri Vipul Borad did not possess any licit documents for the gold that was brought to the premises of M/s CRV Jewels, even when the DRI officials had searched the said premises and found 135 pieces of Gold biscuits having foreign origin and without any licit documents on 20.04.2022. Since, Shri Vipul Borad was the part of smuggling syndicate who used to

bring the smuggled gold to M/s CRV Jewels for sale, it is evident enough to presume that no licit documents would have been provided on 11.04.2022, 14.04.2022 or 18.04.2022 as charged in the show cause notice.

(ii) the panchnama prepared by the officials was forcefully made to sign by way of threat.

I find no retraction of the statement of Shri Rambhai Suhagiya at the material time, therefore, the said argument is just an afterthought.

(iii) Cross examination of Shri Vijaykumar Mandubhai Vekariya, Shri Shaileshkumar Purushottambhai Korat, Shri Vipul Borad, Shri Baldev Sakhrelia, Shri Ankur Sakhrelia may be provided.

In the instant case, I find that the statements of the co-noticees, whose cross-examination has been sought, have not been retracted at any stage. Further, no points of argument have been put forth for cross examination. Primary evidences of the details of smuggled gold have been brought on record in the show cause notice and the same has not been denied by Shri Rambhai Suhagiya at any stage. Therefore, the permission sought by Shri Rambhai Suhagiya to cross-examine the persons was denied by the competent authority and was duly communicated to him vide letter No. VIII/10-01/Pr.Commr/O&A/2024-25 dated 16.05.2025. The documentary and digital evidences, oral corroborative statements of the other master-minds of the syndicate on record clearly show that Shri Vipul Borad as one of the master-mind of the whole syndicate of smuggling of gold from Dubai/Sharjah to India through Surat airport.

Moreover, I find that cross examination cannot be claimed as a matter of right and is not violative of the principles of Natural Justice. The judgment of the Hon'ble Supreme Court in case of Surjeet Singh Chhabra v. U.O.I., 1997 (89) E.L.T. 646 (S.C.), is very emphatic, wherein it has been held that failure to give opportunity to cross examine the witnesses is not violative of the principles of natural justice. Shri Rambhai Suhagiya has not provided any specific points/questions/reasons for cross examination. Therefore, I refer to the judgment of the Hon'ble Tribunal in case of Dipu Das V/s Commissioner of Customs (port), Kolkata reported in 2010 (261) E.L.T. 408 (Tri. - Kolkata), and the judgment of Hon'ble Tribunal in case of Commissioner of Customs, Hyderabad V/s Tallaja Impex reported in 2012(279) ELT-433(Tri.-Bangalore), wherein it has been contended that the request for cross-examination was made without giving any reasons and that in adjudication proceedings, cross-examination cannot be claimed as a matter of right on mere asking for it, without furnishing reasons for the same.

(iv) the transactions mentioned by Shri Vipulbhai Dhirubhai Borad and the orders for pieces of gold biscuits in the above statement were never carried out and hence the statement made by Shri Vipul Borad was completely false; that in their business, it often happens that various customers ask for gold rates on *whatsApp* and they reply on *whatsApp*. However, giving rates on *whatsApp* did not mean that they had finalized the deal and some deals were not finalized even after giving rates. Further, in the statement, Shri Baldevbhai Mansukhbhai Sakhrelia had stated that the intent of the three *WhatsApp* chats made by him on 16.04.2022, 12.04.2022 and 09.04.2022 was that he placed an order/booked for gold biscuits, however he only informed Shri Baldev Sakhrelia about the rates of gold biscuits taken from M/s Harikala Bullion and M/s Moon Star Inc. through *WhatsApp*. But, the first three orders were not finalized by him. In this regard, it often happens that various customers ask for gold rates on *WhatsApp* and that did not mean that they had finalised the deal; that the *WhatsApp* chats of 09.04.2022, 12.04.2022 and 16.04.2022 were such deals that were not finalized. Thus, the order bookings mentioned by Shri Vipulbhai Dhiruai Borad in the above statement were never given by him and hence the statement made by Shri Vipul Borad was completely false. Even in the case of the last *WhatsApp* chat made on 19.04.2022, he had conveyed the rates of gold biscuits taken from M/s Moon Star Inc. and Harikala Bullion and the deal were finalized by him.



These submissions are clearly an afterthought. The arguments by Shri Rambhai Suhagiya that the *whatsapp* chats on the relevant dates were merely an inquiry for the orders and that they had not been finalized or affected. No I find that the digital evidences by way of *whatsapp* chats provide strong proof that the inquiry/order placed through *whatsapp* chats were made against the smuggled gold received by Shri Rambhai Suhagiya. This is evidently clear from the *whatsapp* chats made by Shri Rambhai Suhagiya with Shri Baldev Suhagiya/Shri Vipul Borad on 19.04.2022 that showed the discussion of rates for 135 pieces of foreign origin gold biscuits. I find that these 135 foreign origin gold biscuits totally weighing 15746.40 grams, valued at Rs.8,58,17,880/- smuggled through Surat International Airport were seized from the premises of M/s CRV Jewels, Surat and later confiscated under the provisions of Section 111 of the Customs Act, 1962 by the Additional Commissioner, Customs, Surat vide Order-in-Original No. 08/AR/ADC/SRT/2023-24 dated 29.09.2023. The Additional Commissioner, Customs, Surat vide the above mentioned order also imposed penalty on Shri Rambhai Maganbhai Suhagiya, along with other accomplices under the provisions of Section 112 of the Customs Act, 1962 for their active role in the smuggling of gold. From the passenger manifests, the passengers/carriers were identified and from the statements of Shri Vipul Borad and his accomplices, it is very clear that Shri Vipul Borad had smuggled foreign origin gold biscuits also on 09.04.2022, 12.04.2022 and 16.04.2022 through Surat Airport and handed over to Shri Rambhai Suhagiya, Partner of M/s CRV Jewels on 11.04.2022, 14.04.2022 and 18.04.2022 respectively and thereafter sold to bullion units.

(v) Shri Vipulbhai Borad along with Shri Baldev Sakhrelia was planning to cheat him as they wanted to sell the smuggled gold biscuits through him by keeping in the dark. However, when Vipulbhai Borad was caught red handed by the DRI officials, he tried to involve me in the conspiracy so that the responsibility of both of them in the gold smuggling case was reduced.

This argument is again an afterthought to shove of the charges framed against him in the show cause notice and to avoid any punitive action.

(vii) Shri Ankurbhai had urgent need of money for his business purpose, which he used to return the same day or next day, and then he sent a person to collect the same; that was when he handed over the requested amount to him and left a message to Shri Ankurbhai on WhatsApp specifying the amount in coded form to ensure that the requested amount has been given. Thus, in the said chat he had sent him messages "70", "112" and "130" on different occasions and in response he replied "OK" every time, which means he took Rs. 70,000/-, Rs. 1,12,000/- and Rs. 1,30,000/- on different occasions from him.

I find that this argument is made merely as an attempt to show the insignificance of the amount in the messages and to weaken the charges against Shri Rambhai Suhagiya. I find that it is injudicious to accept that when smuggling of gold biscuits, valued in crores are being made by the smuggling syndicate on the relevant dates, messages for funds of these negligible amounts were being made.

(viii) Shri Sagar Manubhai Shah, owner of M/s Moon Star Inc., Surat had categorically denied that he has received 40 pieces and 130 pieces of UAE origin gold biscuits of 10 tola each from him on 11.04.2022 and 18.04.2022 respectively; that the analysis of his mobile phone did not give the correct picture and thus the said analysis was completely incorrect. In paragraph 34.3.2 of the show cause notice, some screenshots of the video footage had been shown and discussed; that the first photograph shows the visit of Shri Ankur Mansukhbhai Sakhrelia to CRV Jewel's shop on 11.04.2022. In this context, it was submitted that Shri Ankur Mansukhbhai Sakhrelia had visited their shop on 11.04.2022, which does not prove anything. According to the show cause notice, in the second photograph Mr. Ankur Mansukhbhai Sakhrelia was going into the locker of CRV Jewels and that he had blocked the camera installed in the locker room on 11.04.2022. In this context, it was submitted that he

was not trying to block the camera but was placing the bag on the shelf. Thus, again the photograph did not prove anything. According to the show cause notice, the third photograph showed a person from M/s Harikala Bullions visiting CRV Jewels and handing over the cash and receiving the gold on 11.04.2022. In this context, it was to be submitted that there was a person standing in the locker room did not prove that he had come to hand over the cash and receive the gold. Thus, again the image proves nothing. As per the show cause notice, the fourth photograph shows a person who was of Shri Vipul D. Borad who came to CRV Jewels to receive cash from him on 11.04.2022. In this context, it was submitted that Shri Vipul D. Borad was not visible in the photograph at all. Thus, in the show cause notice, Vipul D. Borad has been wrongly identified and again the photograph did not prove anything. According to the show cause notice, the fifth photograph showed a person belonging to Moonstar Inc. who came to M/s CRV Jewels on 11.04.2022 with a bag full of cash and came inside the locker room and handed over the cash to him. In this context, it is submitted that he was not seen in the photograph at all and thus it was wrongly concluded that the so-called cash was handed over to me. Thus, again the photograph did not prove anything. According to the show cause notice, the sixth photograph showed Mr Navneet Borad, who came to M/s CRV Jewels on 14.04.2022 with a bag to hand over smuggled gold biscuits. In this context, it was to be submitted that if a person comes to their shop with a bag, it does not necessarily mean that the bag contained smuggled gold biscuits. It often happens that different persons come to their shop, some of whom bring bags, but it does not necessarily mean that the bag contains full of gold biscuits. Thus, again the image did not prove anything. As per the show cause notice, in the seventh photograph Mr. Vipul D. Borad was seen coming out of the locker room after handing over the smuggled gold biscuits to him at CRV Jewels on 18.04.2022. In this context, it was submitted that the person standing outside the locker room did not necessarily mean that he handed over the smuggled gold biscuits to him. Thus, again the photograph did not prove anything. Thus, all the seven photographs mentioned the show cause notice did not prove anything against him. Thus, conclusively, he was not at all involved in the smuggling of the referred gold biscuits and requested that no separate penalty be imposed on him under Section 112(a)(b) of the Customs Act, 1962.

From the arguments made above, I find that Shri Rambhai Suhagiya has merely tried to refute the digital evidences. No attempts have been made by Shri Rambhai Suhagiya to explain his version regarding the activity seen in the CCTV footages nor were any related evidences produced to prove the contrary. Therefore, I do not find any gravity to above arguments and reject the same.

#### **D. CONCLUSION**

Therefore, from the documentary, digital and corroborative evidences on record, I find that Shri Rambhai Suhagiya had received the smuggled 389 pieces of gold biscuits, totally weighing 41.858 kgs in the premises of M/s CRV Jewels on 11.04.2022, 14.04.2022 and 18.04.2022 and subsequently sold to the bullion units. Hence, Shri Rambhai Suhagiya is liable to penalty under the Section 112(b) of the Customs Act, 1962 for the above acts.

### **3. SHRI BALDEV MANSUKHBHAI SAKHRELIYA**

From the digital, documents and corroborative evidences in the case, it transpires that Shri Baldev Sakhreliya used to receive orders from Shri Rambhai Suhagiya, Partner of M/s CRV Jewels for the gold after inquiring the prevailing market rates and convey it to Shri Vipul Borad, who used to manage the passengers/carriers to carry out smuggling from Surat International Airport.

#### **A. DIGITAL EVIDENCES**

(i) *whatsapp* chat, retrieved from mobile phone of Shri Rambhai Maganbhai Suhagiya, which showed the communication between the two:

Sr. No.	Date	Time (UTC+5:30)	Chat/Audio from	Contents of Chat/audio
1	05.04.2022	19:17:57	Incoming call from Baldev	-
2	05.04.2022	19:37:41	Incoming call from Baldev	-
3	05.04.2022	19:40:53	Incoming call from Baldev	-
4	09.04.2022	17:12:57	Baldev	Hi
5	09.04.2022	17:13:00	Baldev	Rate plz
6	09.04.2022	17:14:18	Baldev	Final aapo
7	09.04.2022	17:14:25	Baldev	Yarji
8	09.04.2022	17:30:51	Baldev	Ok
9	09.04.2022	17:39:37	Rambhai	144*52850
10	11.04.2022	10:41:01	Rambhai	Ok
11	12.04.2022	17:28:37	Baldev	Hi
12	12.04.2022	17:35:32	Rambhai	Bolo
13	12.04.2022	17:35:38	Baldev	Rate
14	12.04.2022	17:35:46	Rambhai	53230
15	12.04.2022	17:35:58	Baldev	Final aapo
16	12.04.2022	17:36:08	Rambhai	Final
17	12.04.2022	17:36:14	Baldev	Nthi
18	12.04.2022	17:36:22	Rambhai	Ketla pis
19	12.04.2022	17:36:26	Baldev	1 14
20	12.04.2022	17:36:40	Rambhai	Weit (Wait)
21	12.04.2022	17:40:01	Rambhai	53250
22	12.04.2022	17:40:07	Baldev	Ok
23	12.04.2022	17:40:11	Baldev	115 pcs kro
24	12.04.2022	17:40:16	Rambhai	Ok
25	12.04.2022	17:40:18	Baldev	Thursday na delivery
26	12.04.2022	17:40:30	Rambhai	115*53250
27	12.04.2022	17:40:38	Rambhai	Ok
28	14.04.2022	10:12:47	Rambhai	Jay swaminarayan
29	14.04.2022	10:12:55	Baldev	Jay swaminarayan
30	14.04.2022	10:12:55	Rambhai	Kon avse (who will come)
31	14.04.2022	10:12:59	Baldev	Navnit bhai
32	14.04.2022	10:12:47	Rambhai	Ok
33	14.04.2022	15:47:59	Incoming call from Baldev	-
34	14.04.2022	18:02:47	Incoming call from Baldev	-
35	16.04.2022	15:31:53	Incoming call from Baldev	-
36	16.04.2023	15:35:57	Outgoing call from Rambhai	-
37	16.04.2022	15:38:29	Rambhai	130*53650
38	19.04.2022	16:02:49	Incoming call from Baldev	-
39	19.04.2022	16:04:19	Rambhai	135*54080

From the *whatsapp* chat between Shri Rambhai Maganbhai Suhagiya and Shri Baldev Sakhreliya it is apparent that orders for gold biscuits were being placed after inquiries regarding the gold rates and the same were being communicated to Shri Vipul Borad for affecting the smuggling. It is also evident that Shri Baldev Sakhreliya used to inform Shri Rambhai Suhagiya as to who would be coming to M/s CRV Jewels to hand over the smuggled gold.

(ii) I find that Shri Vipul Dhirubhai Borad had used SIM Mobile no 9712886203, and for *whastapp* purpose he used mobile no. 9898848150 and Shri Vipul Dhirubhai Borad and Shri Baldev Sakhreliya updated each other through *whatsapp* conversations regarding purchasing of gold. The relevant *whatsapp* chats between Shri Vipul Dhirbubhai Borad (Mob-9898848150) and Baldev Sakhreliya (919601347698) were:

Relevant Whatsapp Chats between Shri Vipul Dhirbubhai Borad and Baldev Sakhreliya

Sr. No.	Date	Time (UTC+5:30)	Chat/Audio from	Contents of Chat/audio
1	19.04.2022	19:48:10	Vipul	Kal ma 4 ena book karje
2	19.04.2022	19:48:24	Baldev	Ok
3	20.04.2022	20:14:13	Baldev	54080/- ma book che
4	20.04.2022	20:14:25	Vipul	Ok
5	20.04.2022	20:14:37	Baldev	Pcs je aape e tamne
6	20.04.2022	20:14:40	Baldev	Nilesh bhai
7	20.04.2022	20:14:40	Vipul	Ok
8	20.04.2022	20:14:53	Vipul	Jalpesh na 25 che
9	20.04.2022	20:14:54	Baldev	Apda 135 pcs to book che j
10	20.04.2022	20:14:59	Baldev	Ha ok
11	20.04.2022	20:15:05	Vipul	Ok

(iii) I find that the information/ message related to smuggling of Gold were shared in a *whatsapp group* named as “KHANAK 2021” by their members. The relevant *whatsapp* chat shared in “KHANAK 2021” *whatsapp* group by its members was:

Relevant Whatsapp Chat Shared in “KHANAK 2021” Whatsapp Group

Sr. No.	Date	Time (UTC+5:30)	Chat/Audio/Pdf from	Contents of Chat/audio
1	14.04.2022	16:54:02	Baldev	Shared a ticket of Air India Express of PNR 8EY22K
2	14.04.2022	16:54:02	Baldev	Shared a ticket of Air India Express of PNR HLHFE2
3	14.04.2022	16:54:03	Baldev	Shared a ticket of Air India Express of PNR R59NZN
4	14.04.2022	16:54:03	Baldev	Shared a ticket of Air India Express of PNR PGOGL1
5	15.04.2022	08:59:48	Vipul	Jay ho
6	17.04.2022	11:38:44	Vipul	<b>Aaj na apd caring vala na Pasport ma name hoye e mne send karjo ne</b>
7	17.04.2022	11:40:07	Ankur	Ha
8	17.04.2022	12:04:04	Ankur	Gauravgirir dineshgiri Goswami Rakesh Gopalbhai Moradiya Kalpeshkumar thakurbhai desai Rupareliya Vasantben hasmukhbhai Tavadia divyesh natvarbhai
9	17.04.2022	12:23:17	Baldev	<b>Smaglaro ni toil</b>
10	17.04.2022	12:24:55	Vipul	<b>Vasantben Pan</b>
11	17.04.2022	12:26:26	Baldev	<b>Jalpesh na Mammi</b>
12	17.04.2022	12:27:27	Vipul	Ha kelo che Jalpesh
13	17.04.2022	12:27:35	Vipul	Audio massage sent (could not be retrieved by RFSL)
14	17.04.2022	12:28:05	Baldev	Ha em rakhjo
15	17.04.2022	12:27:35	Vipul	Audio message sent (could not retrieved by RFSL)
16	17.04.2022	12:47:36	Ankur	Ok
17	17.04.2022	13:00:14	Vipul	Audio message sent

				<i>(could not retrieved by RFSL)</i>
18	17.04.2022	13:00:29	Vipul	<i>Finaly</i>
19	17.04.2022	13:44:05	Ankur	<i>Ok</i>
20	17.04.2022	13:44:23	Ankur	<i>Audio message sent (could not retrieved by RFSL)</i>
21	17.04.2022	15:23:42	Vipul	<i>Audio message sent (could not retrieved by RFSL)</i>
22	17.04.2022	15:24:02	Ankur	<i>Ok</i>
23	17.04.2022	17:05:46	Ankur	<i>Sign done</i>
24	17.04.2022	17:09:41	Ankur	<i>Shared agroup photo of 4 male persons without mask</i>
25	17.04.2022	17:09:41	Ankur	<i>Shared a group photo of 4 male persons with mask</i>
26	17.04.2022	17:09:41	Ankur	<i>Shared photo of a lady passenger</i>
27	17.04.2022	17:10:06	Ankur	<i>Shared photo of himself (Ankur)</i>
28	17.04.2022	17:13:44	Baldev	<i>Bichara nu dhyan rakhje (Reply on photo of lady)</i>
29	17.04.2022	17:15:23	Ankur	<i>Ha ha</i>
30	17.04.2022	17:15:49	Baldev	<b><i>Chokra sala smagling krave che</i></b>
31	17.04.2022	17:15:55	Ankur	<i>Ha</i>
32	17.04.2022	17:36:49	Vipul	<b><i>Ava chokra koi na pake</i></b> <i>(Reply on post of 'Chokra sala smagling krave che')</i>
33	18.04.2022	17:23:10	Baldev	<i>Share eVisa of VipulD Borad</i>
34	18.04.2022	17:23:10	Baldev	<i>Share eVisa of Mukeshkumar D. Kanani</i>
35	18.04.2022	17:23:11	Baldev	<i>Share eVisa of Gopalbhai C. Mulani</i>
36	18.04.2022	17:23:11	Baldev	<i>Share eVisa of Dhavalkumar Premjibhai Patel</i>
37	18.04.2022	17:53:50	Baldev	<i>Share eVisa of Shlpaben Mukeshbhai Kanani</i>
38	18.04.2022	17:53:50	Baldev	<i>Share eVisa of Tanay Mukeshbhai Kanani</i>
39	18.04.2022	17:54:49	Baldev	<i>Share Air India Expres ticket of PNR 3LN9B1 of Navnit Borad</i>
40	18.04.2022	17:54:49	Baldev	<i>Share Air India Expres ticket of PNR PDWBNU of Dhavalkumar Premjibhai Patel</i>
41	18.04.2022	17:54:50	Baldev	<i>Share Air India Expres ticke of PNR QH60V9 of Gopalbhai C. Mulani.</i>
42	18.04.2022	17:55:25	Baldev	<i>Navnitbhai Dhavalbhai Gopal Dte 21/04/22 srt to shj tot</i>
43	18.04.2022	18:35:19	Baldev	<i>Share pdf of eVisa of Deeptiben Vipulbhai Borad</i>
44	21.04.2022	00:24:10	Vipul	<i>Share Photo of gold biscuits scatterredon floor.</i>
45	21.04.2022	06:30:44	Navnit	<i>Share a photo of declaration AIRC/2514</i>

From the *whatsapp* messages, it is evidently clear that Shri Baldev Sakhreliya was involved in the smuggling activity and used to share pictures of passengers/carriers, tickets, visas etc.

## **B. DOCUMENTARY EVIDENCES**

(i) From the passenger manifest of Air India Express Flight IX-172 (Sharjah to Surat) on 13.04.2022, it is also observed that Shri Baldev Sakhreliya returned to Surat from Sharjah on 07.04.2022 along with other passengers/carriers, viz., Kalpesh Chhaswala, Shri Vivek Patel and Shri Bharat Kataria, which shows his involvement in the smuggling activity.

(ii) From the documents submitted by Shri Nikunj Sutariya, Proprietor of M/s Magic Holidays, it is evident that he booked the flight tickets on behalf of Shri Vipulbhai Dhirubhai Borad, Navnit Borad, Nilesh Borad and Baldev Manshukhbhai Sakhreliya and maintained sales ledgers in the name of other persons viz. Goswami Gaurav,

Malavia Sumitben Manishkumar, Dhavalkumar Premjibhai Patel, Patel Yamini. It is also evident that Shri Nikunj Arvindbhai Sutariya raised the invoices in the name of “Goswami Gaurav” and “Malavia Sumitben Manishkumar”, “Dhavalkumar Premjibhai Patel” and “Patel Yamini” as per the demand of Shri Vipulbhai Dhirubhai Borad and his accomplices, including Shri Baldev Sakhreliya.

### **C. CORROBORATIVE EVIDENCES**

(i) In the statement dated 02.05.2022, Shri Baldev Sakhreliya admitted that Shri Rambhai Suhagiya used to send messages to confirm the quantity and amount at the time of delivery of gold biscuits; that he admitted he had met Shri Vipul D Borad, through his brother Shri Nilesh Borad as Shri Nilesh Borad and he had done the business of textile; that in the month of March, 2022 Shri Vipul D Borad met him and asked that he wanted to start some business activities in Dubai but he had financial difficulties and needed a person who can finance him; that as he (Baldev) used to visit Dubai for his business purpose, he knew one person in the name of Shri Dilip Virani, his distant relative who was engaged in the business of Diamond Trading, so he introduced Shri Vipul D Borad to Shri Dilip Virani; that as per his knowledge Shri Dilip Virani used to give money to Shri Vipul D Borad for his Gold business; he stated that before two months Shri Vipul Borad had informed him that he was facing deep financial crisis and wanted fast money and requested him for a financial/monetary favour; that then, he introduced Shri Vipul D Borad to Shri Dilip Virani who was settled in Dubai; that he stated that arrangements of passengers were done by Shri Vipul D Borad and tickets were booked by him (Vipul) through M/s Magic Holidays, Surat; that he revealed that Shri Vipul D Borad had smuggled gold into India 3 times in the month of April 2022, and the exact quantity of gold smuggled by him were 130@53650 per tola, 115@53250 per tola and 144@52850 per tola; that he never handed over the Gold Biscuits to Shri Rambhai Maganbhai Suhagiya of CRV Jewels as Shri Vipul Borad had handed over the smuggled Gold Biscuits to Shri Rambhai Maganbhai Suhagiya of CRV Jewels on last three occasions; that Shri Ankur, his younger brother and Shri Navnit Borad, younger brother of Shri Vipul Borad collected the cash from Shri Rambhai Maganbhai Suhagiya at CRV Jewels and handed over the cash to Shri Alpesh Virani, a relative of Shri Dilip Virani, who in turn sent the money to Dilip Virani, Dubai.

(ii) From the statement dated 21.04.2022 of Shri Rambhai Maganbhai Suhagiya, it is amply clear that he used to talk with Shri Baldev Sakhreliya regarding the purchase and sale of gold and after supply of the smuggled gold he had never asked Shri Baldev Sakhreliya regarding the licit documents.

(iii) From the statement dated 21.04.2022 of Shri Vipulbhai Borad, it is also very clear that Shri Baldev Sakhreliya was his business partner and they ventured into the smuggling activity, as they were facing financial crisis. Shri Vipulbhai Borad also admitted that he along with Shri Baldev Sakhreliya arranged for passengers/carriers for the smuggling activity and planned their to and fro tickets from Surat to Sharjah and after purchase Shri Baldev Sakhreliya used to negotiate rate of UAE origin of Gold with Shri Rambhai Suhagiya and after finalisation of rates, Shri Baldev Sakhreliya used to convey Shri Vipulbhai Borad regarding the exact number of gold biscuits to be smuggled from UAE. Shri Vipulbhai Borad also stated that whenever he or Shri Baldev Sakhreliya or Shri Navnit Borad accompanied the passengers/carriers to Sharjah for smuggling gold, they themselves never carried the gold and that the gold were carried by the passengers/carriers only.

(iv) From the statement dated 17.04.2022 of Shri Divyesh Tavadiya, it is clear that Shri Baldev Sakhreliya had addressed Shri Divyesh Tavadiya, as one of the smuggler in the group (*‘toli’* in local parlance) as he was carrying 8 gold biscuits in his shoes during his arrival in Surat.

### **D. DEFENCE**

In the defence Shri Baldev Sakhreliya had contended that:-

(i) cross examination of Shri Rambhai Maganbhai Suhagiya, Shri Vipul D Borad in terms of section 138 B of the Customs Act 1962 may be granted;

In the instant case, I find that the statements of the co-noticees, whose cross-examination has been sought, have not been retracted at any stage. Further, no points of argument have been put forth for cross examination. Primary evidences of the details of smuggled gold have been brought on record in the show cause notice and the same has not been denied by Shri Baldev Sakhreliya at any stage. Therefore, the permission sought by Shri Baldev Sakhreliya to cross-examine the persons was denied by the competent authority and was duly communicated to him vide letter No. VIII/10-01/Pr.Commr/O&A/2024-25 dated 16.05.2025. The documentary and digital evidences, oral corroborative statements of the other master-minds of the syndicate on record clearly show that Shri Baldev Sakhreliya as one of the master-mind of the whole syndicate of smuggling of gold from Dubai/Sharjah to India through Surat airport.

Moreover, I find that cross examination cannot be claimed as a matter of right and is not violative of the principles of Natural Justice. The judgment of the Hon'ble Supreme Court in case of Surjeet Singh Chhabra v. U.O.I., 1997 (89) E.L.T. 646 (S.C.), is very emphatic, wherein it has been held that failure to give opportunity to cross examine the witnesses is not violative of the principles of natural justice. Shri Baldev Sakhreliya has not provided any specific points/questions/reasons for cross examination. Therefore, I refer to the judgment of the Hon'ble Tribunal in case of Dipu Das V/s Commissioner of Customs (port), Kolkata reported in 2010 (261) E.L.T. 408 (Tri. - Kolkata), and the judgment of Hon'ble Tribunal in case of Commissioner of Customs, Hyderabad V/s Tallaja Impex reported in 2012(279) ELT-433(Tri.-Bangalore), wherein it has been contended that the request for cross-examination was made without giving any reasons and that in adjudication proceedings, cross-examination cannot be claimed as a matter of right on mere asking for it, without furnishing reasons for the same.

(ii) no gold was recovered from him as per the show cause notice and that whatever gold was seized were town seizures only;

I find that even though no gold was recovered from him, documentary and digital evidences, oral corroborative statements of the other master-minds of the syndicate on record clearly show that Shri Baldev Sakhreliya was also a part of the smuggling syndicate and used to receive orders from Shri Rambhai Suhagiya regarding the supply of gold biscuits along with the rates.

(iii) Photos and WhatsApp chats did not connect him to any offence and that no panchnama had been drawn before forensic analysis of the phones, CCTV footage from which WhatsApp chats and photos had been extracted nor was there any certificate under section 138 C of the Customs Act, 1962, therefore no credibility could be given to electronic evidence or photos or WhatsApp chats or CCTV footage relied upon in the SCN;

I do not find any merit in these arguments as the seized mobile phones were forwarded to the Deputy Director, Regional Forensic Science Laboratory, Surat and the examination reports were sent to the investigation agency for extraction of evidences. Regional Forensic Science Laboratory, Surat, being a Government Agency, there is no question of non-availability of certificate under Section 138C of the Customs Act, 1962.

(iv) he relied on the case law reported as Anshul Jain Versus CC-2023 SCC Online CESTAT 324A that the show cause notice contained no independent evidence except statements recorded under custody of the DRI and therefore he cannot be imposed penalty under Section 112(b) and that they relied on the Tribunal decision reported in Hershadbhai Kantibhai Savaliya Versus CC-2022 SCC Online CESTAT 3350 and case of M/s Durlav Paul Versus CC-2025 SCC Online CESTAT 239.

I do not agree with the argument that no independent evidence was recovered in the instant case, except statements of co-noticees. It is on record that by adopting the same modus-operandi, 135 pieces of foreign Origin Gold biscuits, totally weighing 15746.40 grams, valued at Rs.8,58,17,880 were imported through Surat International Airport and were seized from the premises of M/s CRV Jewels, Surat and later confiscated under the provisions of Section 111 of the Customs Act, 1962 by the Additional Commissioner, Customs, Surat vide Order-in-Original No. 08/AR/ADC/SRT/2023-24 dated 29.09.2023. The Additional Commissioner, Customs, Surat vide the above mentioned order also imposed penalty on Shri Baldev Mansukhbhai Sakhreliya, along with other accomplices under the provisions of Section 112 of the Customs Act, 1962 for their active role in the smuggling of gold.

#### **E. CONCLUSION**

From the above digital, documentary and corroborative evidences, it is amply clear that Shri Baldev Mansukhbhai Sakhareliya was one of the key players in the entire smuggling activity along with Shri Vipul Borad, Shri Rambhai Suhagiya and others. Shri Vipul Borad in connivance with Shri Baldev Sakhreliya, Shri Rambhai Suhagiya and other accomplices was also instrumental in the smuggling of 389 pieces of gold biscuits, totally weighing 41.858 kgs through the Surat International Airport on 10.04.2022, 13.04.2022 and 17.04.2022. Shri Baldev Mansukhbhai Sakhreliya is clearly liable to penalty under the Section 112(b) of the Customs Act, 1962 for the above transgression.

#### **4. SHRI NAVNIT KUMAR DHIRUBHAI BORAD**

From the digital, documents and corroborative evidences in the case, it transpires that Shri Navnit Borad, brother of Shri Vipul Borad, was also instrumental in the entire smuggling racket in as much as:-

- (i) he accompanied the passengers/carriers to and fro from Surat to Sharjah in order to affect the smuggling of gold;
- (ii) he personally carried cash to Dubai, which were accrued as sale proceeds from the smuggled gold, to purchase fresh gold from Dubai and smuggle the same into India;
- (iii) he was involved in delivery of the smuggled gold to Shri Rambhai Suhagiya in the premises of M/s CRV Jewels;
- (iv) he made regular visits to M/s CRV Jewels to collect sale proceeds/cash from Shri Rambhai Suhagiya in the premises of M/s CRV Jewels.

#### **A. DOCUMENTARY EVIDENCES**

(i) Shri Navnit D Barod (Passport No. V6225106) had travelled to Sharjah on 21.04.2022 via flight IX171 from Surat and filed declaration No AIRC/ 2514 (Declaration Regarding import of Cash (DRIC) for Passengers) before Customs, Sharjah Port, Customs and Free Zone Authority. The said declaration was in Arabic language and thus, free English translation of the said declaration was requested to Shri Mufaddal Shakir, Public Relations Officer, Aljamea tus Saifiyah, Arabic University, Deori Mubarak, Zampa Bazar, Surat vide letter F.No.DRI/AZU/SRU/B/INV-08 (INT-09)/2022 dated 13.01.2023. Shri Mufaddal Shakir vide letter dated 17.01.2023 submitted English translation of declaration No AIRC/ 2514 (Declaration Regarding import of Cash (DRIC) for Passengers) filed by Shri Navnitkumar D Borad. The scanned image of said declaration and English translation of said declaration [covered in para-35 above] clearly shows that Shri Navnit Borad was carrying cash or sale proceeds of Rs. 8,95,31,865/- (approx.) of the smuggled gold, in order to make a fresh purchase of gold from Dubai.

(ii) From the documents submitted by Shri Nikunj Sutariya, Proprietor of M/s Magic Holidays, it is evident that he booked the flight tickets on behalf of Shri Vipulbhai



Dhirubhai Borad, Navnit Borad, Nilesh Borad and Baldev Manshukhbhai Sakhreliya and maintained sales ledgers in the name of other persons viz. Goswami Gaurav, Malavia Sumitben Manishkumar, Dhavalkumar Premjibhai Patel, Patel Yamini.

**B. DIGITAL EVIDENCES**

**(i) SCREEN SHOTS OF VIDEO AT M/S CRV JEWELS ON 11.04.2022 CONFRONTED BY SHRI CHETAN KATHROTIYA, PARTNER OF M/S CRV JEWELS.**

Page 10, photo 1 CAM 4 (11-04-2022 16:04:24)	My self, Ankur Mansukhbhai Sakhreliya & Rambhai Maganbhai Suhagiya.	Shri Ankur Mansukhbhai Sakhreliya has again visited to CRV Jewels on 11.04.2022 at around 16.04 hrs to receive cash from Shri Rambhai Maganbhai Suhagiya. I was also present at the time of visit of Shri Ankur Mansukhbhai Sakhreliya. Shri Ankur Mansukhbhai Sakhreliya had received cash from Shri Rambhai and kept the same in his bag. Further, I state that I have no idea about the quantum of that cash. After some time Shri Ankur Mansukhbhai Sakhreliya went out side and came with <b>Shri Navnit Borad</b> within 10 minutes with their bags.
Page 10, photo 2 CAM 4 (11-04-2022 16:15:50)	Navnit Borad, Ankur Mansukhbhai Sakhreliya, My self & Vijaykumar Vekariya	Shri Ankur Mansukhbhai Sakhreliya had again visited CRV Jewels with Shri Navnit Borad on 11.04.2022 at around 16.15 hrs to receive cash from Shri Rambhai Maganbhai Suhagiya. I was also present at the time of visit of Shri Ankur Mansukhbhai Sakhreliya& <b>Navnit Borad</b> . Both went inside the locker room and collected cash from Shri Rambhai and kept in 2-3 bags. Further, I state that I have no idea about the quantum of that cash.
Page 13, photo 1 CAM 4 (12-04-2022 15:43:16)	Vijaykumar Vekariya, two person sitting on sofa, Ankur Mansukhbhai Sakhreliya& Navnit Borad	Shri Ankur Mansukhbhai Sakhreliya and <b>Shri Navnit Borad</b> had visited CRV Jewels on 12.04.2022 at around 15.43 hrs to receive cash from Shri Rambhai Maganbhai Suhagiya. Both went inside the locker room and collected cash from Shri Rambhai.
Page 13, photo 2 CAM 6 (12-04-2022 15:46:14)	Ankur Mansukhbhai Sakhreliya& Navnit Borad	In this photo Shri Ankur Mansukhbhai Sakhreliya was seen counting the cash inside the locker room of CRV jewels on 12.04.2022 and <b>Shri Navnit Borad</b> was sitting just behind him. Both had visited CRV Jewels on 12.04.2022 to receive cash from Shri Rambhai Maganbhai Suhagiya. Further, I state that I have no idea about the quantum of that cash.

**SCREEN SHOTS OF VIDEO AT M/S CRV JEWELS ON 14.04.2022 CONFRONTED BY SHRI CHETAN KATHROTIYA, PARTNER OF M/S CRV JEWELS.**

Page 14, photo 1 CAM 4 (14-04-2022 10:50:11)	My self, Navnit Borad & Vijaykumar Vekariya	In this photo me and <b>Navnit Borad</b> was seen passing by the cash counter in CRV Jewels. On 14.04.2022, <b>Shri Navnit Borad</b> came with a bag (with gold biscuits) at around 10.50 hrs to handover the gold to Shri Rambhai Maganbhai Suhagiya. Shri Navnit bhai went into locker room and handed over the said gold to Rambhai.
Page 14, photo 2 AM 6 (14-04-2022 10:52:45)	Navnit Borad & My self	<b>Navnit Borad</b> was seen sitting in locker room of CRV Jewels on 14.04.2022 and counting the gold biscuits brought by him. I was also present at the gate of locker room at that time. This photo was captured in Camera no 6 (CAM-6) installed in locker room because, Shri Rambhai had forgot to block the CAM-6 on that day. I further state that after receipt of those gold biscuits Shri Rambhai had handed over the same to persons of Harikala Bullions.
Page 22 Photo 2 CAM 4 (15-04-2022 17:22:53)	My self, Shailesh Korat, Vijaykumar Vekariya & Navnit Borad	When ever the cash had accumulated, Shri Rambhai called the Vipul Borad or his accomplice to collect cash. This time, <b>Shri Navnit Borad</b> had come to collect the cash from Shri Rambhai against the supply of gold made on 14.04.2022.

**SCREEN SHOTS OF VIDEO AT M/S CRV JEWELS ON 18.04.2022 CONFRONTED BY SHRI CHETAN KATHROTIYA, PARTNER OF M/S CRV JEWELS.**

Page No & Photo	Persons in the photo (S/Shri)	Chetan Katharotiya’s explanation on the photo
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	<b>(from left to right)</b>	
Page 24 Photo 2 CAM 4 (18-04-2022 13:33:46)	Rambhai, Vijaykumar Vekariya & Navnit Borad with back pack	<b>Shri Navnit Borad</b> had visited the CRV Jewels on 18.04.2022 (13.33 hrs) to receive the cash from Shri Rambhai.

The screen shots of the videos are self-explanatory, which shows the presence of Shri Navnit Borad inside the premises of M/s CRV Jewels and handing over the smuggled gold and exchange of cash.

(ii) Active member of the *whatsapp* group 'Khanak 2021' created for the purpose of sharing data amongst the members of the syndicate regarding smuggling of gold.

(iii) Printouts of whats app chat retrieved from the mobile of Shri Vipulbhai Dhirubhai Borad, which was explained:

**“(i) Page 1 to 11:**

*These printouts pertain to chats in the whatsapp group in the name of “KHANAK 2021” in my Samsung Galaxy phone. On being asked, I state that my younger brother Nilesh is group admin of ‘KHANAK 2021’ group and other members of this group are Ankur Shakreliya, Baldev, Khanak new company, & Navnit. Further, my explanation for each page is as under-*

- **Page 1- This is Declaration filed by Shri Navnit before UAE Customs (import of Cash) on 21.04.2022 wherein he declared Indian currency in cash of Rs. 41,93,530/-**
- *Page 2- This is picture of Gold smuggled on 20.04.2022 taken by me at my home in the night of 20.04.2022 and shared in the early morning in “KHANAK 2021”. This was the Gold which was later detained by DRI on 21.04.2022 at CRV Jewels.*
- **Page 3 to 5- These three pages are Air tickets of passengers (Mr. Navnitkumar Dhirubhai Borad, Mr. Gopalbhai Chhaganbhai Mulani & Mr. Dhawalkumar Premjibhai Patel) travelled from Surat to Sharjah on 21.04.2022.**
- **Page 6 to 9- These pages are Tourist visa of two passengers (Mr. Gopalbhai Chhaganbhai Mulani & Mr. Dhawalkumar Premjibhai Patel) travelled on 21.04.2022 to Sharjah.**

**B. CORROBORATIVE EVIDENCES**

(i) From the statement dated 21.04.2022 of Shri Vipul Borad, it is forthcoming that Shri Navnit Borad also used to accompany him to collect cash payments from Shri Rambhai Suhagiya of M/s CRV Jewels. He also admitted that Shri Navnit Borad used to accompany the passengers/carriers at times for safety of the smuggled gold from Sharjah to Surat. Shri Vipul Borad also admitted that Shri Navnit Borad went to Sharjah on 21.04.2022 along with other passengers/carriers, viz., Shri Gopalbhai Chhaganbhai Mulani and Shri Dhawalkumar Premjibhai Patel.

(ii) From the statement dated 28.04.2022 of Shri Nikunj Sutariya, Proprietor of M/s Magic Holidays, it is evident that he booked the flight tickets on behalf of Shri Vipulbhai Dhirubhai Borad, Navnit Borad, Nilesh Borad and Baldev Manshukhbhai Sakhreliya and maintained sales ledgers in the name of other persons viz. Goswami Gaurav, Malavia Sumitben Manishkumar, Dhavalkumar Premjibhai Patel, Patel Yamini. Shri Nikunj Sutariya also revealed that he used to send the confirmed tickets to Shri Navin Borad in his mobile number. He also denied his booking of ticket through Magic Holidays even when he was confronted with the evidences. This is total blatant denial of evidences, which in fact, goes against him.

(iii) From the statement dated 02.05.2022 of Shri Baldev Sakhreliya, it is clear that he was fully aware that Shri Navnit Borad was in Dubai, as a part of the smuggling team.

(iv) From the statement dated 26.08.2022 of Shri Navnit Borad, I find that he negated his involvement in the *whatsapp* group 'KHANAK 2021' even when he was confronted with the evidences. He also denied that he had filed the declaration (Declaration Regarding import of Cash (DRIC) for Passengers) filed by him before Customs, Sharjah Port, Customs and Free Zone Authority, even when he was confronted with the said evidences, which proves his involvement in the smuggling activity.

(v) From the statement dated 04.03.2022 of Shri Rambhai Sakhreliya it was admitted that Shri Ankur Sakhreliya, Shri Navnit Borad or other designated men used to come and collect cash for the smuggled gold either the same day or the next day.

### **C. DEFENCE**

In the said defence reply, he mainly submitted that:

(i) the show cause notice was completely exculpatory and that no gold was recovered from him;

I find that even though no gold was recovered from him, documentary and digital evidences, oral corroborative statements of the other master-minds of the syndicate as discussed above clearly show that Shri Navnit Borad was also a part of the smuggling syndicate by contributing through his role by carrying cash to Sharjah to purchase gold and also played an active role in collecting cash from M/s CRV Jewels for the smuggled gold by the syndicate.

(ii) he denied making neither any currency declaration nor the translation of the declaration mentions about such declaration; that officers of the rank of intelligence officer/senior intelligence officer had no jurisdiction to investigate currency related violation under FEMA, 1999 and they relied on the judgment of Hon'ble CESTAT reported in CC V/s L.Rajkumar-2013SCC Online CESTAT 325;

I find that the denial of making any currency declaration cannot be accepted as digital evidences in the form of declaration No AIRC/ 2514 (Declaration Regarding import of Cash (DRIC) for Passengers) filed before Customs, Sharjah Port, Customs and Free Zone Authority is on record which clearly shows that Shri Navnit Borad was carrying cash or sale proceeds of Rs. 8,95,31,865/- (approx.) of the smuggled gold, in order to make a fresh purchase of gold from Dubai.

(iii) no substantial monetary transactions were found in his bank account and that photos and *whatsapp* chats do not connect him to any offence and that no panchnama was drawn before the forensic analysis of the phones from which the chats have been extracted nor any certificate under Section 138C of the Customs Act, 1962 were produced.

The argument that no substantial monetary transactions were found in his bank cannot be a sole basis to acquit him of the serious charges. Merely by denying that there are no connection between the photos and *whatsapp* chats cannot offer any solace to the grave charges. No explanations to these digital evidences have been provided by Shri Navnit Borad, which is inexplicable. As regards the authenticity of forensic analysis of the phones is concerned, I do not find any merit in these arguments as the seized mobile phones were forwarded to the Deputy Director, Regional Forensic Science Laboratory, Surat and the examination reports were sent to the investigation agency for extraction of evidences. Regional Forensic Science Laboratory, Surat, being a Government Agency, there is no question of non-availability of certificate under Section 138C of the Customs Act, 1962.

(iv) he may be granted cross-examination of Shri Vipul Borad, Shri Rambhai Suhagiya, Shri Nilesh Borad and Shri Baldev Sakhreliya in view of the various decisions of Courts/Tribunals; that in case no cross-examination was granted in their case, a speaking order may be passed in terms of jurisdictional High Court decision reported in Mahek Glazes Pvt. Ltd. V/s UOI reported in 2013(7) TMI 128-Gujarat High Court;

In the instant case, I find that the statements of the co-noticees, whose cross-examination has been sought, have not been retracted at any stage. Further, no points of argument have been put forth for cross examination. Primary evidences of the details of smuggled gold have been brought on record in the show cause notice and the same has not been denied by Shri Navnit Borad at any stage. Therefore, the permission sought by Shri Navnit Borad to cross-examine the persons was denied by the competent authority and was duly communicated to him vide letter No. VIII/10-01/Pr.Commr/O&A/2024-25 dated 16.05.2025. The documentary and digital evidences, oral corroborative statements of the other master-minds of the syndicate on record clearly show that Shri Navnit Borad as one of the master-mind of the whole syndicate of smuggling of gold from Dubai/Sharjah to India through Surat airport.

Moreover, I find that cross examination cannot be claimed as a matter of right and is not violative of the principles of Natural Justice. The judgment of the Hon'ble Supreme Court in case of Surjeet Singh Chhabra v. U.O.I., 1997 (89) E.L.T. 646 (S.C.), is very emphatic, wherein it has been held that failure to give opportunity to cross examine the witnesses is not violative of the principles of natural justice. Shri Navnit Borad has not provided any specific points/questions/reasons for cross examination. Therefore, I refer to the judgment of the Hon'ble Tribunal in case of Dipu Das V/s Commissioner of Customs (port), Kolkata reported in 2010 (261) E.L.T. 408 (Tri. - Kolkata), and the judgment of Hon'ble Tribunal in case of Commissioner of Customs, Hyderabad V/s Tallaja Impex reported in 2012(279) ELT-433(Tri.-Bangalore), wherein it has been contended that the request for cross-examination was made without giving any reasons and that in adjudication proceedings, cross-examination cannot be claimed as a matter of right on mere asking for it, without furnishing reasons for the same.

(v) statements of co-noticee cannot be adopted as legal evidence to penalize the accused unless the statements were corroborated with material particulars by independent evidences; that no penalty under Section 112(b) of the Customs Act, 1962 could be imposed for all the reasons mentioned above and the Hon'ble Tribunal decision reported in Harshadbhai Savaliya V/s CC-2022 SCC Online CESTAT 3350.

I do not agree with the argument that no independent evidence was recovered in the instant case, except statements of co-noticees. It is on record that by adopting the same modus-operandi, 135 pieces of foreign Origin Gold biscuits, totally weighing 15746.40 grams, valued at Rs.8,58,17,880/- were imported through Surat International Airport and were seized from the premises of M/s CRV Jewels, Surat and later confiscated under the provisions of Section 111 of the Customs Act, 1962 by the Additional Commissioner, Customs, Surat vide Order-in-Original No. 08/AR/ADC/SRT/2023-24 dated 29.09.2023. The Additional Commissioner, Customs, Surat vide the above mentioned order also imposed penalty on Shri Navnit Borad, along with other accomplices under the provisions of Section 112 of the Customs Act, 1962 for their active role in the smuggling of gold.

From the digital, documentary and corroborative evidences, it is amply clear that Shri Navnit D Borad played a pivotal role in the smuggling syndicate by smuggling cash from Surat to Sharjah and did not follow the regulations prescribed under Foreign Exchange Management (Export and Import of currency) Regulations, 2015. This act of Shri Navnit D Borad falls under the category of illegal exports in terms of Section 11H(a) of the Customs Act, 1962 and the currency exported under his baggage was liable to confiscation under the provisions of section 113 of Customs Act, 1962 and thus he rendered himself liable to penalty under Section 114 of the Customs Act, 1962. He also

played a significant part in the smuggling syndicate by being a representative to collect cash from the premises of M/s CRV Jewels and played a significant role in the smuggling of 389 pieces of gold biscuits, totally weighing 41.858 kgs through the Surat International Airport on 10.04.2022, 13.04.2022 and 17.04.2022. Shri Navnit Borad is also clearly liable to penalty under the Section 112(b) of the Customs Act, 1962 for the above transgression.

5. SHRI ANKUR MANSUKHBHAI SAKHARELIYA

From the digital, documents and corroborative evidences in the case, it is amply clear that Shri Ankur Sakhareliya, was an active member in the entire smuggling syndicate in as much as:-

- (i) he accompanied the passengers/carriers to and fro from Surat to Sharjah in order to affect the smuggling of gold and also collect the same outside the Surat International Airport from the passengers/carriers after clearing from Customs.
- (ii) he personally handed over 130 pieces of gold biscuits to the passengers/carriers in Sharjah;
- (iii) he made regular visits to M/s CRV Jewels to collect sale proceeds/cash from Shri Rambhai Suhagiya in the premises of M/s CRV Jewels.

A. DIGITAL EVIDENCES

(i) SCREEN SHOTS OF VIDEO AT M/S CRV JEWELS ON 11.04.2022 CONFRONTED BY SHRI CHETAN KATHROTIYA, PARTNER OF M/S CRV JEWELS.

Page No & Photo	Persons in the photo (S/Shri) (from left to right)	Chetan Katharotiya's explanation on the photo
Page 1, photo 1 CAM 4 (11-04-2022 10:49:29)	Rambhai Maganbhai Suhagiya, my staff Shri Vijaykumar Vekariya & Shri Ankur Mansukhbhai Sakhreliya (in customer area)	Shri <b>Ankur bhai Sakhreliya</b> had visited CRV jewels on 11.04.2022 at around 10.49 am and handed over the gold biscuits in a bag to Shri Rambhai. Further, on being asked, I state that Shri Ankurbhai Sakhreliya is seen in CAM 4 (customer area). After receipt of said bag Shri Rambhai Maganbhai Suhagiya along with Shri Ankur Mansukhbhai Sakhreliya moved towards Locker room for counting of gold biscuits and for its safe custody.
Page 1, photo 2 CAM 5 (11-04-2022 10:49:47)	Rambhai Maganbhai Suhagiya (opening the locker gate) & Shri Ankur Mansukhbhai Sakhreliya	In this photo Shri Rambhai Maganbhai Suhagiya was seen trying to open the gate of locker room to place the gold biscuits and <b>Shri Ankur Mansukhbhai Sakhreliya</b> was seen accompanying him.
Page 10, photo 1 CAM 4 (11-04-2022 16:04:24)	Myself, Ankur Mansukhbhai Sakhreliya&Rambhai Maganbhai Suhagiya.	Shri <b>Ankur Mansukhbhai Sakhreliya</b> has again visited to CRV Jewels on 11.04.2022 at around 16.04 hrs to receive cash from Shri Rambhai Maganbhai Suhagiya. I was also present at the time of visit of Shri Ankur Mansukhbhai Sakhreliya. <b>Shri Ankur Mansukhbhai Sakhreliya</b> had received cash from Shri Rambhai and kept the same in his bag. Further, I state that I have no idea about the quantum of that cash. After some time <b>Shri Ankur Mansukhbhai Sakhreliya</b> went out side and came with Shri Navnit Borad within 10 minutes with their bags.
Page 10, photo 2 CAM 4 (11-04-2022 16:15:50)	Navnit Borad, Ankur Mansukhbhai Sakhreliya, My self & Vijaykumar Vekariya	Shri Ankur Mansukhbhai Sakhreliya had again visited CRV Jewels with Shri Navnit Borad on 11.04.2022 at around 16.15 hrs to receive cash from Shri Rambhai Maganbhai Suhagiya. I was also present at the time of visit of <b>Shri Ankur Mansukhbhai Sakhreliya</b> & Navnit Borad. Both went inside the locker room and collected cash from Shri Rambhai and kept in 2-3 bags. Further, I state that I have no idea about the quantum of that cash.
Page 13, photo 1 CAM 4 (12-04-2022 15:43:16)	Vijaykumar Vekariya, two person sitting on sofa, Ankur Mansukhbhai Sakhreliya& Navnit Borad	<b>Shri Ankur Mansukhbhai Sakhreliya</b> and Shri Navnit Borad had visited CRV Jewels on 12.04.2022 at around 15.43 hrs to receive cash from Shri Rambhai Maganbhai Suhagiya. Both went inside the locker room and collected cash from Shri Rambhai.
Page 13, photo 2 CAM 6 (12-04-2022 15:46:14)	Ankur Mansukhbhai Sakhreliya& Navnit Borad	In this photo <b>Shri Ankur Mansukhbhai Sakhreliya</b> was seen counting the cash inside the locker room of CRV jewels on 12.04.2022 and Shri Navnit Borad was sitting just behind him. Both had visited CRV Jewels on 12.04.2022 to receive cash from Shri Rambhai Maganbhai Suhagiya. Further, I state that I have no idea about the quantum of that cash.

(ii) SCREEN SHOTS OF VIDEO AT M/S CRV JEWELS ON 11.04.2022 CONFRONTED BY SHRI RAMBHAH SUHAGIYA, PARTNER OF M/S CRV JEWELS.

Page No & Photo	Persons in the photo (S/Shri) (from left to right)	My explanation on the photo
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Page 1, photo 1 CAM 4 (11-04-2022 10:49:29)	Myself, my staff Shri Vijaykumar Vekariya & Shri Ankur Mansukhbhai Sakhreliya (in customer area)	<b>Shri Ankurbhai Sakhreliya</b> had visited CRV jewels on 11.04.2022 at around 10.49 am with goods in a bag and passed me over the counter and I escorted him to Locker room to keep it in safe.
Page 1, photo 2 CAM 5 (11-04-2022 10:49:47)	My self (opening the locker gate) & Shri Ankur Mansukhbhai Sakhreliya	In this photo I was seen trying to open the gate of locker room to allow <b>Shri Ankur Mansukhbhai Sakhreliya</b> to keep goods brought by him.
Page 2, photo 1 CAM 6 (11-04-2022 10:49:54)	Myself	In this photo I was seen holding a CRV Jewel bag which was lying on floor and unintentionally kept in front of the camera no 6 (CAM 6) installed in the locker room.
Page 3, photo 1 CAM 4 (11-04-2022 11:11:47)	A person moving towards cash counter, Chetan and Vijaykumar Vekariya (standing at counter)	A person (left side) seen carrying a back pack in CAM 4 (11.11 am) had visited CRV jewels on 11.04.2022 to receive goods brought by <b>Shri Ankur Mansukhbhai Sakhreliya</b> . On being asked, I state that I do not remember the name of said person but I was aware that this person belongs to M/s Harikala Bullions, Surat. I allowed the said person to enter in locker room as per the direction of Shri Vipul Borad.
Page 3, photo 2 CAM 5 (11-04-2022 11:18:26)	A person carrying a back pack	I do not know the name of this person but I am aware that this person belongs to M/s Harikala Bullions, Surat. This person came into locker room to handover the cash and collect the goods kept by <b>Shri Ankur Mansukhbhai Sakhreliya</b> in Locker. I do not know whether the goods bought by Ankur was Gold or otherwise as I had not verified it.

(iii) Active member of the *whatsapp* group ‘Khanak 2021’ created for the purpose of sharing data amongst the members of the syndicate regarding smuggling of gold.

Relevant Whatsapp Chat Shared in “KHANAK 2021” Whatsapp Group				
Sr. No.	Date	Time (UTC+5:30)	Chat/Audio/Pdf from	Contents of Chat/audio
1	14.04.2022	16:54:02	Baldev	Shared a ticket of Air India Express of PNR 8EY22K
2	14.04.2022	16:54:02	Baldev	Shared a ticket of Air India Express of PNR HLHFE2
3	14.04.2022	16:54:03	Baldev	Shared a ticket of Air India Express of PNR R59NZN
4	14.04.2022	16:54:03	Baldev	Shared a ticket of Air India Express of PNR PG0GL1
5	15.04.2022	08:59:48	Vipul	Jay ho
6	17.04.2022	11:38:44	Vipul	Aaj na apd caring vala na Pasport ma name hoye e mne send karjo ne
7	17.04.2022	11:40:07	Ankur	Ha
8	17.04.2022	12:04:04	Ankur	Gauravgirir dineshgiri Goswami Rakesh Gopalbhai Moradiya Kalpeshkumar thakurbhai desai Rupareliya Vasantben hasmukhbhai Tavadia divyesh natvarbhai
9	17.04.2022	12:23:17	Baldev	Smaglaro ni toil
10	17.04.2022	12:24:55	Vipul	Vasantben Pan
11	17.04.2022	12:26:26	Baldev	Jalpesh na Mammi
12	17.04.2022	12:27:27	Vipul	Ha kelo che Jalpesh
13	17.04.2022	12:27:35	Vipul	Audio massage sent (could not be retrieved by RFSL)
14	17.04.2022	12:28:05	Baldev	Ha em rakhjo
15	17.04.2022	12:27:35	Vipul	Audio message sent (could not retrieved by RFSL)
16	17.04.2022	12:47:36	Ankur	Ok
17	17.04.2022	13:00:14	Vipul	Audio message sent (could not retrieved by RFSL)
18	17.04.2022	13:00:29	Vipul	Finaly
19	17.04.2022	13:44:05	Ankur	Ok
20	17.04.2022	13:44:23	Ankur	Audio message sent (could not retrieved by RFSL)
21	17.04.2022	15:23:42	Vipul	Audio message sent (could not retrieved by RFSL)
22	17.04.2022	15:24:02	Ankur	Ok
23	17.04.2022	17:05:46	Ankur	Sign done
24	17.04.2022	17:09:41	Ankur	Shared agroup photo of 4 male persons without mask
25	17.04.2022	17:09:41	Ankur	Shared a group photo of 4 male persons with mask
26	17.04.2022	17:09:41	Ankur	Shared photo of a lady passenger
27	17.04.2022	17:10:06	Ankur	Shared photo of himself (Ankur)
28	17.04.2022	17:13:44	Baldev	Bichara nu dhyan rakhje (Reply on photo of lady)
29	17.04.2022	17:15:23	Ankur	Ha ha
30	17.04.2022	17:15:49	Baldev	Chokra sala smagling krave che
31	17.04.2022	17:15:55	Ankur	Ha

(iv) Whatsapp chats retrieved from the mobile of Shri Rambhai Suhagiya, which evidences quantum of money exchanges as and when required by Shri Ankur Sakhareliya:

Whatsapp chat between Shri Rambhai M Suhagiya and Shri Ankur Mansukhbhai Sakhreliya

Sr. No.	Date	Time (UTC+5:30)	Chat/Audio from	Contents of Chat/audio
1	11.04.2022	12:28:07	Rambhai	70
2	11.04.2022	12:28:34	Ankur	Ok
3	11.04.2022	13:30:21	Rambhai	Ok
4	11.04.2022	13:39:44	Rambhai	Ok
5	11.04.2022	14:05:38	Rambhai	112
6	11.04.2022	14:06:01	Ankur	Ok
7	11.04.2022	17:03:11	Ankur	Ok
8	12.04.2022	14:22:16	Rambhai	OK
9	12.04.2022	14:32:46	Rambhai	130
10	12.04.2022	14:33:00	Ankur	Ok

- Page No.4 (as page 1 to 3 were already given to the print outs taken on 22.03.2022) was the printout of whatsapp chat dated 11.04.2022 at 12:28pm, he stated that 70 means 70,000, for whatsapp message dated 11.04.2022 at 2:05pm, he stated that 112 means 1.12 Lakh, for whatsapp message dated 12.04.2022 at 2:32pm, he stated that 130 means 1.30 Lakh.
- Page 11- This is screen shot of chat wherein list of passenger was shared by Shri Ankur Shakreliya, travelled on 17.04.2022.

(v) It appeared from the call logs of Shri Rambhai M Suhagiya that he had sent *whatsapp* message to Shri Ankur Mansukhbhai Sakhreliya to collect the cash from his shop viz. CRV Jewels, as and when cash was received in his shop. The details of calls retrieved from the call log from the mobile of Shri Rambhai Maganbhai Suhagiya were as under:

Details of Calls Retrieved from the Call log of Mobile of Shri Rambhai Maganbhai Suhagiya

#	Parties	Timestamp	Duration	Status	Source Info
383	Direction:	11-04-2022	00:00:06	Answered	Source:
	Outgoing	10:47:28(UTC+5:30)			
	To				
	918758751949				
	Ankur (Baldev)				
382	Direction:	11-04-2022	00:00:13	Answered	Source:
	Incoming	10:48:19(UTC+5:30)			
	From				
	918758751949				
	Ankur (Baldev)				
374	Direction:	11-04-2022	00:00:16	Answered	Source:
	Incoming	12:12:26(UTC+5:30)			
	From				
	918758751949				
	Ankur (Baldev)				
369	Direction:	11-04-2022	00:00:21	Answered	Source:
	Incoming	13:28:01(UTC+5:30)			
	From				
	918758751949				
	Ankur (Baldev)				
336	Direction:	12-04-2022	00:00:27	Answered	Source:
	Outgoing	12:36:22(UTC+5:30)			

	To				
	918758751949				
	Ankur (Baldev)				

**B. CORROBORATIVE EVIDENCES**

(i) From the statement dated 21.04.2022 of Shri Vipul Borad, it was admitted that he along with Shri Ankur Sakhareliya and Shri Navnit Borad went to M/s CRV Jewels to collect cash payment from Shri Rambhai Suhagiya, Partner of M/s CRV Jewels within 1-3 days of the delivery of the smuggled gold. In the statement dated 23.04.2022 of Shri Vipul Borad, he admitted that Shri Ankur Sakhareliya worked on his behalf for the smuggling of gold

(ii) From the statement dated 04.03.2023 of Shri Rambhai Suhagiya it was admitted that whenever Shri Vipul Borad or Shri Ankur Sakhareliya of Shri Navnit Borad used to come to M/s CRV Jewels to keep the goods, they used to inform the name of the person who would collect the goods and after some time that particular person would come and take delivery of the goods and that Shri Ankur Sakhareliya of Shri Navnit Borad used to come and collect cash after some time on that day or the very next day.

(ii) From the statement dated 02.05.2022 of Shri Ankur Sakhareliya, it was admitted that he had visited the office of Shri Dilip Virani [Angadiya person], situated at Gold Souk, Dubai; that as per the directions of Shri Vipul Borad he visited and met Shri Rambhai Suhagiya, Partner of M/s CRV Jewels on 11.04.2022 and 12.04.2022 to pick up cash; that the whatsapp messages with Shri Rambhai Suhagiya “70”, “113” and “130” meant that he had collected cash Rs.70,00,000, Rs.113,00,000, Rs.130,00,000 from Shri Rambhai Suhagiya on different occasions.

(iii) From the statement dated 11.11.2022 of Shri Divyesh Tavadiya, it was revealed that he met Shri Ankur Sakhareliya at Sharjah airport and Shri Ankur Sakhareliya asked him to carry some gold biscuits, to which he agreed and hid 8 gold biscuits in his shoes and that Shri Ankur Sakhareliya gave him Rs.15,000 for the said work; that Shri Ankur Sakhareliya also accompanied Shri Divyesh Tavadia in the same flight and was directed to meet Shri Ankur Sakhareliya outside the Surat International Airport with 8 smuggled gold biscuits after clearance from Customs; that he admitted that Shri Ankur Sakhareliya took a group photo of 4 passengers/carriers, carrying the smuggled gold and shared the same in the whatsapp group ‘Khanak 2021’.

(iv) It is on record that by adopting the same modus-operandi, 135 pieces of foreign Origin Gold biscuits, totally weighing 15746.40 grams, valued at Rs.8,58,17,880 imported through Surat International airport were seized from the premises of M/s CRV Jewels, Surat and later confiscated under the provisions of Section 111 of the Customs Act, 1962 by the Additional Commissioner, Customs, Surat vide Order-in-Original No. 08/AR/ADC/SRT/2023-24 dated 29.09.2023. The Additional Commissioner, Customs, Surat vide the above mentioned order also imposed penalty on Shri Ankur Sakhareliya, along with other accomplices under the provisions of Section 112 of the Customs Act, 1962 for their active role in the smuggling of gold.

From the above evidences, it is clear that Shri Ankur Sakhareliya had aided the smuggling activity in as much as he had handed over 130 pieces of Gold biscuits, weighing 15.158 kgs in total to the passengers/carriers in Sharjah and travelling by Flight No.IX 171 to Surat. He also shared the photos of these passengers/carriers in the *whatsapp* group “Khanak 2021”. In response to the question raised by Shri Vipul Borad on the photos shared in the group, Shri Ankur Sakhareliya reaffirmed that the passengers/carriers seen in photo had carried gold in the said flight. It is also confirmed in the statement of Shri Divyesh Tavadiya, one of the passenger/carrier in the referred flight, that he carried 8 gold biscuits with him and handed over to Shri Ankur Sakhareliya outside Surat Airport after clearance from Customs. It is also clear that



Shri Ankur Sakhareliya had delivered 144 pieces of smuggled gold biscuits, weighing 13.292 kgs, to Shri Rambhai Suhagiya on 11.04.2022 and even visited M/s CRV Jewels to collect sale proceeds in cash from him on several occasions.

### **C. DEFENCE**

In the said defence reply, he mainly submitted that:

(i) no gold was recovered from him and that whatever gold was seized were town seizures only;

I find that even though no gold was recovered from him, documentary and digital evidences, oral corroborative statements of the other master-minds of the syndicate as discussed above clearly show that Shri Ankur Sakhareliya was also a part of the smuggling syndicate by contributing through his role by handing over gold biscuits to passengers in Sharjah and also in some cases receiving the smuggled gold outside the Surat Airport from the passengers carrying gold.

(ii) photos and *whatsapp* chats do not connect him to any offence and that no panchnama was drawn before the forensic analysis of the phones from which the chats have been extracted nor any certificate under Section 138C of the Customs Act, 1962 were produced.

Merely by denying that there were no connection between the photos and *whatsapp* chats cannot offer any solace to the grave charges. No explanations to these digital evidences have been provided by Shri Ankur Sakhareliya, which is inexplicable. As regards the authenticity of forensic analysis of the phones is concerned, I do not find any merit in these arguments as the seized mobile phones were forwarded to the Deputy Director, Regional Forensic Science Laboratory, Surat and the examination reports were sent to the investigation agency for extraction of evidences. Regional Forensic Science Laboratory, Surat, being a Government Agency, there is no question of non-availability of certificate under Section 138C of the Customs Act, 1962.

(iv) he may be granted cross-examination of Shri Vipul Borad, Shri Rambhai Suhagiya, and Shri Baldev Sakhareliya in view of the various decisions of Courts/Tribunals; that in case no cross-examination was granted in their case, a speaking order may be passed in terms of jurisdictional High Court decision reported in Mahek Glazes Pvt. Ltd. V/s UOI reported in 2013(7) TMI 128-Gujarat High Court;

In the instant case, I find that the statements of the co-noticees, whose cross-examination has been sought, have not been retracted at any stage. Further, no points of argument have been put forth for cross examination. Primary evidences of the details of smuggled gold have been brought on record in the show cause notice and the same has not been denied by Shri Ankur Sakhareliya at any stage. Therefore, the permission sought by Shri Ankur Sakhareliya to cross-examine the persons was denied by the competent authority and was duly communicated to him vide letter No. VIII/10-01/Pr.Commr/O&A/2024-25 dated 16.05.2025. The documentary and digital evidences, oral corroborative statements of the other master-minds of the syndicate on record clearly show that Shri Ankur Sakhareliya as one of the master-mind of the whole syndicate of smuggling of gold from Dubai/Sharjah to India through Surat airport.

Moreover, I find that cross examination cannot be claimed as a matter of right and is not violative of the principles of Natural Justice. The judgment of the Hon'ble Supreme Court in case of Surjeet Singh Chhabra v. U.O.I., 1997 (89) E.L.T. 646 (S.C.), is very emphatic, wherein it has been held that failure to give opportunity to cross examine the witnesses is not violative of the principles of natural justice. Shri Ankur Sakhareliya has not provided any specific points/questions/reasons for cross examination. Therefore, I again refer to the judgment of the Hon'ble Tribunal in case of Dipu Das V/s Commissioner of Customs (port), Kolkata reported in 2010 (261) E.L.T. 408 (Tri. - Kolkata), and the judgment of Hon'ble Tribunal in case of Commissioner of Customs, Hyderabad V/s Tallaja Impex reported in 2012(279) ELT-433(Tri.-Bangalore),

wherein it has been contended that the request for cross-examination was made without giving any reasons and that in adjudication proceedings, cross-examination cannot be claimed as a matter of right on mere asking for it, without furnishing reasons for the same.

(v) statements of co-noticee cannot be adopted as legal evidence to penalise the accused unless the statements were corroborated with material particulars by independent evidences; that no penalty under Section 112(b) of the Customs Act, 1962 for all the reasons mentioned above and the Hon'ble Tribunal decision reported in Harshadbhai Savaliya V/s CC-2022 SCC Online CESTAT 3350.

I do not agree with the argument that no independent evidence was recovered in the instant case, except statements of co-noticees. It is on record that by adopting the same modus-operandi, 135 pieces of foreign Origin Gold biscuits, totally weighing 15746.40 grams, valued at Rs.8,58,17,880/- were imported through Surat International Airport and were seized from the premises of M/s CRV Jewels, Surat and later confiscated under the provisions of Section 111 of the Customs Act, 1962 by the Additional Commissioner, Customs, Surat vide Order-in-Original No. 08/AR/ADC/SRT/2023-24 dated 29.09.2023. The Additional Commissioner, Customs, Surat vide the above mentioned order also imposed penalty on Shri Ankur Sakhreliya, along with other accomplices under the provisions of Section 112 of the Customs Act, 1962 for their active role in the smuggling of gold.

From the digital, documentary and corroborative evidences, it is amply clear that Shri Ankur Sakhreliya played an extremely important role in the smuggling syndicate by equipping or handing over of gold biscuits to the passengers travelling from Sharjah to Surat and also at several times receiving gold biscuits outside the Surat Airport from the passengers arriving from Sharjah or other airports. Therefore, I find that he was instrumental in the smuggling of 389 pieces of gold biscuits, totally weighing 41.858 kgs through the Surat International Airport on 10.04.2022, 13.04.2022 and 17.04.2022 and is clearly liable to penalty under Section 112(b) of the Customs Act, 1962.

## **6. SHRI CHETAN KATHAROTIYA, PARTNER OF M/S CRV JEWELS**

From the digital, documents and corroborative evidences in the case, it is observed that Shri Chetan Katharotiya, was also involved in the smuggling racket in as much as the CCTV screen shots/footage clearly shows that the entire transaction of handing over of smuggled gold to Shri Rambhai Suhagiya, the other partner of M/s CRV Jewels, and transfer of cash from the locker room and handing over the same to Shri Navnit Borad/Shri Ankur Sakhareliya was done in his presence.

### **A. DIGITAL EVIDENCES**

(i) Screen Shots of video taken at the premises of M/s CRV Jewels on 11.04.2022, 14.04.2022 showing the presence of Shri Chetan Kathrotiya and his actions clearly reveal that he was fully aware that he was dealing with the smuggled gold and was also found to hand over cash, taken from the locker room to the counter, to the concerned persons involved in the smuggling syndicate. [Screen shots available at **para 33.1.1 to 33.1.3 above**, not reproduced here to avoid repetition]

### **B. CORROBORATIVE EVIDENCES**

In the statement dated 03.01.2023 of Shri Chetan Kathrotiya, he had admitted that he was in the shop on 11.04.2022 and 12.04.2022 after handing over the gold biscuits by Shri Ankur Mansukhbhai Sakhreliya on 11.04.2022; various persons had visited on several occasions to their shop to collect gold biscuits from Shri Rambhai Maganbhai Suhagiya and further visited on regular intervals to deliver cash in return. He also revealed that same persons had further visited CRV Jewels on next day i.e. 12.04.2022 to deliver cash to Shri Rambhai Maganbhai Suhagiya and on some occasion

he had carried cash but had not indulged in delivery of gold or receipt of cash directly. On being specifically asked regarding the visit of same persons at many times on 11.04.2022, he stated that persons with cash had come to deliver cash in batches as and when they sold the gold. He also stated that as and when cash was received by Rambhai Maganbhai Suhagiya, he had called the persons of Vipul Borad to collect the cash from him twice or thrice on same day. He also stated that similar modus for delivery of gold and receipt of cash by Shri Rambhai Maganbhai Suhagiya had been followed on coming days wherever Gold was delivered by Shri Vipul Borad & group to Shri Rambhai Maganbhai Suhagiya. Shri Chetanbhai R Katharotiya also stated that whenever gold was brought by Shri Ankur Mansukhbhai Sakhreliya or Shri Navnit Borad or Shri Vipul Borad, Shri Rambhai Maganbhai Suhagiya called the relevant persons of Harikala Bullions, Surat and Moon Star Inc, Surat to receive gold or deliver cash.

### **C. DEFENCE**

(i) In his defence reply dated 15.05.2024, it is submitted that he and Shri Rambhai Suhagiya, was the other partner of M/s CRV Jewels, who is the cousin of Shri Vipulbhai Borad and Nileshbhai Borad [both brothers] and that Shri Vipulbhai Borad used to visit the office of M/s CRV Jewels. In the statements of Shri Vijaybhai and Shaileshbhai, they have stated that all the activities with respect to give and take of smuggled goods and consideration received thereof was mutually managed by Shri Rambhai and Shri Vipulbhai. Further Shri Shaileshbhai also deposed that once the gold bars were supplied by Shri Vipulbhai, Shri Rambhai used to further sell/transfer these gold bars to M/s Moon Star Bullion and M/s Harikala Bullion; that if Shri Chetan Katharotiya was even remotely involved in the process of dealing with the smuggled goods, these persons would have disclosed the said fact by specifically deposing against him or against M/s CRV Jewels in particular. Therefore, a safe inference can be drawn that Shri Chetan Katharotiya had never participated in the dealing of the contraband goods.

I find that the statements of Shri Rambhai Suhagiya, Shri Vipulbhai Borad, Shri Nileshbhai Borad may not have implicated Shri Chetan Kathrotiya, directly on the smuggling activity, however, his contention regarding non-awareness towards the same cannot be overlooked. The digital evidences on record taken at the premises of M/s CRV Jewels on 11.04.2022, 14.04.2022 showing his presence and actions tells a different story. The CCTV screen shots/footage clearly shows that the entire transaction of handing over of smuggled gold to Shri Rambhai Suhagiya, the other partner of M/s CRV Jewels, and transfer of cash from the locker room and handing over the same to Shri Navnit Borad/Shri Ankur Sakhareliya was done in his presence. Therefore, the actions do not co-relate his defence, notwithstanding his own statement and other co-noticees.

(ii) In the statement of Shri Rambhai Suhagiya it was deposed that Shri Chetan Katharotiya had no knowledge of the purchase/sale of foreign origin gold biscuits as Shri Rambhai used to talk with Shri Baldev Sakhreliya and concerned persons of M/s Moon Star Bullion and M/s Harikala Bullion; that in the statement of Shri Rambhai Suhagiya he had nowhere stated that Shri Chetan Kathrotiya or M/s CRV Jewels were even remote beneficiaries of the transactions of 389 gold biscuits. It was also deposed that Shri Vipul Borad did not talk with Shri Chetan Kathrotiya regarding bringing the goods and its delivery to Shri Vipul's men and Shri Chetan Kathrotiya. Therefore, the allegation that Shri Chetan Kathrotiya harboured the syndicate in succouring the acquisition and purchase/sale of the gold bars completely fails.

I find that the statement of Shri Rambhai Suhagiya, may be it so, does not correspond to the actions in CCTV footage wherein Shri Chetan Kathrotiya was seen in active mode with the other co-noticees. No specific explanations were given by Shri Chetan Kathrotiya in his defence to the activity seen in the said footage. The digital evidences on record clearly override the statements of the co-noticees in this case.

(iii) From the statement of Shri Vipul Borad it had been clearly deposed by him that he had never dealt with Shri Chetan Kathrotiya for supply of gold biscuits and, therefore, had it been the case there was no reason for Shri Vipulbhai Borad in suppressing his role. It is also submitted that no data was recovered by DRI officials from the mobile phone of Shri Vipul Borad incriminating him. Also in the whatsapp group 'KHANAK 21', floated by the syndicate, he was never made part of the group, which shows that Shri Chetan Kathrotiya was not involved in the smuggling activity; that the whatsapp group name was derived from the name of Shri Baldevbhai Sakhreliya's firm M/s Khanak Export and that nowhere in his statement, he has mentioned the name of Shri Chetan Kathrotiya as the facilitator of the smuggled gold bars. From the statement of Shri Navnitkumar Borad also it was deposed that while visiting M/s CRV jewels, he dealt only with Shri Rambhai Suhagiya and not with Chetan Kathrotiya. In the statement of Shri Sagarbhai Shah of M/s Moon Star Inc. also he revealed that he dealt with only Shri Rambhai Suhagiya.

I find that it is a fact that there are no corroborative statements from any of the co-noticees about the involvement of Shri Chetan Kathrotiya, however the digital evidences show a completely different picture. It could be presumed that the liability or the involvement of Shri Chetan Kathrotiya in the smuggling activity would be a limited one, considering his non-involvement in the *whatsapp* group, but his total non-awareness of the smuggling activity being carried out in the premises of M/s CRV Jewels, of which he is an active partner, is too far fetched.

(iv) that no cogent evidence had been unearthed against Shri Chetan Katharotiya for referring him as an associate of Shri Vipulbhai Borad. In fact in the statement of Shri Chetan Katharotiya itself it was deposed that he had objected to the proposal floated by Shri Rambhai Suhagiya with respect to dealing in the smuggled gold; that all dealings in the smuggled gold were being exclusively handled by Shri Rambhai Suhagiya with the help of Shri Vipulbhai Borad; that all smuggled gold bars were possessed, retained, kept, concealed, purchased and thereafter sold by Shri Rambhai Suhagiya without any help from Shri Chetan Katharotiya and that just because he was the partner in M/s CRV Jewels, penalty cannot be imposed on him. Shri Chetan Katharotiya, without suppressing the facts, had identified some persons associated with M/s Harikala Bullion who visited M/s CRV Jewels and received cash from Shri Rambhai Suhagiya and that he was unaware of the quantum of cash or the goods supplied thereafter by Shri Rambhai Suhagiya; that since he could not identify with specific names associated with M/s Harikala Bullion, he was termed as being non-cooperative in the investigation.

I find that it would be too naïve to accept the fact that Shri Chetan Kathrotiya was unaware of the name of the person visible in the digital footage associated with M/s Harikala Bullion, especially considering the fact that he was the partner/co-owner of M/s CRV Jewels, a commodity sensitive gold trading unit.

(v) Without any substantial proof being attributed, it was drawn purely on conjecture and surmise that Shri Chetan Kathrotiya had earned commission on the brokerage of smuggled gold; that no cash was recovered by DRI from his custody to suggest that such income was derived.

I find that the above arguments cannot be solid reason to acquit him from the charges framed in the show cause notice. Non-recovery of cash from his custody does not show his non-involvement in the smuggling activity.

(x) Cross-examination of Shri Rambhai Suhagiya, Shri Vipulbhai Borad, Shri Nileshbhai Borad, Shri Ankur Sakhreliya and Shri Baldevbhai Sakhreliya may be granted to refute his charges.

In the instant case, I find that the statements of the co-noticees, whose cross-examination has been sought, have not been retracted at any stage. Further, no points of argument have been put forth for cross examination. Primary evidences of the details

of smuggled gold have been brought on record in the show cause notice and the same has not been denied by Shri Chetan Kathrotiya at any stage. Therefore, the permission sought by Shri Chetan Kathrotiya to cross-examine the persons was denied by the competent authority and was duly communicated to him vide letter No. VIII/10-01/Pr.Commr/O&A/2024-25 dated 16.05.2025. The documentary and digital evidences, oral corroborative statements of the other master-minds of the syndicate on record clearly show that Shri Chetan Kathrotiya as one of the master-mind of the whole syndicate of smuggling of gold from Dubai/Sharjah to India through Surat airport.

Moreover, I find that cross examination cannot be claimed as a matter of right and is not violative of the principles of Natural Justice. The judgment of the Hon'ble Supreme Court in case of Surjeet Singh Chhabra v. U.O.I., 1997 (89) E.L.T. 646 (S.C.), is very emphatic, wherein it has been held that failure to give opportunity to cross examine the witnesses is not violative of the principles of natural justice. Shri Chetan Kathrotiya has not provided any specific points/questions/reasons for cross examination. Therefore, I again refer to the judgment of the Hon'ble Tribunal in case of Dipu Das V/s Commissioner of Customs (port), Kolkata reported in 2010 (261) E.L.T. 408 (Tri. - Kolkata), and the judgment of Hon'ble Tribunal in case of Commissioner of Customs, Hyderabad V/s Tallaja Impex reported in 2012(279) ELT-433(Tri.-Bangalore), wherein it has been contended that the request for cross-examination was made without giving any reasons and that in adjudication proceedings, cross-examination cannot be claimed as a matter of right on mere asking for it, without furnishing reasons for the same.

From the summary of his defence, Shri Chetan Kathrotiya has contended that he was not involved in the smuggling activity of the syndicate and that Shri Rambhai Suhagiya the other partner of M/s CRV Jewels was handling transactions relating to Shri Vipul Borad and that none of the accomplices/co-noticees in the syndicate has implicated him in the case. I do not accept this argument as the digital evidences, viz., the CCTV screen shots clearly show that he was fully aware about the visit of Shri Ankur Mansukhbhai Sakhreliya on 11.04.2022 and Shri Navnit D Borad on 14.04.2022 with smuggled gold biscuits at M/s CRV Jewels. It was evident that Shri Chetan Katharotiya was assisting Shri Rambhai Maganbhai Suhagiya in receiving the cash from the buyer of gold at counter of CRV Jewels and kept the same in locker room. Further, he had also carried the cash from locker room to the counter to handover the same to the persons of Shri Vipul D Borad. He had identified the persons who came to M/s CRV to receive Gold from Shri Rambhai Maganbhai Suhagiya as belonging to Harikal Bullions and M/s Moon Star Inc. From digital evidences in the case, it is observed that Shri Chetan Kathrotiya, Partner of M/s CRV Jewels was also a player in the smuggling syndicate inasmuch as he was seen involved in the activity at the premises M/s CRV Jewels along with the other co-noticees. Shri Chetan Kathrotiya failed to provide any satisfactory explanation and acted ignorance to the same, which does not help in his defence. Therefore, he is liable to penalty under Section 112(b) of the Customs Act, 1962.

## **7. SHRI SAGAR MANUBHAI SHAH, PROPRIETOR OF M/S MOON STAR INC.**

From digital, documents and corroborative evidences in the case, it is observed that Shri Sagar Manubhai Shah, Proprietor of Moon Star Inc. was in constant touch with Shri Rambhai Maganbhai Suhagiya during the relevant period i.e. from 16.04.2022 to 19.04.2022 through *whatsapp* call for the purchase of smuggled gold biscuits. It was revealed that Shri Sagar Manubhai Shah had purchased the consignments of 40 pieces of Foreign Origin gold of 10 tola each on 11.04.2022, and 130 pieces of Foreign Origin gold of 10 tola each on 18.04.2022 from Shri Rambhai Maganbhai Suhagiya, Partner in CRV Jewels. The cut pieces of Gold having marking of "Tigris" and "ARG", seized on 23.09.2022 from M/s Moon Star Inc. were part of the consignment of UAE origin Gold Biscuits smuggled by Shri Vipul D Borad and sold to M/s Moon Star Inc on 18.04.2022 by Shri Rambhai Suhagiya.

**A. DIGITAL EVIDENCES**

The summary of calls made/received between Shri Rambhai Suhagiya, Partner of M/s CRV Jewels and Shri Sagar Manubhai Shah, Proprietor of M/s Moon Star Inc. [mentioned at para at 34.1.4 above] for the period from 11.04.202 to 19.04.2022 is proof to the extent that Shri Sagar Manubhai Shah was in touch with Shri Rambhai Suhagiya which corroborates the smuggling activity by the syndicate during the said period.

**B. CORROBORATIVE EVIDENCES**

(i) It is on record that the 15 pieces of foreign Origin Gold Full/Cut Pieces weighing 1317.30 gm in total valued at Rs. 71,79,286/- seized from the premises of M/s Moon Star Inc. were confiscated by the Additional Commissioner, Customs, Surat vide Order-in-Original No.5/AR/ADC/SRT/2023-24 dated 05.09.2023 under the provisions of Section 111 of the Customs Act, 1962 as it was found that the said gold was smuggled by Shri Vipulbhai Dhirubhai Borad by the same *modus-operandi* through Surat Airport and was handed over to Shri Rambhai Suhagiya, Partner of M/s CRV Jewels and in turn sold to Shri Sagar Manubhai Shah of M/s Moon Star Inc.

(ii) In the statement dated dated 21/22.04.2022 of Shri Rambhai Suhagiya it was admitted that he had sold the gold in ‘as it was’ condition to his customers M/s Moon Star Inc, Jadakhadi, Mahidharpura, Surat, Gujarat and M/s Harikala Bullion, L.H. Road, Varsha Society, Varachha, Surat, Gujarat 395006 and that he regularly made calls to M/s Moon Star & M/s Harikala Bullion to know the daily rate of gold in market. He also admitted that he had sold the foreign origin smuggled gold to M/s Moon Star Inc., and that after raising the order and receiving the smuggled gold in his showroom, he informed Shri Sagar Shah, Proprietor of M/s Moon Star Inc, Surat and Shri Sagar Shah used to send his employee within half an hour to receive the delivery and that once the gold biscuits reached the premises of the bullion firms, they would send the cash through one person and after deducting his commission, he handed over the cash to Shri Vipul D Borad. Shri Rambhai Suhagiya admitted that he had received the following gold as under:

**Details of Foreign origin gold biscuits received by Shri Rambhai M Suhagiya**

Booking Date	No. of biscuits & Quoted Price	Gold biscuits received on	Delivered to
19.04.2022	135*54080	21.04.2022	Detained by DRI under panchnama dated 21.04.2022
<b>16.04.2022</b>	<b>130*53650</b>	<b>18.04.2022</b>	<b>Moon Star Inc</b>
12.04.2022	115*53250	14.04.2022	Harikala Bullion
09.04.2022	144*52850	11.04.2022	Harikala Bullion (104 Pc.) & Moon Star Inc (40 Pc)

(iii) In the statement dated 22.04.2022 of Shri Sagar Manubhai Shah, he admitted that he had done trading of 130 pieces of UAE origin Gold Biscuits 10 tolas each from Shri Rambhai Maganbhai Suhagiya, Partner in CRV Jewels on 18.04.2022 and that he had negotiated with Shri Rambhai Maganbhai Suhagiya for supply of UAE origin Gold on two occasions and received 40 pieces of gold biscuits (10 Tola each) on 11.04.2022 and 130 piece of UAE origin Gold Biscuits (10 tolas each) on 18.04.2022 and these were sold on cash basis to various customers and admitted that the cut piece of Gold mentioned in Sr No. 23, 25 & 26 having marking of “Tigris” & “ARG” were the part of UAE origin Gold supplied to him by Shri Rambhai Maganbhai Suhagiya on 18.04.2022.

**C. DEFENCE**

Shri Sagar Manubhai Shah in his defence has argued that:-

(i) based upon the same set of facts and upon allegations of having dealt with the goods imported illegally by Shri Vipul Borad through M/s CRV Jewels had been instituted and concluded and, therefore, instituting another proceedings on the same allegation would amount to double jeopardy and would be barred by the principles of *res-judicata*;

I find that 15 pieces of foreign origin gold were seized on 23.09.2022 from the premises of M/s Moon Star Inc. and the same was confiscated by the Additional Commissioner, Customs, Surat vide OIO No.5/AR/ADC/SRT/2023-24 and penalty of Rs. 71,79,286/- was imposed on Shri Sagar Manubhai Shah, Proprietor of M/s Moon Star Inc. In the instant case, using the same *modus-operandi*, a total of 40 and 130 gold biscuits were found to be smuggled through Surat on 09.04.2022 and 16.04.2022 respectively and were handed over by Shri Rambhai Suhagiya to M/s Moon Star Inc. on 11.04.2022 and 18.04.2022 respectively. Therefore, the principles of *res-judicata* are not applicable in this case, as both are separate cases, involving the similar *modus-operandi*. Accordingly, penalty is separately applicable to Shri Sagar Manubhai Shah for his involvement in the said smuggling activity during the period covered in the instant show cause notice also.

(ii) the entire case was based on the statement of Shri Rambhai Suhagiya and is not corroborated by any other evidences;

(iii) the foreign origin gold cannot be presumed to be 'smuggled' goods and that he would be unaware that the gold was 'smuggled', which *sina qua non* for imposition of penalties under Section 112 of the Customs Act, 1962;

I find that Shri Rambhai Suhagiya in his statement had admitted that he had business dealings with Shri Sagar Manubhai Shah, the corresponding summary of calls between them during the relevant period and other corroborative evidences like *whatsapp* chats clearly show that the smuggled goods were handed over to Shri Sagar Manubhai Shah by Shri Rambhai Suhagiya for sale in the local market. Furthermore, I find that Shri Rambhai Suhagiya was unable to produce any licit documents relating to the transactions evident from the CCTV footages, thereby, it can be safely presumed that no documents were in existence to prove the legitimacy of the gold. Therefore, I find that the foreign origin gold is clearly smuggled.

(iv) in the statement dated 04.03.2023, Shri Rambhai Suhagiya stated that it was Shri Vipul Borad who told him that some persons relating to M/s Harikala Bullion and M/s Moon Star Inc would come, but Shri Vipul Borad did not know the persons personally and that he had never met any person concerning M/s Harikala Bullion and M/s Moon Star Inc.; that as per the statement dated 21.04.2022 of Shri Rambhai Suhagiya as soon as the gold arrived at M/s CRV Jewels through Shri Vipul Borad, the employees of M/s Harikala Bullion and M/s Moon Star Inc would arrive at M/s CRV Jewels to collect the alleged smuggled gold, which meant that there would have some communication by Shri Rambhai Suhagiya to Shri Sagar Shah.

I find that summary of calls between Shri Rambhai Suhagiya and Shri Sagar Shah has been covered at para 34.1.4 above, which in fact, reaffirms the statement of Shri Rambhai Suhagiya that he was dealing with the smuggled gold for sale with Shri Sagar Manubhai Shah of M/s Moon Star Inc.

(v) no cash was found from the premises of M/s CRV Jewels and M/s Moon Star Inc on the day of search by DRI; that no documents or records of private nature were gathered during the 2 years of investigation to show that there was any transaction between M/s CRV Jewels and M/s Moon Star Inc.;

I find the said arguments are merely incidental to the investigation. Non-recovery of these items does not disprove the charges against Shri Sagar Manubhai Shah as enough digital and corroborative evidences are on record to show his involvement in the entire smuggling syndicate.

(vi) his self-incriminatory statement dated 22.04.2022 was obtained under allurement of good behaviour and also from false protection from criminal liability, which cannot be relied as evidence against him; that the allegations against him cannot be proved merely based on the statements of co-accused that too when there was no primary evidence to corroborate transactions;

I find that statement of Shri Sagar Manubhai Shah has been recorded under Section 108 of the Customs Act, 1962 and he has not retracted his statement at any stage. I do not agree with the argument that no independent evidence was recovered in the instant case, except statements of co-noticees. It is on record that by adopting the same *modus-operandi*, 15 pieces of foreign Origin Gold biscuits, totally weighing 1317.30 grams, valued at Rs.71,79,286/- were imported through Surat International Airport and were seized from the premises of M/s Moon Star Inc. and later confiscated under the provisions of Section 111 of the Customs Act, 1962 by the Additional Commissioner, Customs, Surat vide Order-in-Original No. 05/AR/ADC/SRT/2023-24 dated 05.09.2023. The Additional Commissioner, Customs, Surat vide the above mentioned order also imposed penalty on Shri Sagar Manubhai Shah, under the provisions of Section 112 of the Customs Act, 1962 for his role in the smuggling of gold. Further, the digital evidences clearly show his role in the instant case also.

(vii) the burden to prove under Section 123 of the Customs Act, 1962 was restricted to confiscation proceedings and cannot be extended to penal proceedings and the indulgence in the acts of omissions and commissions attracting penal liability lied on the department depending upon the principles of quasi-criminal proceedings and cannot be sustained merely on suspicions, assumptions, presumptions and conjecture;

I find that there are no assumptions or presumptions in the instant case as enough digital and corroborative evidences are on record, as discussed above, to show Shri Sagar Manubhai Shah's involvement in the entire smuggling syndicate.

(vii) under Section 138B of the Customs Act, 1962, the veracity of the statements of co-accused, Shri Vijaykumar Vekaria, Shri Shaileshkumar Korat, Shri Chetanbhai Katharotiya, Shri Rambhai Suhagiya, Shri Vipul Borad had to be established by cross-examination.

In the instant case, I find that the statements of the co-noticees, whose cross-examination has been sought, have not been retracted at any stage. Further, no points of argument have been put forth for cross examination. Primary evidences of the details of smuggled gold have been brought on record in the show cause notice and the same has not been denied by Shri Sagar Manubhai Shah at any stage. Therefore, the permission sought by Shri Sagar Manubhai Shah to cross-examine the persons was denied by the competent authority and was duly communicated to him vide letter No. VIII/10-01/Pr.Commr/O&A/2024-25 dated 16.05.2025. The documentary and digital evidences, oral corroborative statements of the other master-minds of the syndicate on record clearly show that Shri Sagar Manubhai Shah as one of the recipient of the smuggled gold from Shri Rambhai Suhagiya of M/s CRV Jewels and thereby contributed to the syndicate of smuggling of gold from Dubai/Sharjah to India through Surat airport.

Moreover, I find that cross examination cannot be claimed as a matter of right and is not violative of the principles of Natural Justice. The judgment of the Hon'ble Supreme Court in case of Surjeet Singh Chhabra v. U.O.I., 1997 (89) E.L.T. 646 (S.C.), is very emphatic, wherein it has been held that failure to give opportunity to cross examine the witnesses is not violative of the principles of natural justice. Shri Sagar Manubhai Shah has not provided any specific points/questions/reasons for cross examination. Therefore, I again refer to the judgment of the Hon'ble Tribunal in case of Dipu Das V/s Commissioner of Customs (port), Kolkata reported in 2010 (261) E.L.T. 408 (Tri. - Kolkata), and the judgment of Hon'ble Tribunal in case of Commissioner of Customs, Hyderabad V/s Tallaja Impex reported in 2012(279) ELT-433(Tri.-Bangalore), wherein it has been contended that the request for cross-examination was made without



giving any reasons and that in adjudication proceedings, cross-examination cannot be claimed as a matter of right on mere asking for it, without furnishing reasons for the same.

**D. CONCLUSION**

From digital, documents and corroborative evidences in the case, it is observed that Shri Sagar Manubhai Shah, Proprietor of M/s Moon Star Inc played an important role in the smuggling syndicate in as much as he used to receive the smuggled gold through his bullion unit, M/s Moon Star Inc., melted and embossed the smuggled gold with new markings and get it sold in the local market by way of cash transactions. Due to these actions, Shri Sagar Manubhai Shah, Proprietor of M/s Moon Star Inc is liable to penalty under Section 112(b) of the Customs Act, 1962.

**8. SHRI MANISHKUMAR MANSUKHBHAI SUHAGIYA, OWNER OF M/S HARIKALA BULLIONS**

From the digital, documents and corroborative evidences in the case, it is observed that Shri Manishkumar Mansukhbhai Suhagiya had purchased 104 pieces of gold biscuits of 10 tolas each weighing 12.126 kg in total on 11.04.2022 from Shri Rambhai Maganbhai Suhagiya, Partner in CRV Jewels. He further purchased 115 pieces of Gold Biscuits of 10 tolas each weighing 13.408 kg in total on 14.04.2022 from Shri Rambhai Maganbhai Suhagiya, Partner of CRV Jewels. Shri Manishkumar Mansukhbhai Suhagiya was in constant touch with Shri Rambhai Maganbhai Suhagiya during the relevant period i.e. from 09.04.2022 to 21.04.2022 through *whatsapp*/ normal call for the purchase of smuggled gold biscuits.

**A. DIGITAL EVIDENCES**

**(i) Screen shots of Video of M/s CRV Jewels on 14.04.2022**

<b>Page No &amp; Photo</b>	<b>Persons in the photo (S/Shri) (from left to right)</b>	<b>Chetan Katharotiya's explanation on the photo</b>
Page 15, photo 1 CAM 4 (14-04-2022 11:17:44)	My self, A person of Harikala Bullion, Vijaykumar Vekariya, Two persons of Harikala Bullion whose name I don't know (in customer area) & Shailesh Korat	In this photo three persons of Harikala Bullions have visited on 14.04.2022 with two back packs full of cash. Shri Rambhai immediately moved towards locker room and after that one of them followed Rambhai towards locker room and second person had passed his back pack to Shri Shailesh Korat over the counter and Shailesh bhai handed over the said bag to first person near locker room. These persons had came to CRV Jewels to receive Gold biscuits from Shri Rambhai Maganbhai Suhagiya and handed over the cash to Shri Rambhai Maganbhai Suhagiya. I do not know name and address of all three persons.
Page 15, photo 2 CAM 4 (14-04-2022 11:18:39)	My self (on chair), Vijaykumar Vekariya, Two persons of Harikala Bullion (in customer area)	In this photo Shri Vijaykumar Vekariya was seen to hand over some gold biscuits to one of the person of Harikala Bullions. I was also present that time when Shri Vijaykumar Vekariya bought some gold biscuits from inside the locker to hand over to the said person. I have no idea about the quantum of gold biscuits handed over by Shri Vijaykumar Vekariya at that time.
Page 16 photo 1 CAM 6 (14-04-2022 11:18:12)	A person of Harikala Bullion sitting in locker room with cash.	Three persons of Harikala Bullions had visited CRV jewels on 14.04.2022 to receive gold biscuits and to deliver cash to Shri Rambhai. One of person of Harikala Bullion went into the locker room with Shri Rambhai and in this photo said person was seen counting the cash before handing over to Rambhai. This person had frequently visited CRV jewels on many occasions to receive gold and delivery of cash but I do not know name and address of these persons.
Page 16 photo 2 CAM 4 (14-04-2022 11:39:03)	A person of Harikala Bullion with a back pack approaching towards locker room.	In this photo, a person belongs to Harikala Bullions again visited the CRV Jewels on 14.04.2022 (11.39 hrs) to deliver cash to Shri Rambhai. This person was the same person seen in photo 1 above.
Page 17 photo 1 CAM 6 (14-04-2022	A person of Harikala Bullion with a back pack sitting in locker room.	In this photo, a person belongs to Harikala Bullions sitting in the locker room of CRV Jewels had visited the CRV Jewels on 14.04.2022 (11.39 hrs) to deliver

11:39:24)		cash to Shri Rambhai. This person was the same person seen in photo at page 16.
Page 17 photo 2 CAM 4 (14-04-2022 12:11:05)	A person of Harikala Bullion with a back pack approaching towards cash counter, Vijaykumar Vekariya, My self, Shailesh Korat and a person of Harikala Bullion with bag (in customer area).	In this photo, two person belongs to Harikala Bullions had again visited the CRV Jewels on 14.04.2022 (12.11 hrs) to deliver cash to Shri Rambhai. Both persons were also seen in photo at page 15. These both persons had visited CRV jewels on regular interval on several time on 14.04.2022 to deliver cash to Shri Rambhai. I do not know name and address of both persons.
Page 18 photo 1 CAM 4 (14-04-2022 12:46:55)	My self, two persons of Harikala Bullion with back pack approaching towards locker room, Vijaykumar Vekariya & Shailesh Korat (sitting on sofa)	In this photo, two person belongs to Harikala Bullions had again visited the CRV Jewels on 14.04.2022 (12.46 hrs) to deliver cash to Shri Rambhai. Both persons were also seen in photo at page 15 & 17.
Page 18 photo 2 CAM 4 (14-04-2022 14:40:00)	Two persons of Harikala Bullion with back pack approaching towards locker room & my self,	In this photo, two person belongs to Harikala Bullions had again visited the CRV Jewels on 14.04.2022 (14.40 hrs) to deliver cash to Shri Rambhai. Both persons were also seen in photo 1 above.
Page 20 Photo 2 CAM 4 (14-04-2022 16:46:41)	A person with back pack approaching towards locker room, an old man with back pack (in customer area) & my self	In this photo, two person belongs to Harikala Bullions had again visited the CRV Jewels on 14.04.2022 (16.46 hrs) to deliver cash to Shri Rambhai. Both persons were the same seen in photos at page 18. Infact I had talked friendly with one of that person but I do not know his name and address.
Page 21 Photo 2 CAM 4 (14-04-2022 19:20:02)	An old man with back pack approaching towards cash counter, Vijaykumar Vekariya, Rambhai & a person with old man (standing in customer area)	In this photo, an old man belongs to Harikala Bullions had again visited the CRV Jewels on 14.04.2022 (19.20 hrs) with a young person to deliver cash to Shri Rambhai. This old man is the same person seen in photos at page 17, 18, 20. I do not know his name and address of this person.
Page 22 Photo 1 CAM 4 (15-04-2022 13:59:22)	Rambhai, Two persons of Harikala bullion (one with back pack moving towards locker room and another standing in customer area) & Vijaykumar Vekariya.	In this photo, person moving towards the locker room, visited on many occasions frequently, belongs to Harikala Bullions came to the CRV Jewels on 14.04.2022 (13.59 hrs) with a young person to deliver cash to Shri Rambhai.

**Screen shots of video of day 11.04.2022.**

<b>Page No &amp; Photo</b>	<b>Persons in the photo (S/Shri) (from left to right)</b>	<b>Shri Rambhai Suhagiya's explanation on the photo</b>
Page 3, photo 1 CAM 4 (11-04-2022 11:11:47)	A person moving towards cash counter, Chetan and Vijaykumar Vekariya (standing at counter)	A person (left side) seen carrying a back pack in CAM 4 (11.11 am) had visited CRV jewels on 11.04.2022 to receive goods brought by ShriAnkur Mansukhbhai Sakhreliya. On being asked, I state that I do not remember the name of said person but I was aware that this person belongs to M/s Harikala Bullions, Surat. I allowed the said person to enter in locker room as per the direction of Shri Vipul Borad.
Page 3, photo 2 CAM 5 (11-04-2022 11:18:26)	A person carrying a back pack	I do not know the name of this person but I am aware that this person belongs to M/s Harikala Bullions, Surat. This person came into locker room to handover the cash and collect the goods kept by Shri Ankur Mansukhbhai Sakhreliya in Locker. I do not know whether the goods bought by Ankur was Gold or otherwise as I had not verified it.

(ii) The summary of calls made/received between Shri Rambhai Suhagiya, Partner of M/s CRV Jewels and Harikala Bullion [mentioned at para at 34.1.3 above] shows that Shri Manishkumar Suhagiya was in touch with Shri Rambhai Suhagiya which corroborates the smuggling activity by the syndicate during the said period.

**B. CORROBORATIVE EVIDENCES**

In the statement dated 04.03.2023 Shri Rambhai Suhagiya admitted that on 11.04.2022, 14.04.2022 and 18.04.2022 some persons from M/s Harikala Bullion would come to receive gold and in return would hand over cash at M/s CRV Jewels.

**C. DEFENCE**

Shri Manishkumar Suhagiya in his defence has mainly argued that:-

(i) in terms of evidences, except the statements of the co-accused there were no other independent cogent and corroborative evidence to suggest that any smuggled foreign origin gold was ever purchased from the main accused;

I find that primary evidences of the details of smuggled gold have been brought on record in the show cause notice. The documentary and digital evidences, oral corroborative statement of Shri Rambhai Suhagiya clearly show that Shri Manishkumar Suhagiya was one of the recipients of the gold in the smuggling syndicate. Being the owner of M/s Harikala Bullions, he was well versed in the business of melting gold and liquidating it in the market on cash basis. Such business entities are crucial for a smuggling syndicate to survive as they are involved in generating funds to meet their purpose. No attempt has been made by Shri Manishkumar Suhagiya to confront or justify the primary digital evidences produced in the show cause notice. Therefore, the argument of Shri Manishkumar Suhagiya that no independent evidences were on record to corroborate the statements of co-noticee, is false and devoid of any merits.

(ii) during the search of their premises and drawing of panchnama, no foreign origin gold procured by Shri Rambhai Suhagiya and sold to M/s Harikala Bullion could be connected or established; that there were no evidences to suggest that he had purchased the alleged smuggled gold from M/s CRV Jewels or was even aware of it. Even if assumed, but not admitting, that the goods was purchased by him, no evidences were on record to show to whom the smuggled gold were sold, at what price, how the money was realized by him.

I find that in the statement dated 05.05.2022, Shri Manishkumar Suhagiya was shown the statements dated 21/22.04.2022 of Shri Rambhai Suhagiya, Partner of M/s CRV Jewels and statement dated 21/22.04.2022 of Shri Vipulbhai Borad, wherein it was stated that 104 pieces of gold biscuits and 115 pieces were purchased on 11.04.2022 and 14.04.2022 respectively by Shri Manishkumar Suhagiya. It is also on record that Shri Manishkumar Suhagiya and Shri Rambhai Suhagiya, Partner of M/s CRV Jewels were in constant touch from 09.04.2022 to 21.04.2022 through *whatsapp* call/normal call regarding purchase of gold. No evidence business transactions between M/s CRV Jewels and M/s Harikala Bullion in the ledgers submitted by Shri Rambhai Suhagiya, Partner of M/s CRV Jewels is usual in smuggling cases to avoid detection. Efforts were made by the investigative agency to detect any stock or remnants of the smuggled gold from the premises of M/s Harikala Bullion, but to no avail. Keeping a clean slate by the perpetrators in smuggling cases is nothing new and, in fact, is reasonable for them to leave any trace. It seems to be a matter of pure good fortune that nothing incriminating was recovered from the premises of M/s Harikala Bullion, but that would not deflate the other digital/documentary evidences on record. I also find that the statement by Shri Manishkumar Suhagiya that he had never purchased gold biscuits from M/s Rambhai Suhagiya or through M/s CRV Jewels is also not unexpected in such smuggling cases, as these are merely afterthoughts to repudiate the charges.

(iii) The statements of M/s CRV Jewels and the representatives, as well as the CCTV footage analysis vaguely state that two random persons belonging to M/s Harikala Bullion used to go to M/s CRV Jewels to deliver cash and collect gold; that these persons were not identified much less by their names in the investigation nor any statements were recorded; that even the statement of co-accused show that they were also not aware of their names, but still suggested that the said persons were present on behalf of M/s Harikala Bullion. Placing some screen shots of CCTV footage and alleging that some person with a backpack was delivering money and collecting gold on behalf of Shri Manish Suhagiya, without identifying him, is purely presumptive and unsubstantiated and requires to be dropped.

I find that multiple attempts were made by the investigative agency to identify the persons representing M/s Harikala Bullion in the statements of Shri Rambhai Suhagiya, Shri Chetan Kathrotiya, however, they denied to reveal their names. It is

business '*prudence*' that an Owner/Proprietor/Partner of his own firm should be aware of the name of person or the representative with whom he is engaging in a business transaction inside the firm's premises, especially when he is dealing with a precious commodity like gold. Therefore, I totally reject the fact of unawareness of the names of the persons representing M/s Harikala Bullions in the statements of both Shri Rambhai Suhagiya, Shri Chetan Kathrotiya. Nevertheless, the statement by Shri Rambhai Suhagiya, Shri Chetan Kathrotiya that the persons represented M/s Harikala Bullions is enough to address the recipient of gold in the instant case.

(iv) He was not part of *whatsapp* group 'Khanak' or 'Dholi Ba No Vadlo' and that his name was unnecessarily dragged based on some random statements of co-accused without any corroborative evidences.

This argument does not carry any weightage to dispel the charges framed on Shri Manishkumar Suhagiya. In fact, I find that it might be a decision taken by the admin of the said *whatsapp* group, not to include Shri Manishkumar Suhagiya as one of participant, owing to obvious reasons regarding the secrecy of smuggling syndicate.

(v) From the statements of Shri Rambhai Suhagiya and Shri Vipul Borad it was not clear who was actually involved in arranging for smuggling gold and selling to domestic buyers as the statement of Chetan Katharotiya stated that Shri Rambhai Suhagiya knew how much gold was sold to whom, whereas Shri Rambhai Suhagiya stated that Shri Chetan Katharotiya knew the same; that later Shri Rambhai Suhagiya deposed that Shri Vipul Borad had arranged to sell gold to M/s Harikala Bullions and only gave names of person who will visit to deliver cash and collect smuggled gold from M/s CRV Jewels, but did not identify any of them by name.

I do not find any gravity in these arguments as it is on record from the statement dated 21/22.04.2022 of Shri Rambhai Suhagiya, Partner of M/s CRV Jewels, statement dated 21.04.2022 of Shri Vijaykumar Gandubhai Vekariya, Employee of M/s CRV Jewels and statement dated 21.04.2022 of Shri Shaileshkumar P. Korat, Sales Commission Agent of M/s CRV Jewels that the smuggled gold were sold to M/s Harikala Bullions and M/s Moon Star Inc. None of the above said statements have been retracted, so these statements stands validated.

(vi) It was inconceivable that it has been alleged that gold arrives by way of smuggling on same day or a day before the delivery thereof to buyers including him as alleged; that the order for buying smuggled gold is given 2 days before delivery and such gold is immediately imported into India through smuggling by passengers coming to Surat; Even if one assumes that smuggled gold order is placed for e.g., on 12.04.2022 @ 5.40 pm, as per contents of para 14.5 and statement of Shri Vipul Borad and smuggled gold is imported into India on 13.04.2022 and delivered to Shri Manishkumar Suhagiya on 14.04.2022; that in such short notice it was practically impossible to send passengers abroad, buy gold and bring them back as alleged in the show cause notice; that buying tickets, sending passengers abroad and returning back to India takes time, and they admittedly spent few days in Sharjah as well, and it is impossible for anyone to have placed order on one day and get delivery of smuggled gold on the third day itself; that it was inconceivable that passengers travelled from Surat to Sharjah on dates or time, even before the gold order was placed upon Shri Rambhai Suhagiya, who in turn placed it on Shri Vipul Borad, and, therefore the theory adopted in the show cause notice was far-fetched and unsubstantiated.

I find that Shri Manishkumar Suhagiya has attempted to sidetrack the main issue of his involvement in the smuggling syndicate by trying to pick on anomalies in the investigation. It is worth mentioning that on the basis of recovered evidences, the investigative agency makes a reasonable attempt to lay out the possible manner of *modus-operandi* adopted in the case. This may not always depict the accurate picture, however, the larger or the significant issue needs to be highlighted. In this regard, I would like to rely on the judgment of the Hon'ble Supreme Court in the Collector Of Customs, Madras And Ors vs D. Bhoormul reported in 1983 (13) E.L.T. 1546 (S.C.),

wherein it has been mentioned that the prosecution or the Department is not required to prove its case with mathematical precision to a demonstrable degree: (*relevant extracts reproduced*)

*"..... It cannot be disputed that in, proceeding for imposing penalties. under Clause (8) of [S.167](#) to which s. 178-A-does not apply, the, burden of proving that the goods are smuggled goods, is on the Department. This is a fundamental rule relating to proof in all criminal or quasi-criminal proceedings, where there is no statutory provision to. the contrary. But in appreciating its scope And the nature of the onus. cast by it, we must pay due regard to other kindred principles, no less fundamental, of universal application. One of them is that the prosecution or the Department is not required to prove its case with mathe- matical precision to a demonstrable degree; for, in all human affairs. absolute certainty is a myth, and-as Prof. Brett felicitously puts it all exactness is a fake" El Dorado of absolute proof being unattainable, the law accepts for it, probability as a working substitute in this work-a- day world. The law does not require the prosecution to prove the impossible. All that it requires is the establishment of such a degree of probability that a prudent man may, on its basis, believe in the existence of the fact in issue. Thus, legal proof is not necessarily perfect proof.; often it is nothing more than a prudent man's estimate as to the probabilities of the case....."*

In this case, it has been brought out in the show cause notice that Shri ManishKumar Suhagiya was in contact with Shri Rambhai Suhagiya, regularly, during the period when the smuggling activity was taking place through Surat Airport as is evident from the call records. The *whatsapp* calls and messages between the two clearly suggest that transactions regarding gold were being discussed. The statement of Shri Rambhai Suhagiya clearly corroborates the fact that the smuggled gold was being sold to Shri Manishkumar Suhagiya.

(ix) From the statements of Shri Chetan Kathrotiya and Shri Rambhai Suhagiya, there was no mention of his specific name who had collected gold from the premises of M/s CRV Jewels and that Shri Chetan Kathrotiya was not even arrested, which showed that Shri Manish Suhagiya had no role to play in the smuggling of gold.

The statement of Shri Chetan Kathrotiya stating that he was unaware of the smuggling of gold and the transactions conducted in M/s CRV Jewels, is false and contrary to digital evidences on record. Video screen shots in the premises of M/s CRV Jewels on 11.04.2022 clearly show that Shri Chetan Kathrotiya in the midst of the other accomplices, Shri Vipul Borad, Shri Ankur Sakhreliya, Shri Rambhai Suhagiya and having conversations. In another video screen shot Shri Chetan Kathrotiya is seen carrying cash inside the locker room. Therefore, relying on the statement of Shri Chetan Kathrotiya and his non-arrest in the case does not provide any solace to Shri Manish Suhagiya from the charges in the show cause notice.

(x) There was no evidence to show that gold were sold to Shri Manish Suhagiya, nor any evidence to show how and to whom such alleged smuggled gold was further sold; that the person collecting smuggled gold had also not been identified; that they had brought evidence and fact that they had not purchased gold from M/s CRV jewels, but instead sold the same; that the disputed brand, i.e. 'Tigris' or 'ARG' was never dealt by him and that the entire quantity of gold found in their premises was accounted for as having procured from legitimate sources and under proper invoices.

I find that the argument that no evidences were placed on record to show that gold were being sold to M/s CRV Jewels is not correct. In fact, digital and corroborative evidences clearly show that gold was being handed over to persons of M/s Harikala Bullion in the premises of M/s CRV Jewels. Therefore, this argument also cannot be accepted.

(xi) Shri Ashok Suhagiya was working part time as broker in Diamond and gold market and that Shri Ashok used to deliver gold to M/s CRV Jewels and he never collected gold, which was evident from call made on 21.04.2022; that no allegations have been made against Shri Ashok Suhagiya as he was not identified in the CCTV footage, which shows that no person representing M/s Harikala Bullion was present in the premises.

I find this argument that Shri Ashok Suhagiya was not present in the CCTV footage is hardly any reason to conclude that Shri Manishkumar Suhagiya or M/s Harikala Bullion was not involved in the entire episode.

(xii) he request the cross-examination of Shri Rambhai Suhagiya, Shri Chetan Kathrotiya, Shri Vipul Borad, Shri Shailesh Korat and the investigating officers.

In the instant case, I find that the statements of the co-noticees, whose cross-examination has been sought, have not been retracted at any stage. Further, no points of argument have been put forth for cross examination. Primary evidences of the details of smuggled gold have been brought on record in the show cause notice and the same has not been denied by Shri Manishkumar Suhagiya at any stage. The documentary and digital evidences, oral corroborative statements of the other master-minds of the syndicate on record clearly show that Shri Manishkumar Suhagiya as one of the recipient of the smuggled gold from Shri Rambhai Suhagiya of M/s CRV Jewels and thereby contributed to the syndicate of smuggling of gold from Dubai/Sharjah to India through Surat airport. Further, in case of cross-examination of investigating officers, I find that no statements of these officers have been recorded in the case and also no specific points had been put forth for cross-examination of these officers. Also, I would rely on the following judgment in support to the denial of cross-examination of investigation officers as sought by Shri Manish Suhagiya:-

=> 2016 (331) E.L.T. 402 (Ker.) in case of N.S.Mahesh V/s Commissioner of Customs, Cochin, wherein the Hon'ble High Court held that; (*relevant extracts reproduced*)

***Cross-examination of all officers who assessed, audited, "i. examined the impugned consignments :***

*The investigating unit has developed the case on the basis of documents recovered during investigation and other evidences and not relied on statements of any officers who examined/audited/assessed the consignment. Moreover said officers have discharged these functions as part of their official duty, based on documents provided by the importer. Further noticee No. 2 has not given any reasons for examining the said officer, nor the evidences sought to be brought out from them. It is also learnt that the dockets of the bills of entry relied upon by investigation have already been supplied along with the show cause notice. However if required, noticee No. 2 can obtain additional set of copies of documents from SIIB, under prior intimation to undersigned. **Accordingly the request for cross-examining all officers who assessed/audited/examined the impugned consignments cannot be acceded to.***

Therefore, the permission sought by Shri Manishkumar Suhagiya to cross-examine the persons/officers was denied by the competent authority and was duly communicated to him vide letter No. VIII/10-01/Pr.Commr/O&A/2024-25 dated 19.05.2025.

Moreover, I find that cross examination cannot be claimed as a matter of right and is not violative of the principles of Natural Justice. The judgment of the Hon'ble Supreme Court in case of Surjeet Singh Chhabra v. U.O.I., 1997 (89) E.L.T. 646 (S.C.), is very emphatic, wherein it has been held that failure to give opportunity to cross examine the witnesses is not violative of the principles of natural justice. Shri Manishkumar Suhagiya has not provided any specific points/questions/reasons for cross examination. Therefore, I again refer to the judgment of the Hon'ble Tribunal in case of Dipu Das V/s Commissioner of Customs (port), Kolkata reported in 2010 (261) E.L.T. 408 (Tri. - Kolkata), and the judgment of Hon'ble Tribunal in case of Commissioner of Customs, Hyderabad V/s Tallaja Impex reported in 2012(279) ELT-433(Tri.-Bangalore), wherein it has been contended that the request for cross-examination was made without giving any reasons and that in adjudication proceedings, cross-examination cannot be claimed as a matter of right on mere asking for it, without furnishing reasons for the same.

**D. CONCLUSION**

From digital, documents and corroborative evidences in the case, I find that Shri Manishkumar Mansukhbhai Suhagiya, owner of M/s Harikala Bullion played an important role in the smuggling syndicate, in as much, as he used to receive the smuggled gold through his bullion unit, M/s Harikala Bullion, melted and embossed the smuggled gold with new markings and sold in the local market by way of cash transactions. Due to these actions, Shri Manishkumar Mansukhbhai Suhagiya, is liable to penalty under Section 112(b) of the Customs Act, 1962.

**9. SHRI NILESH DHIRUBHAI BORAD**

From the digital, documents and corroborative evidences in the case, it is observed that Shri Nilesh Dhirubhai Borad [younger brother of Shri Vipul Borad] was also actively involved in the smuggling syndicate in as much as he also occasionally visited Sharjah, Dubai with passengers/carriers and returned with them to Surat with the smuggled gold.

**A. DIGITAL EVIDENCES**

(i) The following *whatsapp* chats retrieved from the mobile of Shri Vipul Borad, showed that he had visited Sharjah along with passengers/carriers and even shared a group photo to Shri Vipul Borad.

**Page 15 to 16:**

*These printouts pertain to personal whatsapp chat between me and my elder brother Shri Vipul taken from his Samsung Galaxy phone, detailed explanation for each page is as under-*

- *Page 15-This is the group photo of passengers who travelled on 20.04.2022 from Sharjah to Surat who carried 135 pieces of smuggled gold.*
- *Page 16-This is screen shot of chat wherein list of passengers was shared by me to Shri Vipul who travelled on 18.04.2022. I explain that in the said photo the name of the person from left to right is: 1. I do not know her name, 2. Dipali Darshan Chhaswala, 3. Darshan Navinchandra Chhaswala, 4. Aryan Chintubhai Panwala and 5. Yamini Premji Patel. I further state that I know only Yamini Premji Patel and she introduced me to the other person at Dubai Airport. I shared the said photo as Shri Vipul D Borad asked me to send the photo of the persons travelling with me.*

**B. CORROBORATIVE EVIDENCES**

(i) From the statement dated 02.05.2022, Shri Nilesh Borad stated that he visited Sharjah along with the following passengers/carriers:

Date of Travel	Name of Passengers travelled	FROM/ TO
18 April, 2022	4. Me (Shri Nilesh Borad) 2. Yamini Premji Patel 3. Darshan Navinchandra Chhaswala 4. Dipali Darshan Chhaswala 5. Aryan Chintubhai Panwala	Surat to Sharjah
20 April, 2022	1. Me (Shri Nilesh Borad) 2. Yamini Premji Patel 3. Darshan Navinchandra Chhaswala 4. Dipali Darshan Chhaswala 5. Nehal Rakeshkumar Kachhadiya 6. Aryan Chintubhai Panwala Sakhreliya	Sharjah To Surat

He also admitted that he had declared 999.0 purity gold before Dubai Customs authority as per the directions of Shri Vipul Borad and handed over the gold and papers to a person on his return to Surat on 20.04.2022. He also admitted that after booking of the case by the DRI, he disposed his mobile to destroy digital evidences.

(ii) It is on record that by adopting the similar modus-operandi, 135 pieces of foreign Origin Gold biscuits, totally weighing 15746.40 grams, valued at Rs.8,58,17,880/- were seized from the premises of M/s CRV Jewels, Surat, which were found to be imported

through Surat International Airport. The said gold was confiscated under Section 111 of the Customs Act, 1962 by the Additional Commissioner, Customs, Surat vide Order-in-Original No. 08/AR/ADC/SRT/2023-24 dated 29.09.2023. The Additional Commissioner, Customs, Surat vide the above mentioned order also imposed penalty on Shri Nilesh Borad, along with other accomplices under the provisions of Section 112 of the Customs Act, 1962 for their active role in the smuggling of gold.

### **C. DEFENCE**

(i) no gold was recovered from him and that whatever gold was seized were town seizures only;

I find that even though no gold was recovered from him, documentary and digital evidences, oral corroborative statements of the other master-minds of the syndicate as discussed above clearly show that Shri Nilesh Borad was also a part of the smuggling syndicate by occasionally visiting Sharjah, Dubai with passengers/carriers, who carried the smuggled gold and returned with them through Surat Airport.

(ii) photos and *whatsapp* chats do not connect him to any offence and that no panchnama was drawn before the forensic analysis of the phones from which the chats have been extracted nor any certificate under Section 138C of the Customs Act, 1962 were produced.

Merely by denying that there are no connection between the photos and *whatsapp* chats cannot offer any solace to the grave charges. No explanations to these digital evidences have been provided by Shri Nilesh Borad, which is inexplicable. As regards the authenticity of forensic analysis of the phones, I do not find any merit in these arguments as the seized mobile phones were forwarded to the Deputy Director, Regional Forensic Science Laboratory, Surat and the examination reports were sent to the investigation agency for extraction of evidences. Regional Forensic Science Laboratory, Surat, being a Government Agency, there is no question of non-availability of certificate under Section 138C of the Customs Act, 1962.

(iv) he may be granted cross-examination of Shri Vipul Borad, Shri Rambhai Suhagiya, and Shri Baldev Sakhreliya in view of the various decisions of Courts/Tribunals; that in case no cross-examination was granted in their case, a speaking order may be passed in terms of jurisdictional High Court decision reported in Mahek Glazes Pvt. Ltd. V/s UOI reported in 2013(7) TMI 128-Gujarat High Court;

In the instant case, I find that the statements of the co-noticees, whose cross-examination has been sought, have not been retracted at any stage. Further, no points of argument have been put forth for cross examination. Primary evidences of the details of smuggled gold have been brought on record in the show cause notice and the same has not been denied by Shri Nilesh Dhirubhai Borad at any stage. Therefore, the permission sought by Shri Nilesh Dhirubhai Borad to cross-examine the persons was denied by the competent authority and was duly communicated to him vide letter No. VIII/10-01/Pr.Commr/O&A/2024-25 dated 16.05.2025.

Moreover, I find that cross examination cannot be claimed as a matter of right and is not violative of the principles of Natural Justice. The judgment of the Hon'ble Supreme Court in case of Surjeet Singh Chhabra v. U.O.I., 1997 (89) E.L.T. 646 (S.C.), is very emphatic, wherein it has been held that failure to give opportunity to cross examine the witnesses is not violative of the principles of natural justice. Shri Nilesh Dhirubhai Borad has not provided any specific points/questions/reasons for cross examination. Therefore, I refer to the judgment of the Hon'ble Tribunal in case of Dipu Das V/s Commissioner of Customs (port), Kolkata reported in 2010 (261) E.L.T. 408 (Tri. - Kolkata), and the judgment of Hon'ble Tribunal in case of Commissioner of Customs, Hyderabad V/s Tallaja Impex reported in 2012(279) ELT-433(Tri.-Bangalore), wherein it has been contended that the request for cross-examination was made without giving any reasons and that in adjudication proceedings, cross-examination cannot be



claimed as a matter of right on mere asking for it, without furnishing reasons for the same.

(v) statements of co-noticee cannot be adopted as legal evidence to penalise the accused unless the statements were corroborated with material particulars by independent evidences; that no penalty under Section 112(b) of the Customs Act, 1962 for all the reasons mentioned above and the Hon'ble Tribunal decision reported in Harshadbhai Savaliya V/s CC-2022 SCC Online CESTAT 3350.

I do not agree with the argument that no independent evidence was recovered in the instant case, except statements of co-noticees. It is on record that by adopting the same modus-operandi, 135 pieces of foreign Origin Gold biscuits, totally weighing 15746.40 grams, valued at Rs.8,58,17,880 were imported through Surat International Airport and were seized from the premises of M/s CRV Jewels, Surat and later confiscated under the provisions of Section 111 of the Customs Act, 1962 by the Additional Commissioner, Customs, Surat vide Order-in-Original No. 08/AR/ADC/SRT/2023-24 dated 29.09.2023. The Additional Commissioner, Customs, Surat vide the above mentioned order also imposed penalty of Rs. 8,58,17,880/- on Shri Nilesh Dhirubhai Borad, along with other accomplices under the provisions of Section 112 of the Customs Act, 1962 for their active role in the smuggling of gold.

#### **D. CONCLUSION**

(vi) From the above digital, documentary and corroborative evidences, it is amply clear that Shri Nilesh Borad was one of the key players in the entire smuggling activity along with Shri Vipul Borad, Shri Rambhai Suhagiya and others. Shri Vipul Borad in connivance with Shri Baldev Sakhreliya, Shri Rambhai Suhagiya and other accomplices was instrumental in the smuggling of 389 pieces of gold biscuits, totally weighing 41.858 kgs through the Surat International Airport on 10.04.2022, 13.04.2022 and 17.04.2022. Shri Nilesh Borad is clearly liable to penalty under Section 112(b) of the Customs Act, 1962 for the above transgression.

### **10. SHRI HARDIK RUPARELIYA**

From the evidences in the case, it is observed that Shri Hardik Rupareliya was one of the passenger/carrier used by the smuggling syndicate to smuggle gold through Surat International Airport.

#### **A. DIGITAL EVIDENCES**

The summary of calls between Shri Vipul Borad and Shri Hardik Rupareliya [covered in para 34.2.7] during the period from 04.03.2022 to 15.04.2022 shows that he was in regular touch with Shri Vipul Borad which corroborates the smuggling activity by the syndicate during the said period.

#### **B. CORROBORATIVE EVIDENCES**

The statement dated 23.04.2022 of Shri Vipul Borad and the relevant passenger manifest of Air India Express Flight IX-172 (Sharjah to Surat) of 10.04.2022 clearly reveal that Shri Hardik Rupareliya was one of the passenger/carrier of the said flight.

#### **C. DEFENCE**

No defence reply has been filed by Shri Hardik Rupareliya till date.

I find from the digital, documentary and corroborative evidences, it is forthcoming that he was directly involved in the smuggling of foreign origin gold biscuits through Surat International Airport on 10.04.2022 by Shri Hardik Rupareliya and other co-passengers. Therefore, Shri Hardik Rupareliya is clearly liable to penalty under the Section 112(b) of the Customs Act, 1962 for the above transgression.

**11. Ms. VASANTBEN HASMUKH RUPARELIYA [mother of Shri Hardik Rupareliya]**

From the evidences in the case, it is observed that Ms. Vasant Rupareliya was one of the passenger/carrier used by the smuggling syndicate to smuggle gold through Surat International Airport.

**A. DIGITAL EVIDENCES**

Ms Vasantben Rupareliya was also part of a group of passengers who travelled with Shri Ankur Sakhreliya on 17.04.2022 and also included her in the *whatsapp* group 'KHANAK 2021' and was introduced by Shri Baldev Sakhreliya in the said group as the mother of Shri Hardik Rupareliya and further commented on her photo as '*Chokra sala smuggling krave che & 'Ava chokra koi na pake'*'.

**B. CORROBORATIVE EVIDENCES**

The statement dated 23.04.2022 of Shri Vipul Borad and the relevant passenger manifest of Air India Express Flight IX-172 (Sharjah to Surat) of 10.04.2022 reveal that Ms Vasantben Rupareliya was one of the passenger/carrier of the said flight.

**C. DEFENCE**

No defence reply has been filed by Ms Vasantben Rupareliya till date

Therefore, from the statement dated 23.04.2022 of Shri Vipul Borad and the relevant passenger manifest of Air India Express Flight IX-172 (Sharjah to Surat) of 17.04.2022 it is clearly revealed that Ms. Vasant Rupareliya was one of the passenger/carrier of the said flight. From the digital, documentary and corroborative evidences, it is forthcoming that a total of 25 gold biscuits were smuggled through Surat International Airport on 17.04.2022 by Ms. Vasant Rupareliya and other co-passengers. Therefore, Ms. Vasant Rupareliya is clearly liable to penalty under the Section 112(b) of the Customs Act, 1962 for the above transgression.

**12. SHRI NIKHIL PRAFULBHAI KANANI**

From the evidences in the case, it is observed that Shri Nikhil Kanani was one of the passenger/carrier used by the smuggling syndicate to smuggle gold through Surat International Airport.

**A. DIGITAL EVIDENCES**

Shri Nikhil Kanani was also part of a group of passengers who travelled from Sharjah to Surat as per the statement dated 23.04.2022 of Shri Vipul Borad. The summary of calls between Shri Vipul Borad and Shri Nikhil Kanani during the period from 14.04.2022 to 20.04.2022 [**covered in para No.34.2.8 above**] shows that they were in continuous touch during the smuggling activity.

**B. CORROBORATIVE EVIDENCES**

The statement dated 23.04.2022 of Shri Vipul Borad and the relevant passenger manifest of Air India Express Flight IX-172 (Sharjah to Surat) of 17.04.2022 reveal that Shri Nikhil Kanani was one of the passenger/carrier of the said flight.

**C. DEFENCE**

No defence reply has been filed by Shri Nikhil Kanani till date

The statement dated 23.04.2022 of Shri Vipul Borad and the relevant passenger manifest of Air India Express Flight IX-171 (Sharjah to Surat) of 10.04.2022 clearly reveal that Shri Nikhil Kanani was one of the passenger/carrier of the said flight. From the digital, documentary and corroborative evidences, it is forthcoming that he was directly involved in the smuggling of foreign origin gold biscuits from Surat International

Airport on 10.04.2022. Therefore, Shri Nikhil Kanani is clearly liable to penalty under the Section 112(b) of the Customs Act, 1962 for the above transgression.

### **13. SHRI MUKESH DHIRAJLAL KANANI**

From the evidences in the case, it is observed that Shri Mukesh Kanani was one of the passenger/carrier used by the smuggling syndicate to smuggle gold through Surat International Airport.

#### **A. DIGITAL EVIDENCES**

Shri Mukesh Kanani was also part of a group of passengers who travelled on 10.04.2022 from Sharjah to Surat as per the statement dated 23.04.2022 of Shri Vipul Borad. The summary of calls between them during the period 19.01.2022 to 21.04.2022 show that they were in continuous touch during the smuggling activity. The travel ticket of Shri Mukesh Kanani was booked by Shri Vipul Borad through Magic Holidays.

#### **B. CORROBORATIVE EVIDENCES**

The statement dated 23.04.2022 of Shri Vipul Borad and the relevant passenger manifest of Air India Express Flight IX-172 (Sharjah to Surat) of 10.04.2022 reveal that Shri Mukesh Kanani was one of the passenger/carrier of the said flight.

#### **C. DEFENCE**

(i) no gold was recovered from him and that whatever gold was seized were town seizures only;

I find that even though no gold was recovered from him, documentary and digital evidences, oral corroborative statements of the other master-minds of the syndicate as discussed above clearly show that Shri Mukesh Kanani was also a part of the smuggling syndicate by contributing through his role as a passenger/carrier, who carried the gold from Sharjah and returned through Surat Airport with the smuggled gold.

(ii) photos and *whatsapp* chats do not connect him to any offence and that no panchnama was drawn before the forensic analysis of the phones from which the chats have been extracted nor any certificate under Section 138C of the Customs Act, 1962 were produced.

Merely by denying that there are no connection between the photos and *whatsapp* chats cannot offer any solace to the grave charges. No explanations to these digital evidences have been provided by Shri Mukesh Kanani, which is inexplicable. As regards the authenticity of forensic analysis of the phones, I do not find any merit in these arguments as the seized mobile phones were forwarded to the Deputy Director, Regional Forensic Science Laboratory, Surat and the examination reports were sent to the investigation agency for extraction of evidences. Regional Forensic Science Laboratory, Surat, being a Government Agency, there is no question of non-availability of certificate under Section 138C of the Customs Act, 1962.

(iv) he may be granted cross-examination of Shri Vipul Borad in view of the various decisions of Courts/Tribunals; that in case no cross-examination was granted in their case, a speaking order may be passed in terms of jurisdictional High Court decision reported in Mahek Glazes Pvt. Ltd. V/s UOI reported in 2013(7) TMI 128-Gujarat High Court;

In the instant case, I find that the statements of the co-noticee, whose cross-examination has been sought, have not been retracted at any stage. Further, no points of argument were put forth for cross examination. Primary evidences of the details of smuggled gold have been brought on record in the show cause notice and the same has not been denied by Shri Mukesh Kanani at any stage. Therefore, the permission sought by Shri Mukesh Kanani to cross-examine the person was denied by the competent

authority and was duly communicated to him vide letter No. VIII/10-01/Pr.Commr/O&A/2024-25 dated 16.05.2025.

Moreover, I find that cross examination cannot be claimed as a matter of right and is not violative of the principles of Natural Justice. The judgment of the Hon'ble Supreme Court in case of Surjeet Singh Chhabra v. U.O.I., 1997 (89) E.L.T. 646 (S.C.), is very emphatic, wherein it has been held that failure to give opportunity to cross examine the witnesses is not violative of the principles of natural justice. Shri Mukesh Kanani has not provided any specific points/questions/reasons for cross examination. Therefore, I again refer to the judgment of the Hon'ble Tribunal in case of Dipu Das V/s Commissioner of Customs (port), Kolkata reported in 2010 (261) E.L.T. 408 (Tri. - Kolkata), and the judgment of Hon'ble Tribunal in case of Commissioner of Customs, Hyderabad V/s Tallaja Impex reported in 2012(279) ELT-433(Tri.-Bangalore), wherein it has been contended that the request for cross-examination was made without giving any reasons and that in adjudication proceedings, cross-examination cannot be claimed as a matter of right on mere asking for it, without furnishing reasons for the same.

(v) statement of co-noticee cannot be adopted as legal evidence to penalise the accused unless the statements were corroborated with material particulars by independent evidences; that no penalty under Section 112(b) of the Customs Act, 1962 for all the reasons mentioned above and the Hon'ble Tribunal decision reported in Harshadbhai Savaliya V/s CC-2022 SCC Online CESTAT 3350.

I do not agree with the argument that no independent evidence was recovered in the instant case, except statements of co-noticees.

From the statement dated 23.04.2022 of Shri Vipul Borad and the relevant passenger manifest of Air India Express Flight IX-172 (Sharjah to Surat) of 10.04.2022 clearly reveal that Shri Mukesh Kanani was one of the passenger/carrier of the said flight. From the digital, documentary and corroborative evidences, it is forthcoming that a total of 144 gold biscuits were smuggled through Surat International Airport on 10.04.2022 by Shri Mukesh Kanani and other co-passengers. Therefore, Shri Mukesh Kanani is clearly liable to penalty under the Section 112(b) of the Customs Act, 1962 for the above transgression.

#### **14. SHRI VIVEK PREMJBHAI PATEL**

From the evidences in the case, it is observed that Shri Vivek Patel was one of the passenger/carrier used by the smuggling syndicate to smuggle gold through Surat International Airport.

##### **A. DIGITAL EVIDENCES**

Shri Vivek Patel was also part of a group of passengers who travelled on 13.04.2022 from Sharjah to Surat as per the statement dated 23.04.2022 of Shri Vipul Borad. The travel ticket of Shri Vivek Patel for Surat to Sharjah and its return were booked by Shri Vipul Borad through Magic Holiday.

##### **B. CORROBORATIVE EVIDENCES**

The statement dated 23.04.2022 of Shri Vipul Borad and the relevant passenger manifest of Air India Express Flight IX-172 (Sharjah to Surat) of 13.04.2022 reveal that Shri Vivek Patel was one of the passenger/carrier of the said flight.

##### **C. DEFENCE**

No defence reply has been filed by Shri Vivek Premjibhai Patel till date

The statement dated 23.04.2022 of Shri Vipul Borad and the relevant passenger manifest of Air India Express Flight IX-172 (Sharjah to Surat) of 13.04.2022 clearly reveal that Shri Vivek Patel was one of the passenger/carrier of the said flight. From the

digital, documentary and corroborative evidences, it is forthcoming that a total of 115 gold biscuits were smuggled through Surat International Airport on 13.04.2022 by Shri Vivek Patel and other co-passengers. Therefore, Shri Vivek Patel is clearly liable to penalty under the Section 112(b) of the Customs Act, 1962 for the above transgression.

#### **15. SHRI GAURAVGIRI DINESHGIRI GOSWAMI**

From the evidences in the case, it is observed that Shri Gauravgiri Goswami was one of the passenger/carrier used by the smuggling syndicate to smuggle gold through Surat International Airport.

##### **A. DIGITAL EVIDENCES**

Shri Gauravgiri Goswami was also part of a group of passengers who travelled with Shri Ankur Sakhreliya on 17.04.2022 from Sharjah to Surat as per the statement dated 23.04.2022 of Shri Vipul Borad. The travel ticket of Shri Gauravgiri Goswami for Surat to Sharjah and its return were booked by Shri Vipul Borad through Magic Holiday. Shri Ankur Sakhreliya had shared his name and others passengers in their *whatsapp* group 'KHANAK 2021' and in response Shri Baldev Sakhreliya had commented on their name 'Smagalaro no toli', which shows the involvement of Shri Gauravgiri Goswami in the smuggling activity.

##### **B. CORROBORATIVE EVIDENCES**

The statement dated 23.04.2022 of Shri Vipul Borad and the relevant passenger manifest of Air India Express Flight IX-172 (Sharjah to Surat) of 17.04.2022 reveal that Shri Gauravgiri Goswami was one of the passenger/carrier of the said flight.

##### **C. DEFENCE**

No defence reply has been filed by Shri Gauravgiri Goswami till date

From the digital, documentary and corroborative evidences, it is forthcoming that a total of 130 gold biscuits were smuggled through Surat International Airport on 17.04.2022 by Shri Gauravgiri Goswami and other co-passengers. Therefore, Shri Gauravgiri Goswami is clearly liable to penalty under the Section 112(b) of the Customs Act, 1962 for the above transgression.

#### **16. SHRI RAKESH GOPALBHAI MORADIYA**

From the evidences in the case, it is observed that Shri Rakesh Moradiya was one of the passenger/carrier used by the smuggling syndicate to smuggle gold through Surat International Airport.

##### **A. DIGITAL EVIDENCES**

Shri Rakesh Moradiya was also part of a group of passengers who travelled with Shri Ankur Sakhreliya on 17.04.2022 from Sharjah to Surat as per the statement dated 23.04.2022 of Shri Vipul Borad. The travel ticket of Shri Rakesh Moradiya for Surat to Sharjah and its return were booked by Shri Vipul Borad through Magic Holiday. Shri Ankur Sakhreliya had shared his name and others passengers in their *whatsapp* group 'KHANAK 2021' and in response Shri Baldev Skahreliya had commented on their name 'Smagalaro no toli', which shows the involvement of Shri Rakesh Moradiya in the smuggling activity.

##### **B. CORROBORATIVE EVIDENCES**

The statement dated 23.04.2022 of Shri Vipul Borad and the relevant passenger manifest of Air India Express Flight IX-172 (Sharjah to Surat) of 17.04.2022 reveal that Shri Rakesh Moradiya was one of the passenger/carrier of the said flight.

**C. DEFENCE**

(i) no gold was recovered from him and that whatever gold was seized were town seizures only;

I find that even though no gold was recovered from him, documentary and digital evidences, oral corroborative statements of the other master-minds of the syndicate as discussed above clearly show that Shri Rakesh Moradiya was also a part of the smuggling syndicate by contributing through his role as a passenger/carrier, who carried the gold from Sharjah and returned through Surat Airport with the smuggled gold.

(ii) photos and *whatsapp* chats do not connect him to any offence and that no panchnama was drawn before the forensic analysis of the phones from which the chats have been extracted nor any certificate under Section 138C of the Customs Act, 1962 were produced.

Merely by denying that there are no connection between the photos and *whatsapp* chats cannot offer any solace to the grave charges. No explanations to these digital evidences have been provided by Shri Rakesh Moradiya, which is inexplicable. As regards the regarding the authenticity of forensic analysis of the phones is concerned, I do not find any merit in these arguments as the seized mobile phones were forwarded to the Deputy Director, Regional Forensic Science Laboratory, Surat and the examination reports were sent to the investigation agency for extraction of evidences. Regional Forensic Science Laboratory, Surat, being a Government Agency, there is no question of non-availability of certificate under Section 138C of the Customs Act, 1962.

(iv) he may be granted cross-examination of Shri Nikunj Sutaria, Shri Vipul Borad, Shri Baldev Sakhreliya and Shri Ankur Sakhreliya in view of the various decisions of Courts/Tribunals; that in case no cross-examination was granted in their case, a speaking order may be passed in terms of jurisdictional High Court decision reported in Mahek Glazes Pvt. Ltd. V/s UOI reported in 2013(7) TMI 128-Gujarat High Court;

In the instant case, I find that the statements of the co-noticees, whose cross-examination has been sought, have not been retracted at any stage. Further, no points of argument were put forth for cross examination. Primary evidences of the details of smuggled gold have been brought on record in the show cause notice and the same has not been denied by Shri Rakesh Moradiya at any stage. Therefore, the permission sought by Shri Rakesh Moradiya to cross-examine the persons was denied by the competent authority and was duly communicated to him vide letter No. VIII/10-01/Pr.Commr/O&A/2024-25 dated 16.05.2025.

Moreover, I find that cross examination cannot be claimed as a matter of right and is not violative of the principles of Natural Justice. The judgment of the Hon'ble Supreme Court in case of Surjeet Singh Chhabra v. U.O.I., 1997 (89) E.L.T. 646 (S.C.), is very emphatic, wherein it has been held that failure to give opportunity to cross examine the witnesses is not violative of the principles of natural justice. Shri Rakesh Moradiya has not provided any specific points/questions/reasons for cross examination. Therefore, I again refer to the judgment of the Hon'ble Tribunal in case of Dipu Das V/s Commissioner of Customs (port), Kolkata reported in 2010 (261) E.L.T. 408 (Tri. - Kolkata), and the judgment of Hon'ble Tribunal in case of Commissioner of Customs, Hyderabad V/s Tallaja Impex reported in 2012(279) ELT-433(Tri.-Bangalore), wherein it has been contended that the request for cross-examination was made without giving any reasons and that in adjudication proceedings, cross-examination cannot be claimed as a matter of right on mere asking for it, without furnishing reasons for the same.

(v) statement of co-noticee cannot be adopted as legal evidence to penalise the accused unless the statements were corroborated with material particulars by independent evidences; that no penalty under Section 112(b) of the Customs Act, 1962

for all the reasons mentioned above and the Hon'ble Tribunal decision reported in Harshadbhai Savaliya V/s CC-2022 SCC Online CESTAT 3350.

I do not agree with the argument that no independent evidence was recovered in the instant case, except statements of co-noticees. From the digital, documentary and corroborative evidences, it is forthcoming that a total of 130 gold biscuits were smuggled through Surat International Airport on 17.04.2022 by Shri Rakesh Moradiya and other co-passengers. Therefore, Shri Rakesh Moradiya is clearly liable to penalty under Section 112(b) of the Customs Act, 1962 for the above transgression.

## **17. SHRI KALPESHKUMAR DESAI**

From the evidences in the case, it is observed that Shri Kalpeshkumar Desai was one of the passenger/carrier used by the smuggling syndicate to smuggle gold through Surat International Airport.

### **A. DIGITAL EVIDENCES**

Shri Kalpeshkumar Desai was also part of a group of passengers who travelled with Shri Ankur Sakhreliya on 17.04.2022 from Sharjah to Surat as per the statement dated 23.04.2022 of Shri Vipul Borad. The travel ticket of Shri Kalpeshkumar Desai for Surat to Sharjah and its return were booked by Shri Vipul Borad through Magic Holiday. Shri Ankur Sakhreliya had shared his name and others passengers name in their *whatsapp* group 'KHANAK 2021' and in response Shri Baldev Sakhreliya had commented on their name 'Smagalaro no toli', which shows the involvement of Shri Kalpeshkumar Desai in the smuggling activity.

### **B. CORROBORATIVE EVIDENCES**

The statement dated 23.04.2022 of Shri Vipul Borad and the relevant passenger manifest of Air India Express Flight IX-172 (Sharjah to Surat) of 17.04.2022 reveal that Shri Kalpeshkumar Desai was one of the passenger/carrier of the said flight.

### **C. DEFENCE**

(i) no gold was recovered from him and that whatever gold was seized were town seizures only;

I find that even though no gold was recovered from him, documentary and digital evidences, oral corroborative statements of other master-minds of the syndicate as discussed above clearly show that Shri Kalpeshkumar Desai was also a part of the smuggling syndicate by contributing through his role as a passenger/carrier, who carried the gold from Sharjah and returned through Surat Airport with the smuggled gold.

(ii) photos and *whatsapp* chats do not connect him to any offence and that no panchnama was drawn before the forensic analysis of the phones from which the chats have been extracted nor any certificate under Section 138C of the Customs Act, 1962 were produced.

Merely by denying that there are no connection between the photos and *whatsapp* chats cannot offer any solace to the grave charges. No explanations to these digital evidences have been provided by Shri Kalpeshkumar Desai, which is inexplicable. As regards, the authenticity of forensic analysis of the phones is concerned, I do not find any merit in these arguments as the seized mobile phones were forwarded to the Deputy Director, Regional Forensic Science Laboratory, Surat and the examination reports were sent to the investigation agency for extraction of evidences. Regional Forensic Science Laboratory, Surat, being a Government Agency, there is no question of non-availability of certificate under Section 138C of the Customs Act, 1962.

(iv) he may be granted cross-examination of Shri Nikunj Sutaria, Shri Vipul Borad, Shri Baldev Sakhreliya and Shri Ankur Sakhreliya in view of the various decisions of

Courts/Tribunals; that in case no cross-examination was granted in their case, a speaking order may be passed in terms of jurisdictional High Court decision reported in Mahek Glazes Pvt. Ltd. V/s UOI reported in 2013(7) TMI 128-Gujarat High Court;

In the instant case, I find that the statements of the co-noticees, whose cross-examination has been sought, have not been retracted at any stage. Further, no points of argument were put forth for cross examination. Primary evidences of the details of smuggled gold have been brought on record in the show cause notice and the same has not been denied by Shri Kalpeshkumar Desai at any stage. Therefore, the permission sought by Shri Kalpeshkumar Desai to cross-examine the persons was denied by the competent authority and was duly communicated to him vide letter No. VIII/10-01/Pr.Commr/O&A/2024-25 dated 16.05.2025.

Moreover, I find that cross examination cannot be claimed as a matter of right and is not violative of the principles of Natural Justice. The judgment of the Hon'ble Supreme Court in case of Surjeet Singh Chhabra v. U.O.I., 1997 (89) E.L.T. 646 (S.C.), is very emphatic, wherein it has been held that failure to give opportunity to cross examine the witnesses is not violative of the principles of natural justice. Shri Kalpeshkumar Desai has not provided any specific points/questions/reasons for cross examination. Therefore, I again refer to the judgment of the Hon'ble Tribunal in case of Dipu Das V/s Commissioner of Customs (port), Kolkata reported in 2010 (261) E.L.T. 408 (Tri. - Kolkata), and the judgment of Hon'ble Tribunal in case of Commissioner of Customs, Hyderabad V/s Tallaja Impex reported in 2012(279) ELT-433(Tri.-Bangalore), wherein it has been contended that the request for cross-examination was made without giving any reasons and that in adjudication proceedings, cross-examination cannot be claimed as a matter of right on mere asking for it, without furnishing reasons for the same.

(v) statement of co-noticee cannot be adopted as legal evidence to penalise the accused unless the statements were corroborated with material particulars by independent evidences; that no penalty under Section 112(b) of the Customs Act, 1962 for all the reasons mentioned above and the Hon'ble Tribunal decision reported in Harshadbhai Savaliya V/s CC-2022 SCC Online CESTAT 3350.

I do not agree with the argument that no independent evidence was recovered in the instant case, except statements of co-noticees. From the digital, documentary and corroborative evidences, it is forthcoming that a total of 130 gold biscuits were smuggled through Surat International Airport on 17.04.2022 by Shri Kalpeshkumar Desai and other co-passengers. Therefore, Shri Kalpeshkumar Desai is clearly liable to penalty under Section 112(b) of the Customs Act, 1962 for the above transgression.

## **18. SHRI KALPESH NAVINCHANDRA CHHASWALA**

From the evidences in the case, it is observed that Shri Kalpesh Chhaswala was one of the passenger/carrier used by the smuggling syndicate to smuggle gold through Surat International Airport.

### **A. DIGITAL EVIDENCES**

Shri Kalpesh Chhaswala was also part of a group of passengers who travelled on 13.04.2022 from Sharjah to Surat as per the statement dated 23.04.2022 of Shri Vipul Borad. The summary of calls between the two **[covered in para 34.2.10]** on 10.04.2022 shows that they were in touch during the smuggling activity.

### **B. CORROBORATIVE EVIDENCES**

The statement dated 23.04.2022 of Shri Vipul Borad and the relevant passenger manifest of Air India Express Flight IX-172 (Sharjah to Surat) of 13.04.2022 reveal that Shri Kalpesh Chhaswala was one of the passenger/carrier of the said flight.



**C. DEFENCE**

No defence reply has been filed by Shri Kalpesh Chhaswala till date

From the digital, documentary and corroborative evidences, it is forthcoming that a total of 115 gold biscuits were smuggled through Surat International Airport on 13.04.2022 by Shri Kalpesh Chhaswala and other co-passengers. Therefore, Shri Kalpesh Chhaswala is clearly liable to penalty under Section 112(b) of the Customs Act, 1962 for the above transgression.

**19. SHRI DIVYESH NATVARBHAI TAVADIYA**

From the evidences in the case, it is observed that Shri Divyesh Tavadiya was one of the passenger/carrier used by the smuggling syndicate to smuggle gold through Surat International Airport.

**A. DIGITAL EVIDENCES**

Shri Divyesh Tavadiya was also part of a group of passengers who travelled on 17.04.2022 from Sharjah to Surat as per the statement dated 23.04.2022 of Shri Vipul Borad. Shri Ankur Sakhreliya had shared his name and others passengers in their *whatsapp* group 'KHANAK 2021' and in response Shri Baldev Sakhreliya had commented on their name 'Smagalaro no toli', which shows the involvement of Shri Divyesh Tavadiya in the smuggling activity.

**B. CORROBORATIVE EVIDENCES**

The statement dated 23.04.2022 of Shri Vipul Borad and the relevant passenger manifest of Air India Express Flight IX-172 (Sharjah to Surat) of 17.04.2022 reveal that Shri Divyesh Tavadiya was one of the passenger/carrier of the said flight.

**C. DEFENCE**

(i) no gold was recovered from him and that whatever gold was seized were town seizures only;

I find that even though no gold was recovered from him, documentary and digital evidences, oral corroborative statements of the other master-minds of the syndicate as discussed above clearly show that Shri Kalpeshkumar Desai was also a part of the smuggling syndicate by contributing through his role as a passenger/carrier, who carried the gold from Sharjah and returned through Surat Airport with the smuggled gold.

(ii) photos and *whatsapp* chats do not connect him to any offence and that no panchnama was drawn before the forensic analysis of the phones from which the chats have been extracted nor any certificate under Section 138C of the Customs Act, 1962 were produced.

Merely by denying that there are no connection between the photos and *whatsapp* chats cannot offer any solace to the grave charges. No explanations to these digital evidences have been provided by Shri Kalpeshkumar Desai, which is inexplicable. As regards the regarding the authenticity of forensic analysis of the phones is concerned, I do not find any merit in these arguments as the seized mobile phones were forwarded to the Deputy Director, Regional Forensic Science Laboratory, Surat and the examination reports were sent to the investigation agency for extraction of evidences. Regional Forensic Science Laboratory, Surat, being a Government Agency, there is no question of non-availability of certificate under Section 138C of the Customs Act, 1962.

(iv) he may be granted cross-examination of Shri Nikunj Sutaria, Shri Vipul Borad, Shri Baldev Sakhreliya and Shri Ankur Sakhreliya in view of the various decisions of Courts/Tribunals; that in case no cross-examination was granted in their case, a

speaking order may be passed in terms of jurisdictional High Court decision reported in Mahek Glazes Pvt. Ltd. V/s UOI reported in 2013(7) TMI 128-Gujarat High Court;

In the instant case, I find that the statements of the co-noticees, whose cross-examination has been sought, have not been retracted at any stage. Further, no points of argument were put forth for cross examination. Primary evidences of the details of smuggled gold have been brought on record in the show cause notice and the same has not been denied by Shri Divyesh Tavadiya at any stage. Therefore, the permission sought by Shri Divyesh Tavadiya to cross-examine the persons was denied by the competent authority and was duly communicated to him vide letter No. VIII/10-01/Pr.Commr/O&A/2024-25 dated 16.05.2025.

Moreover, I find that cross examination cannot be claimed as a matter of right and is not violative of the principles of Natural Justice. The judgment of the Hon'ble Supreme Court in case of Surjeet Singh Chhabra v. U.O.I., 1997 (89) E.L.T. 646 (S.C.), is very emphatic, wherein it has been held that failure to give opportunity to cross examine the witnesses is not violative of the principles of natural justice. Shri Divyesh Tavadiya has not provided any specific points/questions/reasons for cross examination. Therefore, I again refer to the judgment of the Hon'ble Tribunal in case of Dipu Das V/s Commissioner of Customs (port), Kolkata reported in 2010 (261) E.L.T. 408 (Tri. - Kolkata), and the judgment of Hon'ble Tribunal in case of Commissioner of Customs, Hyderabad V/s Tallaja Impex reported in 2012(279) ELT-433(Tri.-Bangalore), wherein it has been contended that the request for cross-examination was made without giving any reasons and that in adjudication proceedings, cross-examination cannot be claimed as a matter of right on mere asking for it, without furnishing reasons for the same.

(v) statement of co-noticee cannot be adopted as legal evidence to penalise the accused unless the statements were corroborated with material particulars by independent evidences; that no penalty under Section 112(b) of the Customs Act, 1962 for all the reasons mentioned above and the Hon'ble Tribunal decision reported in Harshadbhai Savaliya V/s CC-2022 SCC Online CESTAT 3350.

I do not agree with the argument that no independent evidence was recovered in the instant case, except statements of co-noticees. It has already been emerged from the digital, documentary and corroborative evidences, it is forthcoming that a total of 130 gold biscuits were smuggled through Surat International Airport on 17.04.2022 by Shri Divyesh Tavadiya and other co-passengers.

(vi) his statement dated 02.05.2022 was retracted vide letter dated 11.11.2022 and therefore, no penalty can be imposed on him and he relied on the judgment reported as Pintu Verma V/s CC-2023 SCC Online CESTAT 5833.

I again rely on the judgment of the Hon'ble Supreme Court in case of Surjeet Singh Chhabra v. U.O.I., 1997 (89) E.L.T. 646 (S.C.),

*"But in view of confession made by him, it binds him and, therefore, in the facts and circumstances of this case the failure to give him the opportunity to cross-examine the witnesses is not violative of principle of natural justice. It is contended that the petitioner had retracted within six days from the confession. Therefore, he is entitled to cross-examine the panch witnesses before the authority takes a decision on proof of the offence. We find no force in this contention. The Customs officials are not police officers. The confession, though retracted, is an admission and binds the petitioner. So there is no need to call Panch witnesses for examination and cross-examination by the petitioner."*

Therefore, in view of the above judgment, I find that retraction of his own statement does not entitle him to seek cross-examination of the co-noticees, especially when all digital, documentary and corroborative evidences are on record showing the smuggling activity.

(vii) Shri Divyesh Natvarbhai Tavadiya, in his statement dated 11.11.2022 admitted that Shri Ankur Sakhareliya met him at Sharjah airport and asked him to carry some

gold biscuits and, accordingly, hid 8 gold biscuits in his shoes and Shri Ankur Sakhareliya gave him Rs.15000/- for that work. Shri Niravbhai told him to meet Shri Ankur Sakhareliya at Sharjah Airport and shared his photo with Shri Ankur Sakhareliya and conveyed his location at Sharjah airport and on that basis Shri Ankur Sakhareliya recognised Shri Divyesh Natvarbhai Tavadiya at the Sharjah airport and met him and handed over to him 8 gold biscuits after security clearance at Sharjah airport in waiting area. After arriving in Surat, Shri Ankur Sakhareliya met him in the parking area of Surat airport and Shri Divyesh Natvarbhai Tavadiya handed back the 8 gold biscuits to Shri Ankur Sakhareliya. Therefore, Shri Divyesh Natvarbhai Tavadiya was directly involved in smuggling of 8 pieces of foreign origin gold biscuits of 10 tola each on 17.04.2022 through Surat International Airport on behalf of Shri Ankur Mansukhbhai Sakhareliya / Shri Vipul D Borad.

#### **D. CONCLUSION**

From the digital, documentary and corroborative evidences, I find that a total of 130 gold biscuits, including 8 pieces of gold biscuits were smuggled through Surat International Airport on 17.04.2022 by Shri Divyesh Tavadiya and other co-passengers. Therefore, Shri Divyesh Tavadiya is clearly liable to penalty under the Section 112(b) of the Customs Act, 1962 for the above transgression. As penalty is imposed under Section 112 of the Customs Act, 1962, I refrain from imposing penalty under Section 114A of the Customs Act, 1962.

**62.** Accordingly, I pass the following order:-

#### **ORDER**

- (i) I confirm the demand of Customs duty amounting to **Rs. 7,74,65,047/- (Rupees Seven Crore, Seventy Four Lakh, Sixty Five Thousand and Forty Seven Only)** on Shri Vipul Dhirubhai Borad on the said smuggled goods under Section 28(4) of the Customs Act, 1962;
- (ii) I order for recovery of interest at applicable rate on the Customs duty as mentioned at (i) above under Section 28AA of the Customs Act, 1962;
- (iii) I order for confiscation of 389 pieces of Gold biscuits of 10 tola each weighing 41.858 kg totally valued at **Rs. 20,12,07,916/- (Rupees Twenty Crore, Twelve Lakh, Seven Thousand, Nine Hundred and Sixteen only)** under Section 111(d), 111(i), 111(j), 111(l) and 111(m) of the Customs Act, 1962. However, as the said goods are not physically available for confiscation, I impose a redemption fine of **Rs.4,00,00,000/-(Rupees Four crore only)** in lieu of confiscation under Section 125 of the Customs Act, 1962;
- (iv) I impose a penalty of **Rs. 7,74,65,047/- (Rupees Seven Crore, Seventy Four Lakh, Sixty Five Thousand and Forty Seven Only)** under Section 114A of the Customs Act, 1962 plus penalty equal to the applicable interest under Section 28AA of the Customs Act, 1962 payable on the duty demanded and confirmed at (i) above on Shri Vipul Dhirubhai Borad. However, I give an option, under proviso to Section 114A of the Customs Act, 1962, to pay 25% of the amount of total penalty imposed, subject to the payment of total duty amount and interest confirmed and the amount of 25% of penalty imposed within 30 days of receipt of this order;
- (v) I order for confiscation of foreign currency of 41,93,530 AED having value equivalent to Indian **Rs. 8,95,31,865/- (Rupees Eight Crore, Ninety Five Lakh, Thirty One Thousand, Eight Hundred and Sixty Five only)** under Section 113(d) of the Customs Act, 1962 smuggled out of India by Shri Navnitkumar Dhirubhai Borad in contravention of the provisions of Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulation, 2015.

- (vi) I impose penalty of **Rs. 8,95,31,865/- (Rupees Eight Crore, Ninety Five Lakh, Thirty One Thousand, Eight Hundred and Sixty Five only)** under the provisions of Section 114 of the Customs Act, 1962 on **Shri Navnitkumar Dhirubhai Borad** for his attempt to export currency improperly.
- (vii) I also impose penalty of **Rs.60,00,000/- (Rupees Sixty Lakhs only)** under the provisions of Section 112(b) of the Customs Act, 1962 on **Shri Navnitkumar Dhirubhai Borad**.
- (viii) I impose penalty of **Rs.4,00,00,000/- (Rupees Four Crore only)** on **Shri Rambhai Maganbhai Suhagiya** under the provisions of Section 112(b) of the Customs Act, 1962.
- (ix) I impose penalty of **Rs.1,00,00,000/- (Rupees One Crore only)** on **Shri Baldev Mansukhbhai Sakhreliya** under the provisions of Section 112(b) of the Customs Act, 1962.
- (x) I impose penalty of **Rs.70,00,000/- (Rupees Seventy Lakh only)** on **Shri Ankur Mansukhbhai Sakhreliya** under the provisions of Section 112(b) of the Customs Act, 1962.
- (xi) I impose penalty of **Rs.1,75,00,000/- (Rupees One Crore, Seventy Five Lakh only)** on **Shri Sagar Manubhai Shah** under the provisions of Section 112(b) of the Customs Act, 1962.
- (xii) I impose penalty of **Rs.2,00,00,000/- (Rupees Two Crore only)** on **Shri Manishkumar Mansukhbhai Suhagiya** under the provisions of Section 112(b) of the Customs Act, 1962.
- (xiii) I impose penalty of **Rs.2,00,00,000/- (Rupees Two Crore only)** on **Shri Chetan Kathrotiya** under the provisions of Section 112(b) of the Customs Act, 1962.
- (xiv) I impose penalty of **Rs.50,00,000/- (Rupees Fifty Lakh only)** on **Shri Nilesh Dhirubhai Borad** under the provisions of Section 112(b) of the Customs Act, 1962.
- (xv) I impose penalty of **Rs.10,00,000/- (Rupees Ten Lakh only)** on **Shri Hardik Rupareliya** under the provisions of Section 112(b) of the Customs Act, 1962.
- (xvi) I impose penalty of **Rs.10,00,000/- (Rupees Ten Lakh only)** on **Shri Nikhil Prafullbhai Kanani** under the provisions of Section 112(b) of the Customs Act, 1962.
- (xvii) I impose penalty of **Rs.10,00,000/- (Rupees Ten Lakh only)** on **Shri Mukesh Kumar Dhirajlal Kanani** under the provisions of Section 112(b) of the Customs Act, 1962.
- (xviii) I impose penalty of **Rs.10,00,000/- (Rupees Ten Lakh only)** on **Shri Kalpesh Navinchandra Chhaswala** under the provisions of Section 112(b) of the Customs Act, 1962.
- (xix) I impose penalty of **Rs.10,00,000/- (Rupees Ten Lakh only)** on **Shri Vivek Premjibhai Patel** under the provisions of Section 112(b) of the Customs Act, 1962.
- (xx) I impose penalty of **Rs.10,00,000/- (Rupees Ten Lakh only)** on **Shri Gauravgiri Dineshgiri Goswami** under the provisions of Section 112(b) of the Customs Act, 1962.

- (xxi) I impose penalty of **Rs.10,00,000/- (Rupees Ten Lakh only)** on **Shri Rakesh Gopalbhai Moradiya** under the provisions of Section 112(b) of the Customs Act, 1962.
- (xxii) I impose penalty of **Rs.10,00,000/- (Rupees Ten Lakh only)** on **Shri Kalpeshkumar Desai** under the provisions of Section 112(b) of the Customs Act, 1962.
- (xxiii) I impose penalty of **Rs.26,00,000/- (Rupees Twenty Six Lakh only)** on **Ms. Vasantben Hasmukhbhai Rupareliya** under the provisions of Section 112(b) of the Customs Act, 1962.
- (xxiv) I impose penalty of **Rs.10,00,000/- (Rupees Ten Lakh only)** on **Shri Divyesh Natvarbhai Tavadiya** under the provisions of Section 112(b) of the Customs Act, 1962.

Accordingly, I dispose of the show cause notice No.VIII/10-01/Pr.Commr./O&A/2024-25 dated 12.04.2024.

  
(Shiv Kumar Sharma)  
Principal Commissioner

**DIN-20250571MN0000411651**

**F.No.VIII/10-01/Pr.Commr/O&A/2024**

Dated: 20.05.2025

**BY Speed Post:**

**To**

1. Shri Vipul Dhirubhai Borad, R/o 156, Yamuna Darshan Society, Mota Varachha, Surat.(Email id-[vdborad2@gmail.com](mailto:vdborad2@gmail.com); [vdborad1@gmail.com](mailto:vdborad1@gmail.com))
2. Shri Navnit Dhirubhai Borad, R/o 156, Yamuna Darshan Society, Mota Varachha, Surat. (Email id-[boradnavneet156@gmail.com](mailto:boradnavneet156@gmail.com))
3. Shri Rambhai Maganbhai Suhagiya, Partner of CRV Jewels, G4, Maitri Building, Lambe Hanuman Rd, Varachha, Surat, Gujarat 395006, R/o A-104, Merigold residency, Sarthana Jakatnaka, Varachha, Surat, (Email Id-[ramansuhagiya@yahoo.co.in](mailto:ramansuhagiya@yahoo.co.in));
4. Shri Baldev Mansukhbhai Sakhreliya, R/o A-103, Kaveri Habitat, V T Nagar Road, Sarthana, Surat, (Email id- [baldevsakhreliya69@gmail.com](mailto:baldevsakhreliya69@gmail.com)).
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6. Shri Sagar Manubhai Shah, Proprietor of M/s Moon Star Inc, Shop No. 1/A & 2,B, Rangrej Tower, Jada Khadi, Mahidarpura, Surat, residing at 38, Mahadev Nagar, Majuragate, Surat, (Email id-[shah.sagar210@gmail.com](mailto:shah.sagar210@gmail.com))
7. Shri Manishkumar Mansukhbhai Suhagiya, Manager/Defacto owner of M/s Harikala Bullion, No-323, Ground Floor, Lambe Hanuman Road, Varsha Society-1, Varachha, Surat, R/o- 6, Bhaktinandan Society Sector-1, Behind Radhe Residency, Near Sudama Chowk, Mota Varachha, Chorasi, Surat, (Email id-[manish\\_suhagiya@yahoo.com](mailto:manish_suhagiya@yahoo.com))
8. Shri Chetan R Katharotiya, Partner of CRV Jewels, G4, Maitri Building, Lambe Hanuman Rd, Varachha, Surat, Gujarat 395006, R/o A-101, Silverstone River, Near Royal Park, Laxmikant Ashram Road, Katargam, Surat, (E-mail id- [chetu\\_love4u@yahoo.co.in](mailto:chetu_love4u@yahoo.co.in))

9. Shri Nilesh Dhirubhai Borad, R/o 99, Valkeshvar Society, Mota Varachha, Surat (Email id-[nileshborad441@gmail.com](mailto:nileshborad441@gmail.com))
10. Shri Hardik Rupareliya, 10 , Jaldarshan Society, Nr. Dharmish, Varachha, Surat.
11. Shri Nikhil Prafullbhai Kanani, C-110, Gopinath Complex, Near Lajamani Chowk, Mota Varachha, Surat(Email id-[nikhil.kanani0@gmail.com](mailto:nikhil.kanani0@gmail.com))
12. Shri Mukesh Kumar Dhirajlal Kanani, 46, Sarita Vihar Society-01, Punagam to Bombay Market Road, Surat-395010 (Email id-[mukeshkanani005@gmail.com](mailto:mukeshkanani005@gmail.com))
13. Shri Kalpesh Navinchandra Chhaswala, R/o 4/4418-19, Amli Sheri, Begumpura, Surat-395003,
14. Shri Vivek Premjibhai Patel, R/o- 2, Harinandan Bungalows, Near Bhaktinandan Chok, Mota Varachha, Surat-394101
15. Shri Gauravgiri Dineshgiri Goswami, R/o- Station Road, Bhimnath Temple, Chalal, Amreli-365630, Gujarat.
16. Shri Rakesh Gopalbhai Moradiya, R/o 57, Hans Society, Part-III, Near Sudama Chowk, Mota Varachha, Surat(Email id-[moradiya2031@gmail.com](mailto:moradiya2031@gmail.com))
17. Shri Kalpeshkumar Desai, R/o E-102, Mamta Park Residency, Mota Varachha, Surat-394101(Email id-[desaikalpesh3434@gmail.com](mailto:desaikalpesh3434@gmail.com))
18. Ms. Vasantben Hasmukhbhai Rupareliya, 10, Jaldarshan Society, Nr. Dharmish, Varachha, Surat.
19. Shri Divyesh Natvarbhai Tavadiya, R/o- Khadi Falia, At/Po- Bodali, Tal- Jalalpore, Navsari (Email id-[divyashtavadia4949@gmail.com](mailto:divyashtavadia4949@gmail.com) )

**Copy to:**

- 1) The Additional Director General, DRI, Ahmedabad Zonal Unit, Unit No. 15, Magnet Corporate Park, Off. Sola Over Bridge, Thaltej, Ahmedabad - 380054
- 2) The Additional Director General, Central Economic Intelligence Bureau, 6th Floor, B Wing, Janpath Bhawan, Janpath, New Delhi-110001 for kind information please.
- 3) The Deputy Director, DRI, Regional Unit Surat, 2<sup>nd</sup> Floor, Avalon Building, Above Indian Bank, B/h S. D. Jain School, Piplod-Vesu, Piplod, Surat-395007
- 4) Guard File.