



**प्रधान आयुक्त का कार्यालय, सीमाशुल्क, अहमदाबाद**

“ सीमा शुल्क भवन ,”पहली मंजिल, पुराने हाईकोर्ट के सामने, नवरंगपुरा, अहमदाबाद – 380009.

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**DIN: 20260371MN0000405174**

**PREAMBLE**

A	फ़ाइल संख्या/ File No.	:	VIII/10-60/SVPIA-B/O&A/HQ/2025-26
B	कारण बताओ नोटिस संख्या-तारीख / Show Cause Notice No. and Date	:	Waiver of SCN by the Pax.
C	मूल आदेश संख्या/ Order-In-Original No.	:	<b>228/ADC/SRV/O&amp;A/HQ/2025-26</b>
D	आदेश तिथि/ Date of Order-In-Original	:	<b>23.03.2026</b>
E	जारी करने की तारीख/ Date of Issue	:	<b>23.03.2026</b>
F	द्वारा पारित/ Passed By	:	<b>Shree Ram Vishnoi,</b> Additional Commissioner, Customs, Ahmedabad.
G	आयातक का नाम और पता / Name and Address of Importer / Passenger	:	<b>Shri Sureshbhai Labhubhai Saliya,</b> 2 <sup>nd</sup> Floor, Flat No. 208, Radhe Residency, Dabholi Road, Bapa Sitaram Nagar, Kataragam, Surat City-395004 (Gujarat)
1)	यह प्रति व्यक्ति के उपयोग के लिए निःशुल्क प्रदान किया जाता है जिन्हें यह जारी किया जाता है।		
2)	कोई भी व्यक्ति इस आदेश से स्वयं को असंतुष्ट पाता है तो वह इस आदेश के विरुद्ध अपील इस आदेश की प्राप्त किया तारीख के ६० दिनों के भीतर आयुक्त कार्यालय, सीमा शुल्क (अपील), ४वि मंजिल, हुडको भवन, ईश्वर भुवन मार्ग, नवरंगपुरा, अहमदाबाद में कर सकता है।		
3)	अपील के साथ केवल पांच (५.00) रुपये पे न्यायलय शुल्क टिकिट लगा होना चाहिए और इसके साथ होना चाहिए:		
i)	अपील की एक प्रति और;		
ii)	इस प्रति या इस आदेश की कोई प्रति के साथ केवल पांच (५.00) रुपये पे न्यायलय शुल्क टिकिट लगा होना चाहिए।		
4)	इस आदेश के विरुद्ध अपील करने इच्छुक व्यक्ति को ७.५% अधिकतम १० करोड़ शुल्क जमा करना होगा जहां शुल्क या ड्यूटी और जुर्माना विवाद में है या जुर्माना जहां इस तरह की दंड विवाद में है और अपील के साथ इस तरह के भुगतान का प्रमाण पेश करने में असफल रहने पर सीमा शुल्क अधिनियम, १९६२ के धरा १२९ के प्रावधानों का अनुपालन नहीं करने के लिए अपील को खारिज कर दिया जायेगा।		

**BRIEF FACTS OF THE CASE:**

On the basis of intelligence, the officers of Air Intelligence Unit (AIU), SVPIA, Customs Ahmedabad, intercepted a male passenger named **Shri Sureshbhai Labhubhai Saliya** (DOB: 07.05.1982) (hereinafter referred to as the said

“passenger/Noticee”) holding Indian Passport No. X5949956, residing at 2ND Floor, flat no-208, Radhe Residency, Dabholi Road Bapa Sitaram Nagar Kataragam, Surat City, Pin 395004, Gujarat, arriving from Dubai to Ahmedabad on 01.09.2025 at 09:28 Hrs via Indigo Flight no.6E1478 at the arrival hall of the Terminal-2 of SVPIA, Ahmedabad, while He was attempting to exit through green channel without making any declaration to the Customs. Passenger’s personal search and examination of his baggage was conducted in presence of two independent witnesses and the proceedings thereof were recorded under the Panchnama dated 01.09.2025.

**2.** Whereas, the passenger was questioned by the AIU Officers as to whether he was carrying any contraband/dutiable goods in person or in baggage to which he denied. The Officers asked/ informed the passenger that a search of his baggage as well his personal search was to be carried out and given him an option to carry out the search in presence of a magistrate or a gazetted officer of Customs to which the Passenger desired to be searched in presence of a Superintendent of Customs. Before commencing the search, the officers offered themselves to the said passenger for conducting their personal search, which was declined by the said passenger imposing faith in the Officers.

**2.1** Thereafter, in the presence of the panchas, the AIU officers asked the passenger to walk through the Door Frame Metal Detector (DFMD) machine. Before passing through the said DFMD Machine, the said passenger was asked to remove all the metallic objects he was wearing on his body/clothes. Thereafter, the passenger removed metallic objects from his body/clothes such as mobile, purse, etc., and kept these in a plastic tray placed on the table. Thereafter, the AIU officers asked him to pass through the Door Frame Metal Detector (DFMD) machine. When the passenger, passed through the DFMD Machine, no beep sound was heard, indicating that there was nothing metallic object on his body/clothes. Thereafter, in the presence of the panchas, the AIU officer instructed the passenger to put his entire luggage i.e. one trolley bag and two shoulder bags, on the X-Ray Bag Scanning Machine installed near the Green Channel at terminal 2 of SVPI Ahmedabad for scanning. On scanning of his baggage in the X-ray machine no suspicious images were seen. Thereafter, the AIU officers once again asked the passenger if he was carrying any contraband/ Restricted/dutiable goods which he wanted to declare to the customs, but the passenger still replied in negative. After thorough interrogation by the officers, in presence of the panchas, the passenger did not confess that he is carrying any high valued dutiable goods. Thereafter, the passenger along with the panchas and the officers come into the AIU office where, the said passenger was thoroughly examined and searched by the AIU officer and during his personal search, it was observed that he has concealed two silver colour rectangular pouches in his socks. The two silver colour rectangular pouches concealed inside the pair of socks wore by the passenger were suspected to contain semi solid gold paste.

**2.2** Thereafter, the officers called the Government Approved Valuer (Shri Kartikey Vasantrai Soni) and informed him that two silver colour pouches containing semi solid gold and chemical mix paste was recovered from the passenger and as per the passenger, said pouches is containing gold paste and chemical in semi solid form and that he needed to come to the Airport for verification, examination and valuation of the recovered item. In reply, the Government Approved Valuer informed the Officers that the testing of the material is possible only at his workshop as gold has to be extracted from such semi solid paste form by melting it and also informed the address of his workshop.

**2.3** Thereafter, the Officers, along with the passenger and the panchas left the Airport premises in a government vehicle and reached at the premises of the

Government Approved Valuer, located at 301, Golden Signature, Behind Ratnam Complex, C.G. Road, Ahmedabad-380006. On reaching the above-mentioned premises, the officers introduced the panchas as well as the passenger to one person namely Shri Kartikey Vasantrai Soni, Government Approved Valuer. Shri Kartikey Soni examined and weighed the said Silver Colour Pouches recovered from socks of the said passenger and provided detailed primary verification report of semi solid substance according to which said pouches contained semi solid substance consisting of Gold & chemical mix having Gross weight 1029.75 Grams. Thereafter, the Government Approved valuer led the Officers, panchas and the passenger to the furnace, which is located inside his business premises. Then, Shri Kartikey Soni started the process of converting the semi solid paste into solid gold by putting it into the furnace and upon heating the substance turned into liquid material. The said substance consisting of gold in liquid state was then taken out of furnace and poured in a bar shaped plate and then after cooling for some time, it became yellow coloured solid metal in form of a bar. After completion of the procedure, the Government Approved Valuer informed that One (01) Gold Bar totally weighing 888.40 Grams has been derived from 1029.75 Grams of semi solid pouches containing gold and Chemical mix. The photographs of the said semi solid gold and chemical mix Silver colour pouches and the One (01) Gold Bar derived from it are as under:



**2.4** The Government Approved valuer further vide his Certificate No. 546/2025-26 dated 01.09.2025, certified that the Gold Bar, weighing 888.40 Grams (Net Weight) is having purity 999.0/24 Kt. and is having Market Value of Rs.95,76,952/- (Rupees Ninety Five Lakhs Seventy Six Thousand Nine Hundred Fifty Two Only) and Tariff Value of Rs.85,66,512/- (Rupees Eighty Five Lakh Sixty Six Thousand Five Hundred Twelve Only), which has been calculated per the Notification No. 52/2025-Customs (N.T.) dated 29.08.2025 and Exchange Notification No. 36/2025-Customs (N.T.) dated 22.08.2025., The valuation report provided by the said Govt. Approved Valuer is summarized as under:

Sl. No.	Item Particulars	PCS	Net Weight (in Grams)	Market Value (in Rs.)	Tariff Value (in Rs.)
1.	Gold Bar- 999.0/24 Kt. purity	1	888.40	95,76,952/-	85,66,512/-

**2.5** Thereafter, after the completion of the extraction of gold at the workshop of Govt. Approved Valuer, the Officers, panchas and the passenger came back to the SVPI Airport in a Government Vehicle along with the One (01) Gold Bar weighing 888.40 Grams derived from the semi solid gold paste in two silver colour pouches and Chemical mix having gross weight of 1029.75 Grams, that was recovered, from Socks of the passengers, on 01.09.2025.

**SEIZURE OF THE ABOVE GOLD BAR AND UNEVEN PIECE OF GOLD: -**

**3.** The said One (01) Gold Bar totally weighing 888.40 Grams derived from 1029.75 Grams of semi solid gold paste and Chemical mix in two silver colour

pouches was carried by the passenger without any legitimate Import documents inside the Customs Area, therefore the same falls under the category of Smuggled Goods and stands liable for confiscation under the Customs Act, 1962. Therefore, the said gold, weighing 888.40Grams (Net Weight) is having purity 999.0/24Kt. and is having Market Value of Rs.95,76,952/-(Rupees Ninety Five Lakhs Seventy Six Thousand Nine Hundred Fifty Two Only ) and Tariff Value of Rs.85,66,512/-(Rupees Eighty Five Lakh Sixty Six Thousand Five Hundred Twelve Only), was placed under seizure vide Order dated 01.09.2025 issued under the provisions of Section 110(1) and 110(3) of the Customs Act, 1962 under reasonable belief that the subject Gold bar is liable for confiscation under Section 111 of the Customs Act, 1962.

#### **STATEMENT OF SHRI SURESHBHAI LABHUBHAI SALIYA:**

**4.** Statement of **Shri Sureshbhai Labhubhai Saliya** was recorded on 01.09.2025, wherein he inter alia stated that his personal details like name, address and other details as mentioned in the statement are true and correct and that he works in a diamond polishing company in Surat and earn around Rs 20,000/- per month.

**4.1** He further stated that he went to Dubai to meet his relatives on 29.08.2025 and came back today only i.e. on 01.09.2025. He has never indulged in any illegal/smuggling activities, but this was his first time when he carried gold.

**4.2** He further stated that when he was in Dubai, Shri. Manoj gave him two rectangular shape silver colour pouches of semi solid substance Dubai along with socks to conceal the above said pouches. He stated that he didn't have the address and Mobile number of Shri Manoj. He only met him first time and he told him after delivering these pouches he will get Rs.15,000/-.

**4.3** He further submitted that the said gold doesn't belongs to him as the same was given to him by Shri Manoj in Dubai. He also stated he has booked the tickets for Dubai to and fro from a known booking Agent by himself. He has paid the price of tickets to booking agent in cash from his saving.

**4.4** He further submitted that he was told that once he came out of Airport some person will contact him and take the said gold paste from him and pay him Rs.15,000.

**4.5** He perused the Panchnama dated 01.09.2025 and stated that the facts narrated therein are true and correct and that he had opted for green channel without declaring the dutiable goods with intention to evade payment of Customs duty on gold which was being carried by him by way of concealment inside the socks worn by him.

**4.6** In terms of Board's Circular No.13/2022-Customs dated 16.08.2022, the passenger, Shri Sureshbhai Labhubhai Saliya was arrested on 01.09.2025 under Section 104 of the Customs Act, 1962 and was further released on bail on satisfaction of bail bond conditions.

**4.7** From the investigation conducted in the case, it appears that the aforesaid gold was imported into India in violation of the provisions of the Baggage Rules, 2016, as amended, in as much as gold or silver in any form, other than ornaments is not allowed to be imported free of duty. In the instant case, One (01) Gold Bar totally weighing 888.40 Grams having purity of 24Kt/999.0 was derived from semi solid substance consisting of Gold and Chemical mix in two silver colour pouches having Gross weight 1029.75 Grams, found concealed inside the socks worn by the passenger, Shri Sureshbhai Labhubhai Saliya , who had arrived from Dubai to Ahmedabad on 01.09.2025 at 09:28 Hrs via Indigo Flight no.6E1478, at

Terminal-2 of SVPIA Ahmedabad. Further, the said quantity of gold is more than the permissible limit allowed to a passenger under the Baggage Rules and for these reasons alone it cannot be considered as a Bonafide Baggage under the Customs Baggage Rules, 2016.

**4.8** According to Section 77 of the Customs Act, 1962, the owner of any baggage, for the purpose of clearing it, is required to make a declaration of its contents to the proper Officer. In the instant case, the passenger had not declared the said gold items totally weighing 888.40Grams having purity of 24 Kt/999.0 because of malafide intention and thereby contravened the provisions of Section 77 of the Customs Act, 1962. It therefore, appears that the said One (01) Gold Bar totally weighing 888.40gms having purity of 24 Kt/999.0 recovered from Shri Sureshbhai Labhubhai Saliya, was attempted to be smuggled into India with an intention to clear the same without discharging duty payable thereon. It, therefore, appears that the said One (01) Gold Bar totally weighing 888.40Grams having purity of 24 Kt/999.0 is liable for confiscation under the provisions of Section 111 of the Customs Act, 1962. Consequently, One (01) Gold Bar totally weighing 888.40gms having purity of 24Kt/999.0 derived from semi solid substance consisting of Gold and Chemical mix in two silver colour pouches having Gross weight 1029.75 Grams, found concealed inside the socks worn by the passenger, Shri Sureshbhai Labhubhai Saliya, who had arrived from Dubai to Ahmedabad on 01.09.2025 at 09:28 Hrs via Indigo Flight no.6E1478, at Terminal-2 of SVPIA Ahmedabad was placed under seizure vide Panchnama dated 01.09.2025 and Seizure Order dated 01.09.2025 by the AIU Officers of Customs under the reasonable belief that the subject Gold is liable for confiscation.

#### **SUMMATION:**

**5.** The aforementioned proceedings indicates that Shri Sureshbhai Labhubhai Saliya attempted to smuggle the aforesaid gold into India and thereby rendered the aforesaid gold having the Market Value of Rs.95,76,952/- (Rupees Ninety Five Lakhs Seventy Six Thousand Nine Hundred Fifty Two Only) and Tariff Value of Rs.85,66,512/- (Rupees Eighty Five Lakh Sixty Six Thousand Five Hundred Twelve Only), liable for confiscation under the provisions of Section 111 of the Customs Act, 1962 and therefore the same was placed under seizure vide Order dated 01.09.2025 issued under the Provisions of Section 110(1) and 110(3) of the Customs Act, 1962 under reasonable belief that the subject One (01) Gold Bar is liable for confiscation under Section 111 of the Customs Act, 1962.

**6.** Further, the passenger Shri Sureshbhai Labhubhai Saliya vide **letter dated 02.09.2025** received through his advocate Shri Rishikesh J Mehra, claimed that his client visited Dubai and while coming back to India, he brought gold for his family from his personal savings and money borrowed from his friends. A Bill of Anjali Jewellers has also been produced under the said letter dated 02.09.2025 claiming the bill of purchase of the seized gold.

**7.** Upon receiving the aforesaid letter dated 02.09.2025 from the pax through his advocate, further statement of Shri Sureshbhai Labhubhai Saliya were taken on 29.11.2025; wherein he reiterated his earlier statement given on 01.09.2025 and confirmed the same in his own handwriting.

**7.1** He further stated that the said gold does not belong to her and the same was given to him by one Shri Manoj in Dubai.

**7.2** He also provided her bank statement for last 02 years, wherein it has been found that no substantial transaction took place to purchase the gold.

#### **8. LEGAL PROVISIONS RELEVANT TO THE CASE:**

## **Foreign Trade Policy 2015-20 and Foreign Trade (Development and Regulation) Act, 1992**

**8.1** In terms of Para 2.26 (a) of the Foreign Trade Policy 2015-20, only bona fide household goods and personal effects are allowed to be imported as part of passenger baggage as per limits, terms and conditions thereof in Baggage Rules notified by the Ministry of Finance. Gold can be imported by the banks (Authorized by the RBI) and agencies nominated for the said purpose under Para 4.41 of the Chapter 4 of the Foreign Trade Policy or any eligible passenger as per the provisions of Notification no. 50/2017-Customs dated 30.06.2017 (Sr. No. 356). As per the said notification "Eligible Passenger" means passenger of Indian Origin or a passenger holding valid passport issued under the Passport Act, 1967, who is coming to India after a period of not less than 6 months of stay abroad.

**8.2** As per Section 3(2) of the Foreign Trade (Development and Regulation) Act, 1992 the Central Government may by Order make provision for prohibiting, restricting or otherwise regulating, in all cases or in specified classes of cases and subject to such exceptions, if any, as may be made by or under the Order, the import or export of goods or services or technology.

**8.3** As per Section 3(3) of the Foreign Trade (Development and Regulation) Act, 1992 all goods to which any Order under sub-section (2) applies shall be deemed to be goods the import or export of which has been prohibited under section 11 of the Customs Act, 1962 (52 of 1962) and all the provisions of that Act shall have effect accordingly.

**8.4** As per Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 no export or import shall be made by any person except in accordance with the provisions of this Act, the rules and orders made thereunder and the foreign trade policy for the time being in force.

### **The Customs Act, 1962:**

**8.5** As per Section 2(3) – "baggage includes unaccompanied baggage but does not include motor vehicles.

**8.6** As per Section 2(22), of Customs Act, 1962 definition of 'goods' includes-

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

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

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

**8.9** As per Section 11(3) of the Customs Act, 1962 any prohibition or restriction or obligation relating to import or export of any goods or class of goods or clearance thereof provided in any other law for the time being in

force, or any rule or regulation made or any order or notification issued thereunder, shall be executed under the provisions of that Act only if such prohibition or restriction or obligation is notified under the provisions of this Act, subject to such exceptions, modifications or adaptations as the Central Government deems fit.

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

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

**8.12** Section 111. Confiscation of improperly imported goods, etc.:

*The following goods brought from a place outside India shall be liable to confiscation: -*

*(a) any goods imported by sea or air which are unloaded or attempted to be unloaded at any place other than a customs port or customs airport appointed under clause (a) of section 7 for the unloading of such goods;*

*(b) any goods imported by land or inland water through any route other than a route specified in a notification issued under clause (c) of section 7 for the import of such goods;*

*(c) any dutiable or prohibited goods brought into any bay, gulf, creek or tidal river for the purpose of being landed at a place other than a customs port;*

*(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;*

*(e) any dutiable or prohibited goods found concealed in any manner in any conveyance;*

*(f) any dutiable or prohibited goods required to be mentioned under the regulations in an import manifest or import report which are not so mentioned;*

*(g) any dutiable or prohibited goods which are unloaded from a conveyance in contravention of the provisions of section 32, other than goods inadvertently unloaded but included in the record kept under sub-section (2) of section 45;*

*(h) any dutiable or prohibited goods unloaded or attempted to be unloaded in contravention of the provisions of section 33 or section 34;*

*(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;*

*(k) any dutiable or prohibited goods imported by land in respect of which the order permitting clearance of the goods required to be produced under*

*section 109 is not produced or which do not correspond in any material particular with the specification contained therein;*

*(l) any dutiable or prohibited goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77;*

*(m) any goods which do not correspond in respect of value or in any other particular with the entry made under this Act or in the case of baggage with the declaration made under section 77 [in respect thereof, or in the case of goods under transshipment, with the declaration for transshipment referred to in the proviso to sub-section (1) of section 54];*

*(n) any dutiable or prohibited goods transited with or without transshipment or attempted to be so transited in contravention of the provisions of Chapter VIII;*

*(o) any goods exempted, subject to any condition, from duty or any prohibition in respect of the import thereof under this Act or any other law for the time being in force, in respect of which the condition is not observed unless the non-observance of the condition was sanctioned by the proper officer;*

*(p) any notified goods in relation to which any provisions of Chapter IV-A or of any rule made under this Act for carrying out the purposes of that Chapter have been contravened.*

8.13 Section 112. Penalty for improper importation of goods etc.:

any person,

*(a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under Section 111, or abets the doing or omission of such an act, or*

*(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harboring, keeping, concealing, selling or purchasing or in any manner dealing with any goods which he knows or has reason to believe are liable to confiscation under Section 111, shall be liable to penalty.*

8.14 As per Section 123 of Customs Act 1962,

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

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

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

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

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

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

8.15 All dutiable goods imported into India by a passenger in his baggage are classified under CTH 9803.

## **Customs Baggage Rules and Regulations:**

8.16 As per Customs Baggage Declaration (Amendment) Regulations, 2016 issued vide Notification no. 31/2016 (NT) dated 01.03.2016, 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 under Section 77 of the Customs Act, 1962.

8.17 As per Rule 5 of the Baggage Rules, 2016, a passenger residing abroad for more than one year, on return to India, shall be allowed clearance free of duty in his bon-fide baggage of jewellery upto weight, of twenty Grams with a value cap of Rs. 50,000/- if brought by a gentlemen passenger and forty Grams with a value cap of one lakh rupees, if brought by a lady passenger.

### **Notifications under Foreign Trade Policy and the Customs Act, 1962:**

8.18 As per Notification no. 49/2015-2020 dated 05.01.2022, gold in any form includes gold in any form above 22 carats under Chapter 71 of the ITC (HS), 2017, Schedule-1 (Import Policy) and import of the same is restricted.

8.19 Notification No. 50 /2017 –Customs New Delhi, the 30th June, 2017 G.S.R. (E).-

In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962) and sub-section (12) of section 3, of Customs Tariff Act, 1975 (51 of 1975), and in supersession of the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 12/2012 -Customs, dated the 17th March, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 185 (E) dated the 17th March, 2017, except as respects things done or omitted to be done before such supersession, the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts the goods of the description specified in column (3) of the Table below or column (3) of the said Table read with the relevant List appended hereto, as the case may be, and falling within the Chapter, heading, sub-heading or tariff item of the First Schedule to the said Customs Tariff Act, as are specified in the corresponding entry in column (2) of the said Table, when imported into India,- (a) from so much of the duty of customs leviable thereon under the said First Schedule as is in excess of the amount calculated at the standard rate specified in the corresponding entry in column (4) of the said Table; and (b) from so much of integrated tax leviable thereon under sub-section (7) of section 3 of said Customs Tariff Act, read with section 5 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) as is in excess of the amount calculated at the rate specified in the corresponding entry in column (5) of the said Table, subject to any of the conditions, specified in the Annexure to this notification, the condition number of which is mentioned in the corresponding entry in column (6) of the said Table:

	Chapter or Heading or sub-heading or tariff item	Description of goods	Standard rate	Condition No.
356.	71or 98	(i) Gold bars, other than tola bars, bearing manufacturer's or refiner's engraved serial number and weight expressed in metric units, and gold coins having gold content not below 99.5%, imported by the eligible passenger	10%	41

		(ii) Gold in any form other than (i), including tola bars and ornaments, but excluding ornaments studded with stones or pearls		
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### Condition no. 41 of the Notification:

If,- 1. (a) the duty is paid in convertible foreign currency; (b) the quantity of import does not exceed ten kiloGrams of gold and one hundred kiloGrams of silver per eligible passenger; and 2. the gold or silver is,- (a)carried by the eligible passenger at the time of his arrival in India, or (b) the total quantity of gold under items (i) and (ii) of Sr. No. 356 does not exceed one kilogram and the quantity of silver under Sr. No. 357 does not exceed ten kiloGrams per eligible passenger; and (c ) is taken delivery of from a customs bonded warehouse of the State Bank of India or the Minerals and Metals Trading Corporation Ltd., subject to the conditions 1 ; Provided that such eligible passenger files a declaration in the prescribed form before the proper officer of customs at the time of his arrival in India declaring his intention to take delivery of the gold or silver from such a customs bonded warehouse and pays the duty leviable thereon before his clearance from customs. Explanation.- For the purposes of this notification, "eligible passenger" means a passenger of Indian origin or a passenger holding a valid passport, issued under the Passports Act, 1967 (15 of 1967), who is coming to India after a period of not less than six months of stay abroad; and short visits, if any, made by the eligible passenger during the aforesaid period of six months shall be ignored if the total duration of stay on such visits does not exceed thirty days and such passenger has not availed of the exemption under this notification or under the notification being superseded at any time of such short visits.

9 From the above paras, it appears that during the period relevant to this case, import of gold in any form (gold having purity above 22 kt.) was restricted as per DGFT notification and import was permitted only by nominated agencies. Further, it appears that import of goods whereas it is allowed subject to certain conditions are to be treated as prohibited goods under section 2(33) of the Customs Act, 1962 in case such conditions are not fulfilled. As such import of gold is not permitted under Baggage and therefore the same is liable to be held as prohibited goods.

### 10. CONTRAVENTION AND VIOLATION OF LAWS:

It therefore appears that:

(i) **Shri Sureshbhai Labhubhai Saliya** had attempted to smuggle/ improperly import One (01) Gold Bar totally weighing 888.40 Grams having purity 24Kt./999.0 and having the Market Value of Rs.95,76,952/- (Rupees Ninety Five Lakhs Seventy Six Thousand Nine Hundred Fifty Two Only) and Tariff Value of Rs.85,66,512/- (Rupees Eighty Five Lakh Sixty Six Thousand Five Hundred Twelve Only), recovered from the semi solid substance consisting of Gold and Chemical mix in two silver colour pouches having Gross weight 1029.75 Grams, found concealed inside the socks worn by the passenger, with a deliberate intention to evade payment of Customs duty and fraudulently circumventing the restrictions and prohibitions imposed under the Customs Act, 1962 and other allied Acts, Rules and Regulations. The said passenger, **Shri Sureshbhai Labhubhai Saliya** had knowingly and intentionally smuggled the said gold in the form of semi solid substance consisting of Gold and Chemical mix having Gross weight 1029.75 Grams, found concealed inside the socks worn by her, on her arrival from Dubai to

Ahmedabad on 01.09.2025 at 09:28 Hrs via Indigo Flight no.6E1478 at Terminal-2 SVPIA Ahmedabad, with an intent to clear it illicitly to evade payment of Customs duty. Therefore, the improperly imported gold by **Shri Sureshbhai Labhubhai Saliya**, by way of concealment in socks and without declaring it to Customs on arrival in India cannot be treated as Bonafide household goods or personal effects. **Shri Sureshbhai Labhubhai Saliya** has thus contravened the Foreign Trade Policy 2015-20 and Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 read with Section 3(2) and 3(3) of the Foreign Trade (Development and Regulation) Act, 1992, as amended.

- (ii) **Shri Sureshbhai Labhubhai Saliya** by not declaring the gold brought by her in the form of One (01) Gold Bar totally weighing 888.40gms having purity of 24Kt/999.0 that was derived from semi solid substance consisting of Gold and Chemical mix in two silver colour pouches having Gross weight 1029.75 Grams, found concealed inside the socks worn by her, which included dutiable and prohibited goods to the proper officer of the Customs has contravened Section 77 of the Customs Act, 1962 read with Regulation 3 of Customs Baggage Declaration Regulations, 2013.
- (iii) The improperly imported/smuggled gold by **Shri Sureshbhai Labhubhai Saliya**, in the form of One (01) Gold Bar totally weighing 888.40gms having purity of 24Kt/999.0 that was derived from semi solid substance consisting of Gold and Chemical mix in two silver colour pouches having Gross weight 1029.75 Grams, found concealed inside the socks worn by her, before arriving from Dubai to Ahmedabad on 01.09.2025 at 09:28 Hrs via Indigo Flight No.6E1478 at Terminal -2, SVPIA Ahmedabad on 01.09.2025, for the purpose of the smuggling without declaring it to the Customs is thus liable for confiscation under Section 111(d), 111(f), 111(i), 111(j), 111(l) and 111(m) read with Section 2(22), 2(33), 2(39) of the Customs Act, 1962 and further read in conjunction with Section 11(3) of Customs Act, 1962.
- (iv) **Shri Sureshbhai Labhubhai Saliya**, by the above-described acts of omission/commission and/or abetment has rendered herself liable for penalty under Section 112 of Customs Act, 1962.
- (v) As per Section 123 of Customs Act 1962, the burden of proving that the said One (01) Gold Bar totally weighing 888.40Grams that was derived from semi solid substance consisting of Gold and Chemical mix in two silver coloured pouches having Gross weight 1029.75Grams found concealed inside the socks worn by the passenger, **Shri Sureshbhai Labhubhai Saliya** who arrived from Dubai to Ahmedabad on 01.09.2025 at 09:28 Hrs via Indigo Flight no.6E1478 at Terminal -2, SVPIA Ahmedabad on 01.09.2025 are not smuggled goods, is upon **Shri Sureshbhai Labhubhai Saliya**, who is the Noticee in this case.

**11.** In view of the above, it appears that the goods brought by **Shri Sureshbhai Labhubhai Saliya**, are liable for:

- (i) Confiscation of One Gold Bar, having purity 999.0/24Kt., weighing 888.40 Grams (Net Weight) and having the Market Value of Rs.95,76,952/- (Rupees Ninety Five Lakhs Seventy Six Thousand Nine Hundred Fifty Two Only) and Tariff Value of Rs.85,66,512/- (Rupees Eighty Five Lakh Sixty Six Thousand Five Hundred Twelve Only), derived from semi solid substance consisting of Gold and Chemical mix in two silver colour pouches having Gross weight 1029.750 Grams, found concealed inside the socks worn by the passenger,

**Shri Sureshbhai Labhubhai Saliya**, who arrived from Dubai to Ahmedabad on 01.09.2025 at 09:28 Hrs. via Indigo Flight No.6E1478, at Terminal-2 of SVPIA Ahmedabad, placed under Seizure under Panchnama Proceedings dated 01.09.2025 and Seizure Memo Order dated 01.09.2025, under the provision of Section 111(d), 111(f), 111(i), 111(j), 111(l) and 111(m) of the Customs Act, 1962; and

- (ii) **Shri Sureshbhai Labhubhai Saliya** is liable for penalty under the provisions of Section 112 of the Customs Act, 1962, for the omissions and commissions mentioned hereinabove.

## **DEFENCE REPLY**

**12.** Advocate Shri Rishikesh Mehra submitted written defence reply on behalf of his client Shri Sureshbhai Labhubhai Saliya on dated 23.02.2026, that, according to the panchnama dated 01.09.2025, One Gold Bar totally weighing 888.400 grams of 24Kt., derived from semi-solid paste form and valued at ₹85,66,512/- had been seized. He stated that the authorities seized the gold under the belief that it had been attempted to be smuggled through concealment, and therefore considered it liable for confiscation under the Customs Act, 1962.

**12.1** The advocate further submitted that his client had visited Dubai and, upon returning to India, had brought the gold for her family using her personal savings and money borrowed from a friend. He also stated that a purchase bill of the seized gold had been produced to prove legitimate purchase. The bill was issued by Anjali Jewellers, Sale No. HQ-30762 dated 30.08.2025, in the name of Shri Sureshbhai Labhubhai Saliya. According to him, the gold had been purchased legally and was brought for family purposes using his personal funds.

**12.2** The advocate further argued that the statement recorded under Section 108 of the Customs Act, 1962 had been taken under duress and fear. He submitted that officers had threatened arrest, had not allowed the client to read the statement properly, and had not permitted her to write the statement in Gujarati, which he understood well. He stated that the statement would have been retracted immediately if he had been given the opportunity, and therefore claimed that it was contrary to law.

**12.3** He also referred to Section 138B of the Customs Act, 1962, explaining that statements made before a gazetted customs officer during inquiry could be treated as evidence only under specific circumstances, such as when the person giving the statement was unavailable or when the court deemed it necessary in the interest of justice.

**12.4** The advocate cited the judgment of the Noor Aga vs. State of Punjab before the Supreme Court of India, stating that search, seizure, or arrest conducted under different statutes should follow uniform legal principles. He submitted that statements recorded during investigation must satisfy the conditions laid down in law before being used as evidence. He further argued that, as interpreted in the above case, a confessional statement of an accused could not be used improperly under Section 138B and was generally considered weak evidence.

**12.5** The advocate also referred to Article 20(3) of the Constitution of India, stating that no person accused of an offence could be compelled to be a witness against themselves, and that this constitutional protection applied to the circumstances of the recorded statement.

**12.6** Finally, he submitted that the client had orally declared the goods and referred to CBEC Circular No. 09/2001 issued by the Central Board of Excise and Customs. He argued that several judicial decisions had allowed the release of

seized gold on payment of redemption fine and duty, or permitted re-export. Therefore, he requested that the seized gold be released on payment of fine or allowed to be re-exported in accordance with the provisions of the Customs Act, 1962.

**12.7** The advocate also submitted following Orders for reference his submission-

**i** OIO No. 235/ADC/VM/O&A/2023-24 Dated 04.03.2024 In Shri Mohammed Junded Saiyed V/s. Additional Commissioner of Customs Ahmedabad. (Ingenious Concealed strips inside middle trolley bag, Case granted RF, PP)

**ii** OIO No. 114/ADC/VM/O&A/2024-25 Dated 01.08.2024 In Smt. Ashiyanabanu Altafbhai Rathod V/s. Additional Commissioner of Customs Ahmedabad. (Ingenious Concealed White Coloured Rhodium Coated gold jewellery Case granted RF, PP)

**iii** OIO No. 115/ADC/VM/O&A/2024-25 Dated 01.08.2024 In Smt. Nishath Parveen V/s. Additional Commissioner of Customs Ahmedabad.

**iv** OIA No. AHD-CUSTOM-000-APP-176-23-24 DT 25.09.2023 IN c/a Ms Shaikh Anisa Mohammed Amin V/s Commissioner of Customs (Appeals), Ahmedabad. (Ingenious Concealment in Gold Dust/Paste Case granted RF, PP)

**v** OIA No. AHD-CUSTOM-000-APP-179-23-24 DT 26.09.2023 IN c/a Mr Shaikh Imran Abdul Salam V/s Commissioner of Customs (Appeals), Ahmedabad. (Ingenious Concealment in Gold Dust/Paste Case granted RF, PP)

**vi** OIA No. AHD-CUSTOM-000-APP-332-23-24 DT 13.12.2023 IN c/a Mr Kachhadia Mahipal Vitthalbhai V/s Commissioner of Customs (Appeals), Ahmedabad. (Rhodium coated kada and white rhodium coated plate concealed in wrist, Case granted RF, PP)

**vii** Order No. 516-517/2023-CUS(WZ)/ASRA/MUMBAI DT 30.06.2023 in c/a (1) Saba Parveen Irfan Khan (2) Anwar M.T. V/s. Pr. Commissioner of Customs, CSI Airport, Mumbai. (Ingenious Concealment in Gold Dust/Paste 1478.3415 grams Case granted RF, PP)

**12.8** The advocate submitted that his client had brought the gold for the first time and had failed to declare it at the time of arrival. He stated that the client was willing to pay the applicable duty, penalty, and fine, and also opted for waiver of the Show Cause Notice under the provisions of the Customs Act, 1962. He further stated that the quantity of gold seized was not commercial in nature and had been brought only for personal and family use. He emphasized that the gold had not been ingeniously concealed, but had merely been kept safely due to fear of possible theft or robbery during travel.

**12.9** The advocate explained that the client had to travel from Ahmedabad to Surat, covering a distance of about 250 km, by road, train, and bus to reach his native place. He stated that the route passed through tribal belt areas where, according to police records, several incidents of loot, theft, highway robbery, and even murder had been reported. Therefore, he argued that the gold was kept safely for protection and not with the intention of concealment.

**12.10** He further submitted that gold is not a prohibited item, and the client's failure to declare it occurred due to ignorance of the law and because it was the first time he had brought gold while travelling. Lastly, the advocate stated that the client had no past history of any such offence and therefore requested the authority to take a lenient view while deciding the case on merits.

### **PERSONAL HEARING:**

**13.** The Passenger/ Noticee **Shri Sureshbhai Labhubhai Saliya** submitted a letter to this office through his Authorized Representative and Advocate Shri Rishikesh J. Mehra on dated **06.10.2025** and requested for waiver of SCN/Oral SCN under the provisions of Section 124 of Customs Act, 1962 and also requested to decide his case on merit without issuance of Show Cause Notice and by

providing the opportunity of personal hearing in the case before the final outcome of the case. Accordingly, the request for non-issuance of written Show Cause Notice is accepted in terms of the first proviso to Section 124 of the Customs Act, 1962 and accordingly, the representative of the noticee has been explained the provisions of Section 124 thoroughly regarding the provision for issuing SCN and waiver of SCN has been granted and matter is taken up for decision on merits.

**13.1** To follow the principle of natural justice, Personal Hearing in the matter was granted on **23.02.2026**. Shri Rishikesh J. Mehra, Advocate and authorized representative of Shri Sureshbhai Labhubhai Saliya, attended the Personal Hearing on behalf of the Noticee on dated 23.02.2026 accordingly. He produces copy of Vakalatnama to represent the case and requested to appear for personal hearing in person instead of video conferencing.

**13.2** He submitted written submission on dated 23.02.2026 and re-iterated the same. He stated that his client had arrived in India from Dubai and that the gold brought by him was not in commercial quantity. He submitted that his client had produced the purchase bill of the gold to prove its legitimate acquisition and contended that gold is not a prohibited item under the Customs Act, 1962. He therefore requested that the seized gold be released on payment of applicable duty, redemption fine, and penalty. In support of his submission, he relied upon Order No. 516-517/2023 issued by the Government of India, Department of Revenue, and submitted a copy of the order wherein gold had been released in a similar case. He further requested the authority to take a lenient view in the matter and allow release of the gold on payment of duty, fine, and penalty, and stated that he had nothing further to add.

#### **DISCUSSION AND FINDINGS:**

**14.** I have carefully gone through the facts of this case and find that the Noticee has submitted written reply through his advocate and appeared in Personal Hearing. I therefore proceed to decide the instant case on the basis of evidences and documents available, written reply of noticee and record of personal hearing. I find that the noticee has requested for waiver of Show Cause Notice vide letter dated **06.10.2025**. The request for non-issuance of written Show Cause Notice is accepted in terms of the first proviso to Section 124 of the Customs Act, 1962 and accordingly, the matter is taken up for decision on merits.

**15.** In the instant case, I find that the main issue to be decided is: -

- (i)** whether the One Gold Bar, having purity 999.0/24Kt., weighing 888.40 (Net Weight) and having the Market Value of Rs.95,76,952/- (Rupees Ninety Five Lakhs Seventy Six Thousand Nine Hundred Fifty Two Only) and Tariff Value of Rs.85,66,512/- (Rupees Eighty Five Lakh Sixty Six Thousand Five Hundred Twelve Only), derived from Semi Solid Substance Consisting Of Gold And Chemical Mix from Two Silver Colour Pouches having Gross weight 1029.750 Grams, found concealed inside the socks worn by the passenger Shri Sureshbhai Labhubhai Saliya, who arrived from Dubai to Ahmedabad on 01.09.2025 at 09:28 Hrs. via Indigo Flight No.6E1478, at Terminal-2 of SVPIA Ahmedabad, placed under Seizure under Panchnama Proceedings dated 01.09.2025 and Seizure Memo Order dated 01.09.2025 on a reasonable belief that the same is liable for confiscation under the provisions of Section 111 of the Customs Act, 1962 or not;
- (ii)** whether the passenger is liable for penal action under the provisions of Section 112 of the Customs Act, 1962 or not.

**16.** I find that the Panchnama has clearly drawn out the fact that on the basis of intelligence, officers of the Air Intelligence Unit (AIU), Customs at Sardar Vallabhbhai Patel International Airport (SVPIA), Ahmedabad, intercepted a male passenger, Shri Sureshbhai Labhubhai Saliya, arriving from Dubai on Indigo Flight 6E1478 on 01.09.2025. He attempted to exit through the Green Channel without declaring any dutiable goods. His baggage and personal search were conducted in the presence of two independent witnesses under a Panchnama dated 01.09.2025. The passenger initially denied carrying any contraband or dutiable goods and chose to be searched in the presence of a Superintendent of Customs.

**16.1** He passed through the Door Frame Metal Detector (DFMD) without any alarm, and his luggage scan in the X-ray machine also did not show suspicious items. Despite repeated questioning, he continued to deny carrying any prohibited or dutiable goods. However, during a detailed personal search at the AIU office, officers discovered two silver-colored rectangular pouches concealed inside the socks he was wearing, which were suspected to contain semi-solid gold paste.

**16.2** Thereafter, the officers called the Government Approved Valuer (Shri Kartikey Vasantrai Soni) for inspection, verification, examination and valuation of the recovered item. Shri Kartikey Soni examined and weighed silver-colored pouches recovered from a passenger's socks and prepared a primary verification report, finding that the pouches contained a semi-solid substance of gold mixed with chemicals, with a total gross weight of 1029.750 grams. Following this, a Government-Approved Valuer, along with officers, panchas, and the passenger, proceeded to a furnace at the valuer's business premises. Shri Kartikey Soni then melted the semi-solid substance in the furnace, transforming it into liquid gold, which was poured into a bar-shaped mold. After cooling, the substance solidified into yellow-colored gold, resulting in One Gold Bar, with a combined weight of 888.40 grams, derived from the original 1029.750 grams of semi-solid material.

**17.** It is on record that Shri Kartikey Vasantrai Soni, the Government Approved Valuer further vide his **Certificate No. 546/2025-26 dated 01.09.2025**, certified that the gold bar, weighing 888.40 grams (Net Weight) is having purity 999.0/24Kt. and is having Market Value of Rs.95,76,952/- (Rupees Ninety Five Lakhs Seventy Six Thousand Nine Hundred Fifty Two Only) and Tariff Value of Rs.85,66,512/- (Rupees Eighty Five Lakh Sixty Six Thousand Five Hundred Twelve Only), which has been calculated per the Notification No. 52/2025-Customs (N.T.) dated 29.08.2025 and Exchange Notification No. 36/2025-Customs (N.T.) dated 22.08.2025). The details of the Valuation of the said gold bar are tabulated as below:

Name of passenger	Details of gold Items	Certificate no.	Net Weight	Purity	Market Value (Rs)	Tariff Value (Rs)
Shri Sureshbhai Labhubhai Saliya	one gold bar derived from the original 1029.750 grams of semi-solid material	546/2025-26	888.40 Gram	999.0 /24Kt	95,76,952/-	85,66,512/-

**18.** I find that the passenger/noticee had neither questioned the manner of the panchnama proceedings at the material time nor controverted the facts detailed in the panchnama during the course of recording of his statement. The offence committed was admitted by the noticee in his statement recorded on 01.09.2025 under Section 108 of the Customs Act, 1962. I find from the content of the statement dated **01.09.2025** that the Statement under Section 108 of Customs Act, 1962 was tendered voluntarily without any threat, coercion or duress and as per his say and after understanding and reading the same, she put his dated signature. He clearly admitted that he was aware that importation of gold in

commercial quantity in baggage is not allowed and same was liable for Customs Duty, therefore, he had opted for green channel without declaring the dutiable goods with intention to evade payment of Customs duty on gold which was being carried by his by way of concealment inside the socks worn by him, he intentionally did not declare the same and tried to remove without declaration.

**18.1** I also find that Shri Sureshbhai Labhubhai Saliya, through a letter dated 02.09.2025 submitted by his advocate Shri Rishikesh J. Mehra, claimed that during her visit to Dubai he had purchased the gold for his family using his personal savings and money borrowed from friends. Along with the letter, a purchase bill from Anjali Jewellers was also submitted to support the claim regarding the seized gold. However, upon receipt of the said letter, her further statement was recorded on **29.11.2025**, wherein she reiterated and confirmed her earlier statement dated 01.09.2025 in his own handwriting. In this statement, he again stated that the seized gold did not belong to him and that it had been given to him by a person named Shri Manoj in Dubai. It is on the record that the noticee had tendered his statements voluntarily under Section 108 of Customs Act, 1962 and Statement recorded under Section 108 of Customs Act, 1962 has evidentiary value under the provision of law. The judgments relied upon in this matter as follows: -

- Assistant Collector of Central Excise, Rajamundry Vs. Duncan Agro India Ltd reported in 2000 (120) E.L.T 280 (SC) wherein it was held that "Statement recorded by a Customs Officer under Section 108 is valid evidence"
- In 1996 (83) E.L.T 258 (SC) in case of Shri Naresh J Sukhwani V. Union of India wherein it was held that "It must be remembered that the statement before the Customs official is not a statement recorded under Section 161 of the Criminal Procedure Code 1973. Therefore, it is material piece of evidence collected by Customs Official under Section 108 of the Customs Act,1962"
- There is no law which forbids acceptance of voluntary and true admissible statement if the same is later retracted on bald assertion of threat and coercion as held by Hon'ble Supreme Court in case of K.I Pavunny Vs. Assistant Collector (HQ), Central Excise Cochin (1997) 3 SSC 721.
- Hon'ble High Court of Mumbai in FERA Appeal No. 44 of 2007 in case of Kantilal M Jhala Vs. Union of India, held that "Confessional Statement corroborated by the Seized documents admissible even if retracted."
- Hon'ble Supreme Court in case of Surjeet Singh Chhabra Vs. Union of India [Reported in 1997(89)E.L.T 646(S.C)] held that evidence confession statement made before Customs Officer, though retracted within six days, is an admission and binding, Since Customs officers are not Police Officers under Section 108 of Customs Act and FERA"

**19.** Further, I find that during the personal hearing the authorized representative mentioned that due to ignorance of law the noticee was unable to declare the same and not well versed with the Customs Provisions, Rules and Regulation. In this regard, I observed that, in any case ignorance of law is no excuse not to follow something which is required to be done by the law in a particular manner. This principle has been recognized and followed by the Apex Court in a catena of its judgments. Hon'ble High Court of Calcutta in case of Provash Kumar Dey Vs. Inspector of Central Excise and others has held that *ignorance of law is no excuse and accordingly the petitioner was rightly found guilty for contravention of Rule 32(2) [1993(64) ELT 23(Del.)]*. Therefore, the plea of the noticee that due to ignorance of law, he was unable to declare the two silver coloured rectangular pouches containing semi solid gold and chemical mix paste

having Gross weight 1029.750 grams were extracted from his socks, is not tenable and far from the truth as he clearly admitted in his statement that he intentionally not declared the two silver coloured rectangular pouches containing semi solid gold and chemical mix paste having Gross weight 1029.750 grams to clear them illicitly without payment of duty.

**20.** I find that as per paragraph 2.20 of Foreign Trade Policy (FTP), *bona fide* household goods and personal effects may be imported as a part of passenger's baggage as per the limit, terms and conditions thereof in Baggage Rules, 2016 notified by Ministry of Finance. Further, in terms of EXIM Code 98030000 under ITC (HS) Classification of Export and Import items 2009-2014 as amended, import of all dutiable article by a passenger in his baggage is "Restricted" and subject to fulfilment of conditions imposed under the Customs Act, 1962 and the baggage rules, 2016.

Further, as per the Notification No. 12/2012-Cus dated 17.03.2012 (S.I-321) and Notification No. 50/2017-Cus dated 30.06.2017, Gold bars, other than tola bars, bearing manufacturer's or refiner's engraved serial number and weight expressed in metric units, and gold coins having gold content not below 99.5%, imported by the eligible passenger and gold in any form including tola bars and ornaments are allowed to be imported upon payment of applicable rate of duty as the case may be subject to conditions prescribed. *As per the prescribed condition the duty is to be paid in convertible foreign currency, on the total quantity of gold so imported not exceeding 1 kg only when gold is carried by the "eligible passenger" at the time of his arrival in India or imported by him within 15 days of his arrival in India.* It has also been explained for purpose of the notifications, "eligible passengers" means a passenger of India origin or a passenger holding a valid passport issued under Passport Act, 1967 who is coming to India after a period of not less than six months of stay abroad and short visits, if any made by the eligible passenger during the aforesaid period of 06 months shall be ignored, if the total duration of such stay does not exceeds 30 days and such passenger have not availed of the exemption under this notification.

**21.** Further, as per Notification no. 49/2015-2020 dated 05.01.2022 (FTP), gold in any form includes gold in any form above 22 carats under Chapter 71 of the ITC (HS), 2017, Schedule-1 (Import Policy) and import of the same is **restricted**. Further, I find that as per Rule 5 of the Baggage Rules, 2016, a passenger residing abroad for more than one year, on return to India, shall be allowed clearance free of duty in the bonafide baggage, jewellery upto weight, of twenty grams with a value cap of Rs.50,000/- if brought by a gentlemen passenger and forty grams with a value cap of one lakh rupees, if brought by a lady passenger. Further, the Board has also issued instructions for compliance by "eligible passenger" and for avoiding such duty concession being misused by the unscrupulous elements vide Circular No. 06/2014-Cus dated 06.03.2014.

**22.** A combined reading of the above-mentioned legal provision under the Foreign Trade regulations, Customs Act, 1962 and the notification issued thereunder, clearly indicates that import of gold including gold jewellery through baggage is restricted and condition have been imposed on said import by a passenger such as he/she should be of Indian origin or an Indian passport holder with minimum six months stay abroad etc. only passengers who satisfy these mandatory conditions can import gold as a part of their bona fide personal baggage and the same has be declared to the Customs at their arrival and pay applicable duty in foreign currency/exchange. I find that these conditions are nothing but restrictions imposed on the import of the gold through passenger baggage. I find that noticee has brought the gold having total (Net Weight) 888.400 grams (derived from the original 1029.750 grams of semi-solid substance of gold

mixed with chemicals), which is more than the prescribed limit. Further, the noticee has not declared the same before customs on his arrival which is also an integral condition to import the gold and same had been admitted in his voluntary statement that he wanted to clear the gold items clandestinely without payment of eligible custom duty. Moreover, the prescribed conditions of the eligible passenger, of staying abroad continuously more than six months is not fulfilled in the instant case. Apart from that the noticee has not any convertible foreign exchange with her for payment of duty as required, which shows the intention of the noticee that he did not want to pay customs duty and opted green channel without making any declaration.

**23.** With respect to the prohibition of the goods, it is to submit that the Hon'ble Apex Court in case of M/s. Om Prakash Bhatia Vs. Commissioner of Customs Observed the following: -

“Further, Section 2(33) of the Act defines “Prohibited Goods” as under: - Prohibited goods means any goods import or export of which subject to any prohibition under this Act or any other law for time being in force but does not include any such goods in respect of which conditions subject to which the goods are to be permitted to be imported or exported have been complied with. *“From the aforesaid definition, it can be stated that (a) if there is any prohibition of import or export of goods under the Act or any other law for time being in force, it would be considered to be prohibited goods; and (b) this would not include any such goods in respect of which the conditions, subject to which the goods are imported or exported, have been complied with. This would mean that if the conditions prescribed for import or export of the goods are not complied with, it would be considered to be prohibited goods.* This would also be clear from the Section 11 of Customs Act, 1962 which empowers the Central Government to prohibit either ‘absolutely’ or ‘subject to such conditions’ to be fulfilled before or after clearance, as may be specified in the Notification, the import or export of the goods of any specified description. The notification can be issued for the purpose specified in sub section (2). Hence, prohibition of importation or exportation could be subject to certain prescribed conditions to be fulfilled before/after clearance of goods. If the conditions are not fulfilled, it may amount to prohibited goods. *This is also made clear by this court in Sheikh Mohd. Omer vs. Collector of Customs, Calcutta and others [(1970) 2 SSC 728] wherein it was contended that the expression ‘prohibited’ used in Section 111 (d) of the Customs Act, 1962 must be considered as a total prohibition and the expression does not be within its fold the restriction imposed in clause (3) of import control order, 1955. The Court negated the said contention and held thus: - “... what clause (d) of Section 111 says is that any goods which are imported or attempted to be imported contrary to” any prohibition imposed by any law for the time being in force in this country is liable to be confiscated. “Any prohibition” referred to in that section applies to every type of “prohibition”. That prohibition may be complete or partial. Any restriction on import or export is to an extent a prohibition. The expression “any prohibition” in section 111(d) of the Customs Act, 1962 includes restriction. Merely because section 3 of import or export (control) Act, 1947 uses three different expressions ‘prohibiting’, ‘restricting’ or ‘otherwise controlling’, we cannot cut down the amplitude of the word “any prohibition” in Section 111(d) of Customs Act, 1962. “Any prohibition” means every prohibition. In others words, all types of prohibition. Restriction is one type of prohibition. **From the said judgment of the Apex Court, it is amply clear that the goods are to be treated as ‘prohibited’ if there is failure to fulfil the conditions/restrictions imposed by the Government on such import or export. In this case, I find that the noticee had tried to remove the impugned good i.e. One Gold Bar totally weighing 888.400 derived from the original 1029.750 grams of semi-solid substance of gold mixed with chemicals, by concealment and attempted to clear from the***

**Customs authorities without declaration and without payment of custom duty. Accordingly, the goods brought by the noticee falls under the ambit of “Prohibited Goods” under the definition of Section 2(33) of the Customs Act, 1962.**

Further, Hon’ble Madras High Court in the case of Commissioner of Customs (AIR) Chennai-I Vs. Samynathan Murugesan [2009 (247) E.L.T 21 (Mad.)] relied on the definition of ‘Prohibited goods’ given by the Apex Court in case of Omprakash Bhatia Vs. Commissioner of Customs, Delhi [2003(155) ELT 423(SC)] and has also held as under:

*“In view of meaning of the word “prohibition” as construed laid down by the Supreme Court in Om Prakash Bhatia case we have to hold the imported gold was ‘prohibited goods’ since the respondent is not eligible passenger who did not satisfy the conditions”*

**24.** Further, the advocate of the noticee submitted during personal hearing as well as written submission dated 23.02.2026, that his client had travelled to Dubai and, while returning to India, brought the gold for his family using his personal savings and money borrowed from a friend. He stated that a purchase bill was produced to establish the legitimate purchase of the seized gold. The bill, issued by Anjali Jewellers under Sale No. HQ-30762 dated 30.08.2025 in the name of Shri Sureshbhai Labhubhai Saliya, was presented as proof that the gold had been purchased legally and brought to India for family purposes using his personal funds. In this regard, I would like to refer to the conditions prescribed in Para 3 of Circular 06/2014-Cus dated 06.03.2014 wherein it is explicitly mentioned that “in case of gold in any other form, including ornaments, the eligible passenger must be asked to declare item wise inventory of the ornaments being imported. This inventory, duly signed and duly certified by the eligible passenger and assessing officer, should be attached with the baggage receipt”. And “Wherever possible, the field officer, may, inter alia, ascertain the antecedents of such passengers, source for funding for gold as well as duty being paid in the foreign currency, person responsible for booking of tickets etc. so as to prevent the possibility of the misuse of the facility by unscrupulous elements who may hire such eligible passengers to carry gold for them”. From the conditions it is crystal clear that all eligible passengers have to declare the item wise inventory of the ornaments and have to provide the source of money from which gold was purchased.

Merely claiming the ownership on the gold without any supporting documentary evidences, bank transactions details, which proves that the gold was purchased in legitimate way and as bona fide personal use, does not make him owner. **Therefore, the claim of noticee that the said gold was purchased by him is not genuine and an afterthought.**

Therefore, it is a case of smuggling of gold without declaring in the aforesaid manner with intent to evade payment of Customs duty is conclusively proved. Thus, it is proved that noticee violated Section 77, Section 79 of the Customs Act for import/smuggling of gold which was not for bonafide use and thereby violated Rule 11 of the Foreign Trade Regulation Rules 1993, and para 2.26 of the Foreign Trade Policy 2015-20. As gold is a notified item and when notified goods are seized under the Customs Act, 1962, on the reasonable belief that they are smuggled goods, the burden to prove that they are not smuggled, shall be on the person from whose possession the goods have been seized in terms of Section 123 of Customs Act, 1962. In the instant case, the noticee has failed to submit any documentary evidence during the personal hearing. Therefore, I hold that the noticee has nothing to submit in his defense and claim of the noticee that

the gold was purchased by him is not tenable on basis of no documentary evidence.

**25.** Further, the noticee has accepted that he had not declared the said gold bar weighing 888.400 grams (Net Weight), derived from the original 1029.750 grams of semi-solid substance of gold mixed with chemicals concealed by him in two silver-coloured rectangular pouches in the socks worn by him, on arrival to the Customs authorities. It is clear case of non-declaration with an intent to smuggle the gold. Accordingly, there is sufficient evidence to say that the noticee had kept the One Gold Bar weighing 888.400 grams (Net Weight), derived from the original 1029.750 grams of semi-solid substance of gold mixed with chemicals, which was in her possession and failed to declare the same before the Customs Authorities on her arrival at SVPIA, Ahmedabad. The case of smuggling of gold recovered from him possession and which was kept undeclared with an intent of smuggling the same and in order to evade payment of Customs duty is conclusively proved.

**26.** From the facts discussed above, it is evident that noticee had carried the said gold weighing 888.400 Grams (Net Weight), while arriving from Dubai to Ahmedabad, with an intention to smuggle and remove the same without payment of Customs duty, thereby rendering the said One Gold Bar of 24Kt./999.00 purity totally weighing 888.400 Grams (Net Weight) which was derived from the original 1029.750 grams of semi-solid substance of gold mixed with chemicals, liable for confiscation, under the provisions of Sections 111(d), 111(f), 111(i), 111(j), 111(l) and 111(m) of the Customs Act, 1962. By concealing the said gold and not declaring the same before the Customs, it is established that the noticee had a clear intention to smuggle the gold clandestinely with the deliberate intention to evade payment of Customs duty. The commission of above act made the impugned goods fall within the ambit of 'smuggling' as defined under Section 2(39) of the Act.

**27.** It is seen that for the purpose of customs clearance of arriving passengers, a two-channel system is prescribed/adopted i.e. Green Channel for passengers not having dutiable goods and Red Channel for passengers having dutiable goods and all passengers have to ensure to file correct declaration of their baggage. I find that the Noticee had not filed the baggage declaration form and had not declared the said gold which was in his possession, as envisaged under Section 77 of the Act read with the Baggage Rules, 2016 and Regulation-3 of Customs Baggage Declaration Regulations, 2013 and he had tried to exit through Green Channel which shows that the noticee was trying to evade the payment of eligible customs duty. I also find that the definition of "eligible passenger" is provided under Notification No. 50/2017- Customs New Delhi, the 30th June, 2017 wherein it is mentioned as - "eligible passenger" means a passenger of Indian origin or a passenger holding a valid passport, issued under the Passports Act, 1967 (15 of 1967), who is coming to India after a period of not less than six months of stay abroad; and short visits, if any, made by the eligible passenger during the aforesaid period of six months shall be ignored if the total duration of stay on such visits does not exceed thirty days. I find that the noticee has not declared the gold before customs authority. It is also observed that the imports were also for non-bonafide purposes. Therefore, the said improperly imported gold weighing 888.400 Grams (Net Weight) derived from the original 1029.750 grams of semi-solid substance of gold mixed with chemicals, concealed by him, without declaring to the Customs on arrival in India cannot be treated as bonafide household goods or personal effects. The noticee has thus contravened the Foreign Trade Policy 2015-20 and Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 read with Section 3(2) and 3(3) of the Foreign Trade (Development and Regulation) Act, 1992.

It, is therefore, proved that by the above acts of contravention, the noticee has rendered the said One Gold Bar weighing 888.400 Grams (Net Weight), having Market Value of Rs.95,76,952/- (Rupees Ninety Five Lakhs Seventy Six Thousand Nine Hundred Fifty Two Only) and Tariff Value of Rs.85,66,512/- (Rupees Eighty Five Lakh Sixty Six Thousand Five Hundred Twelve Only) recovered and seized from the noticee vide Seizure Order dated 01.09.2025 under Panchnama proceedings dated 01.09.2025 liable to confiscation under the provisions of Sections 111(d), 111(f), 111(i), 111(j), 111(l) and 111(m) of the Customs Act, 1962. By using the modus of gold concealed by him in form of semi solid substance consisting of Gold and Chemical mix in two silver colour rectangular pouches, inside the socks worn by him, it is observed that the noticee was fully aware that the import of said goods is offending in nature. It is, therefore, very clear that he has knowingly carried the gold and failed to declare the same on his arrival at the Customs Airport. It is seen that he has involved herself in carrying, keeping, concealing, and dealing with the impugned goods in a manner which he knew or had reasons to believe that the same is liable to confiscation under the Act. It is, therefore, proved beyond doubt that the Noticee has committed an offence of the nature described in Section 112 of the Customs Act, 1962 making him liable for penalty under Section 112 of the Customs Act, 1962.

**28.** I find that the Noticee confessed of carrying the said gold of 888.400 Grams (Net Weight) concealed by him and attempted to remove the said gold from the Airport without declaring it to the Customs Authorities violating the para 2.26 of the Foreign Trade Policy 2015-20 and Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 read with Section 3(2) and 3(3) of the Foreign Trade (Development and Regulation) Act, 1992 further read in conjunction with Section 11(3) of the Customs Act, 1962 and the relevant provisions of Baggage Rules, 2016 and Customs Baggage Declaration Regulations, 2013 as amended. As per Section 2(33) "prohibited goods" means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with. The improperly imported gold by the noticee without following the due process of law and without adhering to the conditions and procedures of import have thus acquired the nature of being prohibited goods in view of Section 2(33) of the Act.

**29.** It is quite clear from the above discussions that the gold was concealed and not declared to the Customs with the sole intention to evade payment of Customs duty. The record before me shows that the noticee did not choose to declare the prohibited/ dutiable goods with the willful intention to smuggle the impugned goods. The said gold items weighing 888.400 Grams (Net Weight), having Market Value of Rs.95,76,952/- (Rupees Ninety Five Lakhs Seventy Six Thousand Nine Hundred Fifty Two Only) and Tariff Value of Rs.85,66,512/- (Rupees Eighty Five Lakh Sixty Six Thousand Five Hundred Twelve Only) recovered and seized from the noticee vide Seizure Order dated 01.09.2025 under Panchnama Proceedings dated 01.09.2025. Despite having knowledge that the goods had to be declared and such import without declaration and by not discharging eligible customs duty, is an offence under the Act and Rules and Regulations made under it, the noticee had attempted to remove the said gold items total weighing 888.400 Grams (Net Weight), by deliberately not declaring the same by him on arrival at airport with the willful intention to smuggle the impugned gold into India. I, therefore, find that the passenger has committed an offence of the nature described in Section 112(a) & 112(b) of the Customs Act, 1962 making him liable for penalty under the provisions of Section 112 of the Customs Act, 1962.

**30.** I find that the manner of concealment, in this case clearly shows that the noticee had attempted to smuggle the seized gold to avoid detection by the Customs Authorities. Further, no evidence has been produced to prove licit import of the seized gold at the time of interception. Merely claiming the ownership without any documentary backing, is not proved that the gold was purchased in legitimate way and belonged to the noticee. Thus, the noticee has failed to discharge the burden placed on her in terms of Section 123. Further, from the Panchnama and Statement, I find that the intention of noticee was not to declare the said gold item viz. One Gold Bar totally weighing 888.400 Grams (Net Weight) and tried to remove them clandestinely, to evade payment of customs duty. I find that it is settled by the judgment of Hon'ble Supreme Court in the case of Garg Wollen Mills (P) Ltd Vs. Additional Collector Customs, New Delhi [1998 (104) ELT 306(S.C)] that the option to release 'Prohibited goods' on redemption fine is discretionary. In the case of Raj Grow Impex (Supra), the Hon'ble Supreme Court has held that "that when it comes to discretion, the exercise thereof has to be guided by law; has to be according to the rules of reason and justice; has to be based on relevant consideration." Hon'ble Delhi High Court has, in case of Raju Sharma [2020(372) ELT 249 (Del.)] held that "Exercise of discretion by judicial, or quasi-judicial authorities, merits interferences only where the exercise is perverse or tainted by the patent illegality, or is tainted by oblique motive." Also, in the judgment the Hon'ble Delhi High Court in its order dated 21.08.23 in W.P (C) Nos. 8902/2021, 9561/2021, 13131/2022, 531/2022 & 8083/2023 held that "---- an infraction of a condition for import of goods would also fall within the ambit of Section 2(33) of the Act and thus their redemption and release would become subject to the discretionary power of Adjudicating Officer." Therefore, keeping in view the judicial pronouncement above and nature of concealment alongwith the facts of the case, **I am therefore, not inclined to use my discretion to give an option to redeem the gold on payment of redemption fine, as envisaged under Section 125 of the Act.** Further, to support my view, I also relied upon the following judgment which are as under:

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

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

*The case has been maintained by the Hon'ble Supreme Court in Abdul Razak Vs. Union of India 2017 (350) E.L.T. A173 (S.C.) [04-05-2012]*

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

**30.3** Further I find that in a case decided by the Hon'ble High Court of Madras reported at 2016-TIOL-1664-HC-MAD-CUS in respect of Malabar Diamond Gallery Pvt Ltd, the Court while holding gold jewellery as prohibited goods under Section

2(33) of the Customs Act, 1962 had recorded that "restriction" also means prohibition. In Para 89 of the order, it was recorded as under;

*89. While considering a prayer for provisional release, pending adjudication, whether all the above can wholly be ignored by the authorities, enjoined with a duty, to enforce the statutory provisions, rules and notifications, in letter and spirit, in consonance with the objects and intention of the Legislature, imposing prohibitions/restrictions under the Customs Act, 1962 or under any other law, for the time being in force, we are of the view that all the authorities are bound to follow the same, wherever, prohibition or restriction is imposed, and when the word, "restriction", also means prohibition, as held by the Hon'ble Apex Court in Om Prakash Bhatia's case (cited supra).*

**30.4** The Hon'ble High Court of Madras in the matter of Commissioner of Customs (AIR), Chennai-I Versus P. Sinnasamy 2016(344)ELT-1154(Mad.) held-

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

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

**30.5** In 2019 (370) E.L.T. 1743 (G.O.I.), before the Government of India, Ministry of Finance, [Department of Revenue - Revisionary Authority]; Ms. Mallika Arya, Additional Secretary in Abdul Kalam Ammangod Kunhamu vide Order No. 17/2019-Cus., dated 07.10.2019 in F. No. 375/06/B/2017-RA stated that it is observed that C.B.I. & C. had issued instruction vide Letter F. No. 495/5/92-Cus. VI, dated 10.05.1993 wherein it has been instructed that "in respect of gold seized for non-declaration, no option to redeem the same on redemption fine under Section 125 of the Customs Act, 1962 should be given except in very trivial cases where the adjudicating authority is satisfied that there was no concealment of the gold in question".

**30.6** The Hon'ble High Court of Delhi in the matter of Rameshwar Tiwari Vs. Union of India (2024)17 Centax 261 (Del.) has held-

*"23. There is no merit in the contention of learned counsel for the Petitioner that he was not aware of the gold. Petitioner was carrying the packet containing gold. The gold items were concealed inside two pieces of Medicine Sachets which were kept inside a Multi coloured zipper jute bag further kept in the Black coloured zipper hand bag that was carried by the Petitioner. The manner of concealing the gold clearly establishes knowledge of the Petitioner that the goods were liable to be confiscated under section 111 of the Act. The Adjudicating Authority has rightly held that the manner of concealment revealed his knowledge about the prohibited nature of the goods and proved his guilt knowledge/mens-rea."*

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*"26. The Supreme Court of India in State of Maharashtra v. Natwarlal Damodardas Soni [1980]4SCC669/1983(13) E.L.T. 1620 (SC)/1979 taxmann.com 58(SC) **has***

**held that smuggling particularly of gold, into India affects the public economy and financial stability of the country.”**

**31.** Given the facts of the present case before me and the Judgements and Rulings cited above, I find that the manner of concealment, in this case clearly shows that the noticee had attempted to smuggle the seized gold to avoid detection by the Customs Authorities. Further, no evidence has been produced to prove licit import of the seized gold items and thus, failed to discharge the burden placed on him in terms of Section 123. Further, from the Panchnama and Statements, I find that the manner of concealment of the gold is **ingenious** in nature, as the noticee put the gold in form of semi solid substance consisting of Gold and Chemical mix having Gross weight 1029.750 Grams, found concealed inside the socks worn by the passenger intention to smuggle the same into India and evade payment of customs duty. Therefore, the One Gold Bar weighing 888.400 Grams (Net Weight) of 24Kt./999.0 purity in form of semi solid substance consisting of Gold and Chemical mix, is therefore, liable to be **confiscated absolutely. I therefore hold in unequivocal terms that the gold weighing 888.400 Grams (Net Weight) of 24Kt./999.0 purity, placed under seizure would be liable to absolute confiscation under Section 111(d), 111(f), 111(i), 111(j), 111(l) & 111(m) of the Customs Act, 1962.**

**32.** As regard imposition of penalty under Section 112 of Customs Act, 1962 in respect of the Noticee **Shri Sureshbhai Labhubhai Saliya**, I find that in the instant case, the principle of mens-rea on behalf of noticee is established as the noticee has failed to follow the procedure and intentionally involved in smuggling of the gold and deliberately concealed the gold in form of semi solid substance consisting of Gold and Chemical mix having Gross weight 1029.750 Grams, found in two silver colour rectangular pouches which were concealed inside the socks worn by him. On deciding the penalty in the instant case, I also take into consideration the observations of Hon'ble Apex Court laid down in the judgment of M/s. Hindustan Steel Ltd Vs. State of Orissa; wherein the Hon'ble Apex Court observed that “The discretion to impose a penalty must be exercised judicially. A penalty will ordinarily be imposed in case where the party acts deliberately in defiance of law, or is guilty of contumacious or dishonest conduct or act in conscious disregard of its obligation; but not in cases where there is technical or venial breach of the provisions of Act or where the breach flows from a bona fide belief that the offender is not liable to act in the manner prescribed by the Statute.” In the instant case, the noticee was attempting to smuggle the said gold items and attempting to evade the Customs Duty by not declaring the said One Gold Bar weighing 888.400 Grams (Net Weight) having purity of 999.0/24Kt. Hence, the identity of the goods is not established and non-declaration at the time of import is considered as an act of omission on his part. I further find that the noticee had involved himself and abetted the act of smuggling of the said One Gold Bar weighing 888.400 Grams (Net Weight), carried by him. He has agreed and admitted in his statements that he travelled from Dubai to Ahmedabad with the said gold items. Despite his knowledge and belief that the gold carried by him is an offence under the provisions of the Customs Act, 1962 and the Regulations made under it, the noticee attempted to smuggle the said One Gold Bar of 888.400 Grams (Net Weight), having purity 999.0 by concealment. Thus, it is clear that the noticee has concerned himself with carrying, removing, keeping, concealing and dealing with the smuggled gold which he knows very well and has reason to believe that the same are liable for confiscation under Section 111 of the Customs Act, 1962. Accordingly, I find that the noticee is liable for the penalty under Section 112(a) and Section 112(b) of the Customs Act, 1962 and I hold accordingly.

**33. Accordingly, given my above findings, I pass the following Order:**

**ORDER**

- (i) **I Order Absolute Confiscation of One (01) Gold Bar**, having purity 999.0/24Kt., weighing 888.400 Grams (Net Weight) and having the **Market Value of Rs.95,76,952/-** (Rupees Ninety Five Lakhs Seventy Six Thousand Nine Hundred Fifty Two Only) and Tariff Value of Rs.85,66,512/-(Rupees Eighty Five Lakhs Sixty Six Thousand Five Hundred Twelve Only), derived from semi solid substance consisting of Gold and Chemical mix in two silver colour pouches having Gross weight 1029.750 Grams, found concealed inside the socks worn by the passenger, **Shri Sureshbhai Labhubhai Saliya**, who arrived from Dubai to Ahmedabad on 01.09.2025 at 09:28 Hrs. via Indigo Flight No.6E1478, at Terminal-2 of SVPIA Ahmedabad, placed under Seizure under Panchnama Proceedings dated 01.09.2025 and Seizure Memo Order dated 01.09.2025, under the provisions of Section 111(d), 111(f), 111(i), 111(j), 111(l) and 111(m) of the Customs Act, 1962;
- (ii) **I Impose a Penalty of Rs.24,00,000/- (Rupees Twenty-Four Lakhs Only)** on **Shri Sureshbhai Labhubhai Saliya** under the provisions of Section 112(a) and 112(b) of the Customs Act, 1962.

**34.** This order is issued without prejudice to any other action that may be taken against the passenger/ Noticee or any other person(s) concerned with said goods under the Customs Act, 1962, or any other law for the time being in force in India.

**(Shree Ram Vishnoi)**  
**Additional Commissioner**  
**Customs, Ahmedabad**

**DIN: 20260371MN0000405174**

**F. No. VIII/10-60/SVPIA-B/O&A/HQ/2025-26**

By RPAD/E-Mail

**Date:23.03.2026**

To

**Shri Sureshbhai Labhubhai Saliya,**  
Residing at 2<sup>nd</sup> Floor, Flat No. 208, Radhe Residency,  
Dabholi Road, Bapa Sitaram Nagar,  
Kataragam, Surat City-395004(Gujarat)

**Copy to:**

- (i) The Principal Commissioner of Customs, Ahmedabad. (Kind Attn: RRA Section)
- (ii) The Deputy Commissioner of Customs (Task Force), Ahmedabad.
- (iii) The Deputy/Assistant Commissioner of Customs (AIU), T-2 Terminal, Sardar Vallabhbhai Patel International Airport, Ahmedabad-380003.
- (iv) The Deputy/Assistant Commissioner of Customs (Airport) T-2 Terminal, Sardar Vallabhbhai Patel International Airport, Ahmedabad-380003.
- (v) The System In charge, Customs HQ, Ahmedabad for uploading on official web-site i.e. <http://www.ahmedabadcustoms.gov.in>
- (vi) Guard File