

OIO No.30/AB/ADC/SRT-AIRPT/2024-25
F. No. VIII/26-10/AIU/CUS/2023-24

	<p align="center">अपर आयुक्त, सीमा शुल्क कार्यालय OFFICE OF THE ADDITIONAL COMMISSIONER OF CUSTOMS सीमा शुल्क सदन, सूरत/CUSTOMS HOUSE,SURAT 4th Floor, CUSTOMS HOUSE, Beside SMC Ward Office, Althan-Bhimrad Road, Althan, Surat –395007 Tel. No.- 0261-2990051 Email: customs-suratairport@gov.in</p>	
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PREAMBLE

A	डी आई ऐन/DIN	20250371MN000000BB8E
B	फ़ाइल संख्या / File No.	VIII/26-10/CUS/AIU/2023-24
C	कारण बताओ नोटिस संख्या और तारीख Show Cause Notice No. and date	F.No. VIII/26-10/CUS/AIU/2023-24 Dated 08.01.2024
D	ऑर्डर-इन-ओरिजिनल नंबर / Order-In-Original No.	30/AB/ADC/SRT-AIRPT/2024-25
E	आदेश तारीख/ Date of Order-In-Original	21.03.2025
F	जारी करने की तिथि/ Date of Issuance	24.03.2025
G	द्वारा पारित / Passed by	Anunay Bhati Additional Commissioner, Customs Surat International Airport, Surat
H	यात्री का नाम और पता Name and address of Passenger	1. Shri Jignesh Batukbhai Moradiya, S/o Shri Batukbhai Karmashibhai Moradiya, 20, Kalapi Society, Gajera School, Katargam, Surat. 2. Shri Ashvinbhai Manubhai Monpara, S/o Shri Manubhai Monpara, B-904, Saffron Sky, Singanpore Road, Opp. Hari Krishna Flats, Omkar Society-2, Riddhi Siddhi Society, Singanpore, Surat-395004. 3. Shri Hiteshbhai Ranchhodbhai Moradiya, S/o Shri Ranchhodbhai Devjibhai Moradiya, 160, Haridarshan Society, Dabholi Char Rasta, Katargam, Surat, Gujarat 395004. 4. Shri Ritesh Hasmukh Moradiya, 159, Haridarshan Society, Dabholi Char Rasta, Katargam, Surat-395004. 5. Shri Pareshkumar Vallabhbhai Moradiya, A-704, Heny Heights, Near Dabholi Road, Katargam, Surat- 395004.

1. जिस व्यक्ति के लिए आदेश जारी किया गया है, उसके व्यक्तिगत उपयोग के लिए प्रति निशुल्क प्रदान की है |

1. This copy is granted free of charge for the private use of the person to whom it is issued.

२. इस आदेश से अपने को व्यथित महसुस करने वाला कोई भी व्यक्ति आयुक्त (अपील), सीमा शुल्क, 4th मंजिल, हुडको बिल्डिंग, ईश्वर भुवन रोड, नवरंगपुरा, अहमदाबाद- ३८०००९ के यहाँ अपील कर सकता है | इस तरह की अपील, पार्टी को इस आदेश के सौंपे जाने अथवा डाक के प्राप्त होने के साठ दिन के अन्दर सीमा

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शुल्क (अपील) नियम, १९८२ के अंतर्गत फार्म स सी. ए. १ और २ दी जानी चाहिए। इस अपील पर नियमानुसार कोट की स्टाम्प लगा होना चाहिए।

2. Any person deeming himself aggrieved by this order may prefer an appeal against this order to the Commissioner of Customs (Appeals), 4th Floor, HUDCO Building, Ishwar Bhuvan Road, Navrangpura, Ahmedabad-380009, in Form C. A. 1 & 2 as prescribed under Customs (Appeals), Rules, 1982. The appeal must be filed within sixty days from the date of receipt of this order either by the post or by the person. It should bear a court fee stamp of appropriate value.

३. अपील के साथ निम्नलिखित चीजे संलग्न की जाए।

3. The following documents must be enclosed alongwith the appeal.

(क) अपील की प्रति, तथा (a) A copy of the appeal and

(ख) आदेश की प्रति या अन्य आदेश की प्रति, जिस नियमानुसार कोट फी स्टाम्प लगा हो।

(b) Copy of this order or another copy of the order, which must bear court fee stamp of appropriate value.

BRIEF FACTS OF THE CASE:

Based on suspicion, Shri Jignesh Batukbhai Moradiya (hereinafter referred to as “Passenger or noticee” for the sake of brevity), S/o Shri Batukbhai Karmashibhai Moradiya, holder of Passport No. R8477069 valid up to 11.04.2028, resident of A-127, Pramukhchhaya Soc, Yogi Chowk, Punagam Bombay Market, Surat City, PIN: 394210, Gujarat, India (Current Address 20, Kalapi Society, Gajera School, Katargam, Surat), who had arrived at International Airport, Surat for boarding Air India Express Flight No. IX-171 departing to Sharjah was intercepted at the Departure Hall of Surat International Airport at around 23:15 Hrs on 26.07.2023. The Passenger was stopped during his baggage check at the security checkpoint of Air India Express as he was suspected of carrying some suspicious items in his baggage.

2. The Customs officers, in the presence of the Panchas, informed the passenger that they would be conducting his personal search and detailed examination of his baggage. Thereafter, the Customs officers offered themselves for their search to the passenger. However, the passenger denied their search by saying he had complete trust in the officers. The Customs officers then asked the passenger whether he wanted to be searched in the presence of a Magistrate or Superintendent (Gazetted officer) of Customs. The passenger gave his consent to be searched before the Superintendent of Customs. Thereafter, the Customs officers carried out a personal search of the passenger in the presence of Panchas. However, nothing objectionable was found. The said passenger was carrying one black colour duffel bag and one Blue colour trolley bag. While scanning the baggage of the passenger, some stone-like images were seen in the metal fixtures of the blue-coloured trolley bag. Thereafter, the officers, in the presence of the panchas, opened the metallic fixtures of the blue trolley bag and found that it contained 09 sealed pouches, which contained small crystal-like items of various sizes/shapes that appeared to be diamonds. The officers asked the noticee about the crystal-like items, to which he stated that the said items were rough diamonds. The weight of the pouches was found to be as follows:

Sr. No.	Pouch No.	Weight (in gms)
1	Pouch 1	207.41
2	Pouch 1	255.70
3	Pouch 1	110.56
4	Pouch 1	54.48
5	Pouch 1	126.56
6	Pouch 1	35.76
7	Pouch 1	44.09
8	Pouch 1	59.52
9	Pouch 1	112.93
	Total	1007.01

3. Thereafter, the government-approved valuer, Shri Vikasraj Tilakraj Juneja, was called to examine the goods that appeared to be Diamonds recovered from the passenger. The valuer arrived at Surat International Airport and examined the goods to determine their exact nature and value. The valuer, after examining the crystal-like items, identified the same as rough diamonds having a total weight of **4910.30 Carats** with a market value of **Rs. 1,10,12,900/- (Rupees One Crore Ten Lakh Twelve Thousand Nine Hundred Only)**. Accordingly, he issued a Valuation Certificate dated 27.07.2023.

4. Thereafter, on being identified the crystal-like items as diamonds, the officers, in the presence of the panchas, asked the passenger about the ownership and purchase/export documents of the above diamonds, to which the passenger, Shri

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Jignesh Batukbhai Moradiya, informed the officers that no documents related to the above diamonds were with him.

5. On being asked by the Customs officers, the passenger, Shri Jignesh Batukbhai Moradiya, produced the travelling documents, which were as under:

- i) Copy of Aadhar Card No. 968460481152.
- ii) Copy of ticket bearing PNR No. D9V55R from Surat to Sharjah by Flight No. IX-0171 on 27.07.2023.
- iii) Passport No. R8477069 issued at Surat on 12.04.2018 and valid up to 11.04.2028.
- iv) PAN No- DTQPM7437F (D.O.B- 06.09.1991)

6. The diamonds mentioned above total weighing 4910.30 Carats having a market value of Rs. 1,10,12,900/- (Rs. One Crore Ten Lakh Twelve Thousand and Nine Hundred only) as per the valuation certificate dated 27.07.2023 appeared to be attempted to be smuggled out of India in passenger baggage by way of concealment by the passenger. The said goods appeared to be commercial goods meant for commercial purposes and hence did not constitute bona fide goods or personal effects under Section 79 of the Customs Act, 1962. Neither were the said goods declared to the Customs by the passenger. Therefore, the same appeared liable for confiscation for improper export in violation of the provisions of the Customs Act of 1962. The said diamonds were, therefore, seized under Section 110 of the Customs Act, 1962, vide seizure memo dated 27.07.2023 by the Customs officer on a reasonable belief that the mentioned goods were liable to confiscation. The blue-coloured trolley bag carried by the passenger, inside which the seized diamonds were concealed, and the packing materials, viz. plastic pouches used for concealment of the diamonds, were also seized on the reasonable belief that the same was used for concealment of the above-mentioned diamonds which were attempted to be smuggled out of India in violation to the provisions of Section 77 of the Customs Act, 1962. The seized goods were handed over to the warehouse in charge, International Airport, Surat, for safekeeping vide warehouse Entry No. 169 dated 27.07.2023.

7. Inquiry against the passenger, Shri Jignesh Batukbhai Moradiya

7.1 A statement of Shri Jignesh Batukbhai Moradiya was recorded on 27.07.2023 under the provisions of Section 108 of the Customs Act, 1962, wherein he inter alia stated that:

- He was staying in a rented house located at 20 Kalapi Society, Gajera School, Katargam, Surat; his family consisted of his mother, Mrs. Vasantben B Moradiya, his father, Shri Batukbhai Karamsibhai Moradiya, and his brother, Shri Dharmeshbhai Moradiya; and he worked as a laborer in the diamond industry (polishing Diamonds);
- he was shown and explained the panchnama dated 26/27.07.2023 drawn at International Airport, Surat by the officers of Customs AIU, International Airport, Surat and after understanding the same he put his dated signature on the Panchnama in token of acceptance of the facts stated therein.
- He was going to Dubai via Sharjah on 27.07.2023 on Air India Express Flight No. IX-171 from Surat International Airport; that he was stopped by the Customs Officers after clearing security check of Airlines near airline counters in the departure hall of Surat International Airport, Surat; that he was carrying one blue color check-in trolley bag and one black duffel bag (small carry bag); that on

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being asked by the Customs officers whether he had to declare anything, he had stated that he had nothing to declare;

- On examination of the blue trolley bag, the Customs officers found nine pouches containing crystal-like items of various sizes/shapes that appeared to be diamonds in the metal fixtures of the blue colored, totally weighing 1007.01 grams;
- The bag was handed over to him by one Shri Raghubhai (7405568003) with the instruction to deliver the same to Shri Hiteshbhai Ranchhodbhai Moradiya (9712066571) in Dubai; that the expense for his travel was borne by Shri Raghubhai; that he used to visit Shri Raghubhai's office to learn diamond polishing work; that five days ago Shri Raghubhai had asked him to visit Dubai for which he would bear all expenses;
- He did not have any purchase vouchers/legal documents of said Diamonds recovered from his possession and subsequently placed under seizure under panchnama dated 27.07.2023;
- he had carried Diamonds weighing 4910.3 Carats without declaring the same to Customs Authorities and, therefore, attempted to smuggle the same out of India; that he was aware that carrying diamonds concealed in baggage or on a person without declaring the same was an offence under the Customs Act, but he took a chance to gain some money.

7.2 In view of the above facts, Shri Jignesh Batukbhai Moradiya appeared to have committed an offence of the nature described under Section 135 (1)(b) & (c) punishable under Section 135(1)(i)(A) & (C) of the Customs Act, 1962 in as much as he had involved himself in smuggling of rough diamonds from Surat. The passenger, Shri Jignesh Batukbhai Moradiya, was arrested on 27.07.2023 and produced before the Chief Judicial Magistrate, Surat, on 27.07.2023, who sent the accused to judicial custody.

7.3 Mr. Jignesh Batukbhai Moradiya, vide his letter dated 09.08.2023 had retracted his statement dated 27.07.2023 recorded under the provisions of Section 108 of the Customs Act, 1962 on the ground that the same was recorded under stress and duress. The Assistant Commissioner, Customs, Surat International Airport, vide letter dated 10.08.2023 addressed to Shri Jignesh Batukbhai Moradiya, stated that the said statement was recorded as per his (Jignesh's) say and corroborated with evidence. In the statement, he revealed certain facts that were best known only to him and unknown to the recording officer. Hence, the contention that the statement had been taken under stress and duress was completely incorrect, as he had signed it only after reading all the pages and endorsing its contents' correctness. The retraction of the statement and demand to re-record the statement appeared to be an afterthought based on legal advice to save himself from the consequences of the law and to derail the investigation.

8. Inquiry against Shri Ashvinbhai Manubhai Monpara

8.1 During the investigation, summons dated 11.08.2023 were issued to M/s MIT International, engaged in the Tours and Travels business, who had booked tickets for Shri Jignesh Batukbhai Moradiya. In response, Shri Goti Amit Jerajbhai, proprietor of M/s MIT International, appeared on 17.08.2023, and his statement was recorded wherein he inter alia stated that:

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- He was the proprietor of M/s MIT International, formed in 2015, engaged in the Tours and Travels business like booking of air tickets and work related to passports, VISA, etc., on a commission basis;
- On being shown an E-ticket bearing PNR No. D9V55R, submitted by Shri Jignesh Batukbhai Mordiya during panchnama dated 27.07.2023, stated that the said ticket was booked by Shri Ashvinbhai Manubhai Monpara, residing at Flat No. 304, Sarjan Vatika Wing- B, Dabholi Gam, Surat City- 395004, for travelling to Sharjah on 26.07.2023; that the ticket was booked for two persons namely Shri Ashvinbhai Manubhai Monpara and Shri Jignesh Batukbhai Mordiya; that the ticket was booked under single PNR bearing No. D9V55R, but was later bifurcated separately for both the passengers as instructed by Shri Ashvinbhai Manubhai Monpara; for booking of ticket and VISA processing, Shri Ashvinbhai Manubhai Monpara provided a copy of the passport of both the passengers i.e., Shri Ashvinbhai Manubhai Monpara and Shri Jignesh Batukbhai Mordiya; that Shri Ashvinbhai Manubhai Monpara booked ticket from them earlier in May-23 and Shri Ashvinbhai Manubhai Monpara made the payment of that ticket in cash and the payment of the current ticket and VISA processing fee was pending.

8.2 A summons dated 11.08.2023 was issued to Shri Ashvinbhai Manubhai Monpara, holding passport No. Z5509165, residing at B-904, Saffron Sky, Singanpore Road, opposite Hari Krishna Flats, Omkar Society- 2, Riddhi Siddhi Society, Singanpore, Surat, Gujarat 395004, to appear on 17.08.2023 before the investigating officer and tender his statement, but he did not appear. Again, a summons dated 22.08.2023 was issued to Shri Ashvinbhai Manubhai Monpara, and his statement under Section 108 of the Customs Act, 1962 was recorded on 28.08.2023, wherein he inter alia stated as under:

- that he had been working in the diamond Industry since 2013 and could read, write, and understand English, Hindi, and Gujarati language very well; then he was working in the office of Shri Shaileshbhai Vallabhbhai Dungrani;
- that earlier, he had been to Sharjah on 01.06.2023 with Shri Hitesh Moradiya regarding diamond-related work in Dubai and returned from there within two to three days on being shown an E-ticket bearing PNR No. D9V55R and Copy of Invoice No. ITI00001106 dated 23.07.2023, he stated that he booked the said ticket for travelling to Sharjah on 26.07.2023; that the ticket was booked for two persons viz, himself, Shri Ashvinbhai Manubhai Monpara and Shri Jignesh Batukbhai Moradiya; that the details, i.e., passport copy, Aadhar card and PAN card of Shri Jignesh Batukbhai Moradiya were provided to him by Shri Jignesh Batukbhai Moradiya over WhatsApp; that the ticket was booked under single PNR bearing No. D9V55R, but was later bifurcated separately for both the passengers as instructed by him to M/s MIT International; for booking of ticket and VISA processing, he had provided copies of the passports of both the passengers, i.e., himself and Shri Jignesh Batukbhai Moradiya;
- that on being shown the statement of Shri Goti Amit Jerajbhai, Proprietor of M/s MIT International, dated 17.08.2023, he stated that all the facts stated by Shri Goti Amit Jerajbhai in his statement were true;
- that on being asked about Shri Jignesh Batukbhai Moradiya, he stated that he was his friend and he had known him for the past two years; that one week before the seizure of the rough diamonds at Surat airport, he had received a call from Shri Hitesh Moradiya (Mob. No. 9712066571), regarding carrying of rough diamonds from Surat to Sharjah; that Shri Hitesh Moradiya told him over phone

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that he (Shri Ashwin Monpara) and Shri Jignesh Batukbhai Moradiya would carry the rough diamonds through Air India Express flight No. IX-171 dated 27.07.2023; that he booked the flight ticket from Sharjah to Surat as directed by Shri Hitesh Moradiya; that he knew Shri Hitesh Moradiya from past one year as they both worked in diamond industry and he was his friend and they used to meet regularly; that Shri Jignesh Batukbhai Moradiya was carrying the rough diamonds as per the direction of Shri Hitesh Moradiya and he was travelling along with him; that Shri Hitesh Moradiya told him that he would bear all the expenses related to this trip and he would pay Rupees Fifty thousand to Shri Jignesh Batukbhai Moradiya; that the rough diamonds found in the trolley bag of Shri Jignesh Batukbhai Moradiya belonged to Shri Hitesh Moradiya and Shri Pareshbhai; that they had to hand over it as per the direction of Shri Hitesh Moradiya, once both of them and the rough diamonds concealed in the trolley bag reached Sharjah; that Shri Ritesh Hansmukhbhai Moradiya had handed over 500 Dirhams to him on 26.07.2023 at the office of Shri Hitesh Moradiya; that Shri Hitesh Moradiya and Shri Ritesh Hansmukhbhai Moradiya were cousin brothers;

- the rough diamonds were concealed in the rod of the handle of the trolley bag in front of him at the office of Shri Hitesh Moradiya, addressed as 102, Crystal Diamond Complex, Near Ashram, Katargam, Surat. Apart from him, Shri Ritesh Hansmukhbhai Moradiya, Shri Jignesh Batukbhai Moradiya, and one unknown person were present at the time of the concealment of rough diamonds;
- that he was present at the airport when Shri Jignesh Batukbhai Moradiya was caught by Customs officials on 26.07.2023; that he was told by Shri Hitesh Moradiya over the phone that Shri Jignesh Batukbhai Moradiya had been caught by Customs officials; that he travelled alone to Sharjah, stayed only at hotel and returned in two days to Mumbai Airport.

8.3 Summons dated 28.08.2023 were issued to Shri Ashvinbhai Manubhai Monpara to appear on 29.08.2023 for further recording of his statement, but he did not appear on that date.

8.4 Again, Summons dated 05.09.2023 was issued to Shri Ashvinbhai Manubhai Monpara, and a further statement of him was recorded on 12.09.2023 wherein he reiterated the facts stated in his earlier statement dated 28.08.2023 and inter alia further stated as under:

- that on being asked as to why a ticket having the same PNR was bifurcated, he stated that as they were taking undeclared rough diamonds to Sharjah to avoid being caught by Customs officials, he intentionally bifurcated the ticket booked under a single PNR bearing No. D9V55R separately for himself and Shri Jignesh Batukbhai Moradiya;
- that he came to the airport after Shri Jignesh Batukbhai Moradiya, so that if Shri Jignesh Batukbhai Moradiya was caught, he could have escaped from the same;
- That he knew about the whole process of smuggling rough diamonds, which were packed in front of him on 26.07.2023; he was to accompany Shri Jignesh Batukbhai Moradiya, and they did not declare the said Diamonds before the Customs Authorities at the time of departure from Surat International Airport, as they wanted to take out the same without declaring to Customs.
- that they did not have any invoice/document/Kimberley Process (KP) Certificate of the seized rough diamonds; he was aware that he had committed an offence by

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not declaring the same to Customs for which he would have to face the consequences as prescribed under the Customs Law.

8.5 In view of the above facts, Shri Ashvinbhai Manubhai Monpara appeared to have committed an offence of the nature described under Section 135 (1)(b) & (c) punishable under Section 135(1)(i)(A) & (C) of the Customs Act, 1962 in as much as he involved himself in smuggling of rough diamonds from Surat. He was aware that the rough diamonds were concealed in the trolley bag for smuggling, and he had aided, abetted, and knowingly concerned himself in the smuggling of rough diamonds through Surat International Airport. Shri Ashvinbhai Manubhai Monpara was therefore arrested on 12.09.2023 and produced before the Chief Judicial Magistrate, Surat, on 13.09.2023, who sent the accused to judicial custody.

9. Inquiry against Shri Hiteshbhai Ranchhodbhai Moradiya

9.1 During the investigation, three Summonses dated 29.08.2023, 05.09.2023, and 26.09.2023 were issued to Shri Hiteshbhai Ranchhodbhai Moradiya, holding Passport No. W3775962, residing at 160, Haridarshan Society, Dabholi Char Rasta, Katargam, Surat- 395004, to appear on 05.09.2023, 12.09.2023 & 03.10.2023 respectively, before the investigating officer, however he did not appear to tender his statement. A search of the residential premises of Shri Hiteshbhai Ranchhodbhai Moradiya was conducted under panchnama proceedings dated 11.10.2023, wherein Shri Hiteshbhai Ranchhodbhai Moradiya was found available at his premises. A summons dated 11.10.2023 was issued to Shri Hiteshbhai Ranchhodbhai Moradiya, and his statement was recorded under Section 108 of the Customs Act, 1962 on 11.10.2023, wherein he inter alia stated:

- that he had been working in the diamond Industry since 2000 and could read, write, and understand English, Hindi, and Gujarati very well;
- that presently he was working as a diamond assorter in the office of Shri Pareshbhai Vallabhbhai Moradiya (Proprietor of M/s Motiba Gems), who was also his friend and whose address was Mbuji-Mayi, Congo (Head office- Motiba Gems, 2nd Floor, Plot No-1,2,3,4, Radha Krushna Complex, Khodiyar Ind. Est., Katargam Main Road, Katargam, Surat, Gujarat-395004);
- that on being shown an E-ticket bearing PNR No. D9V55R and copy of Invoice No. ITIO0001106 dated 23.07.2023, he stated that he was aware of the ticket as the same was in his knowledge; he knew Shri Goti Amit Jerajbhai, the proprietor of M/s MIT International, for the last 2-3 years; that he always booked his tickets through him only; that he called on WhatsApp number of Shri Goti Amit Jerajbhai and asked him to book tickets for Shri Ashvinbhai Manubhai Monpara and Shri Jignesh Batukbhai Moradiya; that he knew Shri Ashvinbhai Manubhai Monpara as he was his friend and he knew him for past one year; that he knew Shri Jignesh Batukbhai Moradiya through Shri Ashvinbhai Manubhai Monpara; that earlier he (Hitesh) had gone to Sharjah on 31.05.2023 with Shri Ashvinbhai Manubhai Monpara regarding work related to diamond in Congo and he had his flight on 01.06.2023 from Dubai to Congo;
- that he knew about the seizure of rough diamonds at Surat Airport on 26/27.07.2023; that the said rough diamonds belonged to Shri Pareshbhai Vallabhbhai Moradiya (Proprietor of M/s Motiba Gems); that Shri Ashvinbhai Manubhai Monpara, who was a diamond broker, had told him that he had a customer for purchasing rough diamonds; that he said Shri Pareshbhai Vallabhbhai Moradiya the same and Shri Pareshbhai Vallabhbhai Moradiya had

some rough diamonds to sell; that he contacted Shri Ashvinbhai Manubhai Monpara for the same; that the selling amount was not finalized as the same was to be finalized by the actual customer, who wanted to purchase the rough diamonds from Shri Ashvinbhai Manubhai Monpara; that Shri Pareshbhai Vallabhbhai Moradiya handed over the rough diamonds to Shri Ritesh Hansmukhbhai Moradiya, who was his cousin, and he handed over it to Shri Ashvinbhai Manubhai Monpara;

- that on being shown the statement of Shri Jignesh Batukbhai Moradiya dated 27.07.2023, where he had stated that the diamond was to be handed over to him, he stated that he did not know as to why he said so;
- that on being shown the statement of Shri Ashvinbhai Manubhai Monpara dated 28.08.2023 where he stated that Shri Hiteshbhai Ranchhodbhai Moradiya had called him, one week before seizure of diamond, for carrying rough diamonds from Surat to Sharjah, he stated that Shri Ashvinbhai Manubhai Monpara told him over WhatsApp call that he was having a customer for rough diamond and if he had any rough diamond, then to let him know about it; that he had agreed to the statement of Shri Ashvinbhai Manubhai Monpara that the flight tickets were booked on his direction and also that the trip expenses were to be borne by him, however, Shri Ashvinbhai Manubhai Monpara had promised to return the trip expenses later; that he had agreed to the statement of Shri Ashvinbhai Manubhai Monpara that the rough diamonds found in the trolley bag of Shri Jignesh Batukbhai Moradiya belonged to Shri Hiteshbhai Ranchhodbhai Moradiya and Shri Pareshbhai Vallabhbhai Moradiya; that he knew that Shri Ashvinbhai Manubhai Monpara and Shri Jignesh Batukbhai Moradiya were travelling to Sharjah through Air India Express flight No. IX-171 dated 27.07.2023 that he had denied having called Shri Ashvinbhai Manubhai Monpara on 27.07.2023 regarding the interception of Shri Jignesh Batukbhai Moradiya by the Customs officials.
- that Shri Pareshbhai Vallabhbhai Moradiya (Proprietor of M/s Motiba Gems) was in Congo then, and he kept travelling to Dubai, Belgium, and African countries regarding his diamond work.

9.2 From the statement of Shri Hiteshbhai Ranchhodbhai Moradiya, as well as statements of Shri Jignesh Batukbhai Moradiya and Shri Ashvinbhai Manubhai Monpara, it appeared that Shri Hiteshbhai Ranchhodbhai Moradiya was also actively involved in the smuggling of rough diamonds from Surat. He had arranged for the impugned diamonds, which were concealed in the trolley bag in his office at 102, Crystal Diamond Complex, Near Ashram, Katargam, Surat. He also consented to bear all the expenses related to Shri Jignesh Batukbhai Moradiya and Shri Ashvinbhai Manubhai Monpara's trip from Surat to Sharjah and agreed to pay Rs. Fifty Thousand to Shri Jignesh Batukbhai Moradiya for carrying the impugned diamonds. Thus, Shri Hiteshbhai Ranchhodbhai Moradiya had also aided, abetted, and knowingly concerned himself in the smuggling of rough diamonds through Surat International Airport.

10. Inquiry against Shri Ritesh Hasmukhbhai Moradiya

10.1 During the investigation, a summons was issued to Shri Ritesh Hasmukh Moradiya, residing at 159, Haridarshan Society, Dabholi Char Rasta, Katargam, Surat-395004 to investigate his role in the present case. The details of the summons issued were as follows:

Sr.	Date of	Date whereon	Remarks
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No.	issue of Summons	he was required to appear	
1.	01.08.2023	03.08.2023	Summons handed over to Smt. Bhavnaben H. Moradiya, mother of Shri Ritesh Hansmukhbhai Moradiya, but he did not appear.
2.	08.08.2023	11.08.2023	Summons handed over to Smt. Bhavnaben H. Moradiya, mother of Shri Ritesh Hansmukhbhai Moradiya, but he did not appear.
3.	11.08.2023	17.08.2023	Sent by post, but he did not appear.
4.	22.08.2023	28.08.2023	Sent by post, delivered on 24.08.2023, but he did not appear.
5.	29.08.2023	05.09.2023	Sent by post, delivered on 31.08.2023, but he did not appear.
6.	05.09.2023	12.09.2023	Sent by post, delivered on 09.09.2023, but he did not appear.

10.2 From the list of summonses issued as above, it appeared that Shri Ritesh Hasmukhbhai Moradiya intentionally chose not to appear before the investigating officer and avoided joining the investigations. He had deliberately dishonoured the Summonses with the ill intention not to join the investigation, indicating that he was actively involved in the smuggling racket. Ample opportunities were given to Shri Ritesh Hasmukhbhai Moradiya to present facts and give evidence/further information about the case, but he intentionally abstained from appearing before the investigation without giving any reason or seeking any extension and thus refused to cooperate in the investigation. Hence, a complaint under Section 174 of the Indian Penal Code, 1860, read with Section 108 of the Customs Act, 1962, was filed in the court of Chief Judicial Magistrate, Surat, on 31.10.2023.

10.3 From the statements of Shri Ashvinbhai Manubhai Monpara, it appeared that Shri Ritesh Hasmukhbhai Moradiya was also involved in the smuggling of rough diamonds from Surat. Shri Ashvinbhai Manubhai Monpara stated that the impugned diamonds were concealed in the rod of the handle of the trolley bag in the presence of Shri Ritesh Hasmukhbhai Moradiya. Further, Shri Ritesh Hasmukhbhai Moradiya handed him (Ashwin) 500 Dirhams on 26.07.2023 in the office of Shri Hitesh Ranchhodbhai Moradiya for travel and other expenses. Further, Shri Hitesh Ranchhodbhai Moradiya, in his statement dated 11.10.2023 recorded under Section 108 of the Customs Act, 1962, stated that Shri Pareshbhai Vallabhbhai Moradiya had handed over the rough diamonds to Shri Ritesh Hansmukhbhai Moradiya, who was his cousin, and he had handed over it to Shri Ashvinbhai Manubhai Monpara. Shri Pareshbhai Vallabhbhai Moradiya, in his statement dated 09.11.2023, also stated that he had handed over the impugned rough diamonds to Shri Ritesh Hansmukhbhai Moradiya. Moreover, the wilful intention to abet the smuggling of seized diamonds by Shri Ritesh Hansmukhbhai Moradiya also appeared to be established by his continuous defiance of the summons issued and his cooperation with the investigation. Thus, Shri Ritesh Hasmukhbhai Moradiya had also aided, abetted, and knowingly concerned himself with smuggling rough diamonds through Surat International Airport.

11. Inquiry against Shri Pareshkumar Vallabhbhai Moradiya

11.1 In the course of further investigation, a search was conducted at the commercial premises of Shri Pareshbhai Vallabhbhai Moradiya (Proprietor of M/s Motiba Gems) situated at Motiba Gems, 2nd Floor, Plot No. 1,2,3,4, Radha Krushna Complex, Khodiyar

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Ind. Est., Katargam Main Road, Katargam, Surat, under panchnama proceedings dated 27.10.2023. Shri Kanjibhai Natubhai Moradiya, the Manager at M/s Motiba Gems, informed that Shri Pareshkumar Vallabhbhai Moradiya was in Congo then for business purposes for the last month.

11.2 Summons dated 27.10.2023 was issued to Shri Pareshkumar Vallabhbhai Moradiya, holding Passport No. Z5595550, residing at A-704, Heny Heights, near Dabholi Road, Katargam, Surat- 395004, was to appear on 02.11.2023 before the investigating officer; however, he did not appear. Again, a summons dated 09.11.2023 was issued to Shri Pareshkumar Vallabhbhai Moradiya, and his statement was recorded on 09.11.2023 under Section 108 of the Customs Act, 1962 wherein he inter alia stated as under:

- that he was the proprietor of M/s. Motiba Gems and also a partner in Kashiba Gems; he had been working in the diamond Industry since 2011; he also had an office in Mbuji-Mayi, Congo;
- that on being shown an E-ticket bearing PNR No. D9V55R and copy of Invoice No. ITI00001106 dated 23.07.2023, he stated that he was not aware of the ticket as the same was not in his knowledge;
- that he did not know Shri Ashvinbhai Manubhai Monpara;
- that on being shown the Panchnama dated 26/27.07.2023, and asked about the rough diamonds seized at Surat Airport on 26/27.07.2023, he stated that he was aware of this, as the rough diamonds belonged to his firm M/s Motiba Gems; that he had handed over those rough diamonds to Shri Ritesh Hansmukhbhai Moradiya, who was the cousin of Shri Hiteshbhai Ranchhodbhai Moradiya; he knew Shri Hiteshbhai Ranchhodbhai Moradiya, as he worked in his office as diamond assorter; that Shri Hiteshbhai Ranchhodbhai Moradiya had told him that he knew a customer for rough diamonds and as Shri Hiteshbhai Ranchhodbhai Moradiya was not in Surat at that time, he had handed over the said rough diamonds to Shri Ritesh Hansmukhbhai Moradiya around 20/21.07.2023 and after that he had left for Congo on 23.07.2023 from Mumbai;
- that on being asked regarding the documents under which the said rough diamonds were sold, he stated to have issued one bill of supply (jhangad) for the same;
- that he did not know that the said diamonds were being carried by Shri Jignesh Batukbhai Moradiya;
- that he got the news regarding the seizure of impugned diamonds from Shri Hiteshbhai Ranchhodbhai Moradiya about one week after the seizure, as he was in Congo; Shri Hiteshbhai Ranchhodbhai Moradiya informed him that the said rough diamonds were given to Shri Ashvinbhai Manubhai Monpara for selling.

11.3 In his statement dated 09.11.2023 recorded under Section 108 of the Customs Act, 1962, Shri Pareshkumar Vallabhbhai Moradiya had agreed and accepted that the impugned rough diamonds seized at Surat International Airport on 27.07.2023 belonged to his firm, M/s Motiba Gems. He also agreed that he had handed those rough diamonds to Shri Ritesh Hasmukhbhai Moradiya. His statement that he was unaware of the said diamonds being carried by Shri Jignesh Batukbhai Moradiya through Surat International Airport appeared to be an afterthought and a blatant lie to absolve himself and place the entire blame on the co-noticees. This was further proved by the fact that

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he could not produce any payment details for the diamonds handed over to Shri Ritesh Hasmukhbhai Moradiya. Being the owner of the firm as well as the impugned diamonds, it appeared improbable that diamonds having market value to the tune of Rs. 1,10,12,900/- could have been attempted to be illegally exported without his knowledge/consent/approval and, more so when he/his firm was going to be the ultimate beneficiary from such illicit transaction. Shri Pareshkumar Vallabhbhai Moradiya also could not produce any bill/invoice regarding the sale of impugned diamonds. It appeared that Shri Pareshkumar Vallabhbhai Moradiya devised the entire scheme of illegal export in collaboration with the co-noticees with an ulterior motive to defraud the Govt. Exchequer. Further, he failed to produce any bill of supply (jhangad), which also proved that by his blatant lie, he tried to mislead the investigation. The role and complicity of Shri Ritesh Hasmukhbhai Moradiya, to whom he had handed over the diamonds, was already elaborated on in earlier paras. Moreover, Shri Pareshkumar Vallabhbhai Moradiya also did not initiate any legal action against the other offenders on whom he had placed the blame for such illegal export, which also appeared to imply that the instant act of attempt of smuggling of diamonds was undertaken with his approval and complicity.

12. The Deputy Director, Directorate of Revenue Intelligence, Regional Unit, Surat, was requested to provide the SDR/CDR details of the mobile numbers of Shri Jignesh Batukbhai Moradiya and Shri Ritesh Hasmukhbhai Moradiya. The Deputy Director, DRI, Surat provided the details vide her letter dated 22.08.2023. On examination of the CDR/SDR details, it had been observed that the noticees, viz, Shri Jignesh Batukbhai Moradiya, Shri Hiteshbhai Ranchhodbhai Moradiya, and Shri Ritesh Hasmukhbhai Moradiya were in contact with one another before they attempted to smuggle the diamonds through Surat International Airport on 27.07.2023. Thus, the noticees appeared fully involved and actively engaged in devising the plan to export the impugned diamonds illicitly. A table showing details of calls made by the noticees to each other is given as follows:

CDR DATA OF Shri JIGNESH BATUKBHAIR MORADIYA

Sr No.	A PARTY NUMBER	CALL-TYPE	B PARTY NUMBER	CALL DATE	CALL INITIATION TIME	CALL DURATION (IN SECONDS)
1	(Jignesh) 9879882524	INCOMING	9870004103 (Ashwin)	25.07.2023	12:03:06	11
2	(Jignesh) 9879882524	OUTGOING	9870004103 (Ashwin)	25.07.2023	17:04:22	47
3	(Jignesh) 9879882524	INCOMING	9870004103 (Ashwin)	25.07.2023	17:12:37	99
4	(Jignesh) 9879882524	OUTGOING	9870004103 (Ashwin)	25.07.2023	17:33:22	44
5	(Jignesh) 9879882524	OUTGOING	7405568003 (Ritesh)	25.07.2023	18:19:45	2
6	(Jignesh) 9879882524	OUTGOING	7405568003 (Ritesh)	25.07.2023	18:21:53	75
7	(Jignesh) 9879882524	OUTGOING	9870004103 (Ashwin)	25.07.2023	21:56:10	50
8	(Jignesh) 9879882524	INCOMING	9870004103 (Ashwin)	25.07.2023	22:27:52	29
9	(Jignesh)	OUTGOING	9870004103	26.07.2023	11:39:34	15

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	9879882524		(Ashwin)			
10	(Jignesh) 9879882524	INCOMING	9870004103 (Ashwin)	26.06.2023	20:28:53	66
11	(Jignesh) 9879882524	INCOMING	9870004103 (Ashwin)	26.07.2023	21:32:05	24
12	(Jignesh) 9879882524	OUTGOING	9870004103 (Ashwin)	26.07.2023	21:43:27	44
13	(Jignesh) 9879882524	OUTGOING	9870004103 (Ashwin)	26.07.2023	21:50:28	64
14	(Jignesh) 9879882524	INCOMING	9870004103 (Ashwin)	26.07.2023	22:10:58	54
15	(Jignesh) 9879882524	INCOMING	7405568003 (Ritesh)	26.07.2023	23:43:33	65
16	(Jignesh) 9879882524	INCOMING	7405568003 (Ritesh)	26.07.2023	23:45:06	123

CDR DATA OF RITESH HASMUKHBHAI MORADIYA

Sr No.	A PARTY NUMBER	CALL-TYPE	B PARTY NUMBER	CALL DATE	CALL INITIATION TIME	CALL DURATION (IN SECONDS)
1	(Ritesh) 7405568003	INCOMING	9879882524 (Jignesh)	25.07.2023	18:19:45	2
2	(Ritesh) 7405568003	INCOMING	9879882524 (Jignesh)	25.07.2023	18:21:53	75
3	(Ritesh) 7405568003	INCOMING	9870004103 (Ashwin)	25.07.2023	22:13:23	48
4	(Ritesh) 7405568003	INCOMING	9870004103 (Ashwin)	26.07.2023	17:56:03	57
5	(Ritesh) 7405568003	OUTGOING	9870004103 (Ashwin)	26.07.2023	17:58:46	8
6	(Ritesh) 7405568003	OUTGOING	9870004103 (Ashwin)	26.07.2023	19:48:11	29
7	(Ritesh) 7405568003	INCOMING	9870004103 (Ashwin)	26.07.2023	21:14:52	67
8	(Ritesh) 7405568003	OUTGOING	9870004103 (Ashwin)	26.07.2023	21:28:26	115
9	(Ritesh) 7405568003	INCOMING	9870004103 (Ashwin)	26.07.2023	21:34:29	14
10	(Ritesh) 7405568003	OUTGOING	9870004103 (Ashwin)	26.06.2023	21:38:07	12
11	(Ritesh) 7405568003	INCOMING	9870004103 (Ashwin)	26.07.2023	21:38:50	2
12	(Ritesh) 7405568003	INCOMING	9870004103 (Ashwin)	26.07.2023	21:44:43	32
13	(Ritesh) 7405568003	OUTGOING	9870004103 (Ashwin)	26.07.2023	22:03:58	22
14	(Ritesh) 7405568003	OUTGOING	9870004103 (Ashwin)	26.07.2023	22:07:47	31
15	(Ritesh) 7405568003	OUTGOING	9870004103 (Ashwin)	26.07.2023	22:40:02	22
16	(Ritesh) 7405568003	OUTGOING	9879882524 (Jignesh)	26.07.2023	23:43:33	65

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17	(Ritesh) 7405568003	OUTGOING	9879882524 (Jignesh)	26.07.2023	23:45:06	123
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13. **LEGAL PROVISIONS RELEVANT TO THE CASE:**

Customs Act, 1962:

Section 2(3)- “baggage” includes unaccompanied baggage but does not include motor vehicles.

Section 2(18)- "export", with its grammatical variations and cognate expressions, means taking out of India to a place outside India;

Section 2(19)-“export goods” means any goods which are to be taken out of India to a place outside India

Section 2(20)- “exporter,” in relation to any goods at any time between their entry for export and the time when they are exported, includes [any owner, beneficial owner] or any person holding himself out to be the exporter;

Section 2(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;

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;

Section 2(37)- “shipping bill” means a shipping bill referred to in section 50;

Section 2(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;

Section 11-Power to prohibit importation or exportation of goods. — (1) If the Central Government is satisfied that it is necessary so to do for any of the purposes specified in sub-section (2), it may, by notification in the Official Gazette, 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 goods of any specified description.

(2) The purposes referred to in sub-section (1) are the following: —

(c) the prevention of smuggling;

(e) the conservation of foreign exchange and the safeguarding of balance of payments

(u) the prevention of the contravention of any law for the time being in force

(3) 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

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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.

Section 11H (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.

Section 50. Entry of goods for exportation. — (1) The exporter of any goods shall make entry thereof by presenting electronically on the customs automated system to the proper officer in the case of goods to be exported in a vessel or aircraft, a shipping bill, and in the case of goods to be exported by land, a bill of export in such form and manner as may be prescribed

(2) The exporter of any goods, while presenting a shipping bill or bill of export, shall make and subscribe to a declaration as to the truth of its contents.

(3) The exporter who presents a shipping bill or bill of export under this section shall ensure the following, namely: —

- (a) the accuracy and completeness of the information given therein;
- (b) the authenticity and validity of any document supporting it; and
- (c) compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.

Section 77. Declaration by the owner of baggage.-

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

Section 79. Bona fide baggage exempted from duty. -

(1) The proper officer may, subject to any rules made under sub-section (2), pass free of duty -

(a) any article in the baggage of a passenger or a member of the crew in respect of which the said officer is satisfied that it has been in his use for such minimum period as may be specified in the rules;

(b) any article in the baggage of a passenger in respect of which the said officer is satisfied that it is for the use of the passenger or his family or is a bona fide gift or souvenir, provided that the value of each such article and the total value of all such articles does not exceed such limits as may be specified in the rules.

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

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

(d) any goods attempted to be exported or brought within the limits of any customs area for the purpose of being exported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;

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(e) any goods found concealed in a package which is brought within the limits of a customs area for the purpose of exportation;

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 this Act or any other law for the time being in force, to a penalty not exceeding three times the value of the goods as declared by, the exporter or the value as determined under this Act, whichever is the greater;

(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten percent 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 percent of the penalty so determined;

(iii) in the case of any other goods, to a penalty not exceeding the value of the goods, as declared by the exporter or the value as determined under this Act, whichever is the greater.

Section 118. Confiscation of packages and their contents. -

(b) Where any goods are brought in a package within the limits of a customs area for the purpose of exportation and are liable to confiscation, the package and any other goods contained therein shall also be liable to confiscation.

Section 119. Confiscation of goods used for concealing smuggled goods. -

Any goods used for concealing smuggled goods shall also be liable for confiscation.

Explanation- In this section, "goods" does not include a conveyance used as a means of transport.

Foreign Exchange Management Act, 1999

Section 7. Export of goods and services. — (1) Every exporter of goods shall—

(a) furnish to the Reserve Bank or to such other authority a declaration in such form and in such manner as may be specified, containing true and correct material particulars, including the amount representing the full export value or, if the full export value of the goods is not ascertainable at the time of export, the value which the exporter, having regard to the prevailing market conditions, expects to receive on the sale of the goods in a market outside India;

(b) furnish to the Reserve Bank such other information as may be required by the Reserve Bank for the purpose of ensuring the realisation of the export proceeds by such exporter.

(2) The Reserve Bank may, for the purpose of ensuring that the full export value of the goods or such reduced value of the goods as the Reserve Bank determines,

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having regard to the prevailing market conditions, is received without any delay, direct any exporter to comply with such requirements as it deems fit.

(3) Every exporter of services shall furnish to the Reserve Bank or to such other authorities a declaration in such form and in such manner as may be specified, containing the true and correct material particulars in relation to payment for such services.

Foreign Trade Policy 2015-20:

Para 1.11- Issue of e-IEC (Electronic-Importer Exporter Code)

(a) Importer Exporter Code (IEC) is mandatory for export/import from/to India as detailed in paragraph 2.05 of this Policy. DGFT issues Importer Exporter Code in electronic form (e-IEC). For issuance of e-IEC an application can be made on DGFT ([http:// dgft.gov.in](http://dgft.gov.in)). Applicant can upload the documents and pay the requisite fee through Net banking. The applicant shall, however, submit the application duly signed digitally.

Para 2.05- Importer-Exporter Code (IEC)/ (e-IEC)

(I) An IEC is a 10-character alpha-numeric number allotted to a person that is mandatory for undertaking any export/import activities. With a view to maintaining the unique identity of an entity (firm/company/LLP, etc.), consequent upon the introduction/implementation of GST, IEC will be equal to PAN and will be separately issued by DGFT based on an application.

(a) No export or import shall be made by any person without obtaining an IEC number unless specifically exempted. For services exports, IEC shall be necessary as per the provisions in Chapter 3 only when the service provider is taking benefits under the Foreign Trade Policy.

Para 2.06 Mandatory documents for export/import of goods from/into India:

- (a) Mandatory documents required for export of goods from India:
1. Bill of Lading/ Airway Bill/ Lorry Receipt/ Railway Receipt/Postal Receipt
 2. Commercial Invoice cum Packing List*
 3. Shipping Bill/Bill of Export/ Postal Bill of Export

Para 2.08- Export/Import of Restricted Goods/Services

Any goods /service, the export or import of which is 'Restricted', may be exported or imported only in accordance with an Authorisation/Permission or in accordance with the Procedures prescribed in a Notification/Public Notice issued in this regard.

Para 2.26- Passenger Baggage

- (a) Bona-fide household goods and personal effects may be imported as part of passenger baggage as per limits, terms and conditions thereof in Baggage Rules notified by Ministry of Finance.

Para 2.45- Export of Passenger Baggage

(a) Bona fide personal baggage may be exported either along with passenger or, if unaccompanied, within one year before or after passenger's departure from India.

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However, items mentioned as restricted in ITC (HS) shall require an Authorisation. Government of India officials proceeding abroad on official postings shall, however, be permitted to carry along with their personal baggage, food items (free, restricted or prohibited) strictly for their personal consumption. The provisions of the Para shall be subject to Baggage Rules issued under the Customs Act, 1962.

The Foreign Trade (Development and Regulation) Act, 1992: -

Section 3. Powers to make provisions relating to imports and exports. —

(1) The Central Government may, by Order published in the Official Gazette, make provision for the development and regulation of foreign trade by facilitating imports and increasing exports.

(2) The Central Government may also, by Order published in the Official Gazette, make provision for prohibiting, restricting or otherwise regulating, in all cases or in specified classes of cases and subject to such exceptions, if any, as may be made by or under the Order, the import or export of goods or services or technology:

Provided that the provisions of this sub-section shall be applicable, in case of import or export of services or technology, only when the service or technology provider is availing benefits under the foreign trade policy or is dealing with specified services or specified technologies.

(3) All goods to which any Order under sub-section (2) applies shall be deemed to be goods the import or export of which has been prohibited under section 11 of the Customs Act, 1962 (52 of 1962) and all the provisions of that Act shall have effect accordingly.

(4) Without prejudice to anything contained in any other law, rule, regulation, notification or order, no permit or licence shall be necessary for import or export of any goods, nor any goods shall be prohibited for import or export except, as may be required under this Act, or rules or orders made thereunder.

Section 7. Importer-exporter Code Number. —No person shall make any import or export except under an Importer-exporter Code Number granted by the Director General or the officer authorised by the Director General in this behalf, in accordance with the procedure specified in this behalf by the Director General:

Section 11. Contravention of provisions of this Act, rules, orders and foreign trade policy. — (1) No export or import shall be made by any person except in accordance with the provisions of this Act, the rules and orders made thereunder, and the foreign trade policy for the time being in force.

Foreign Trade (Regulation) Rules, 1993:

Rule 11. Declaration as to value and quality of imported goods or services or technology. —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, state the value, quality, and description of such goods to the best of his knowledge and belief and in case of exportation of goods or services or technology, 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

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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.

Rule 12. Declaration as to Importer-exporter Code Number. —On the importation into or exportation out of any Customs port of any goods the importer or exporter shall in the Bill of Entry or Shipping Bill or, as the case may be, in any other documents prescribed by rules made under the Act or the Customs Act, 1962 (52 of 1962), state the Importer-exporter Code Number allotted to him by the competent authority.

DGFT-FTP Notification No-43/2015-20 dated 22.11.2021 stipulates that:

“Export of rough diamonds **shall not be permitted** unless the concerned exporter is registered with Gems & Jewellery EPC, which is the designated importing and exporting authority of India for the Kimberley Process Certification Scheme (KPCS).”

Schedule 2 of Export Policy; General Notes to Export Policy; 3. Classes of Export Trade Control, C. Prohibited Goods: -

“The prohibited items are not permitted to be exported. An export license will not be given in the normal course for goods in the prohibited category. No export of rough diamond shall be permitted unless accompanied by Kimberley Process (KP) Certificate as specified by Gems and Jewellery EPC (GJEPC).”

Circular No. 17/95-Cus., dated 01.03.1995 in F. No. 520/118/93-Cus. VI

Export of commercial goods as baggage-Instructions regarding- Such exports through passengers’ baggage may be allowed so long as proper proof of the goods having been procured against payment in foreign exchange is provided by the passengers.

14. CONTRAVENTION OF LEGAL PROVISIONS

From the facts available on record, evidence collected, statements recorded, and investigation conducted, as discussed in detail in forgoing paras, it appeared that: -

14.1 Mr. Jignesh Batukbhai Moradiya was actively involved in the attempted smuggling of **4910.30 Carats of rough diamonds, valued at Rs. 1,10,12,900/- (Rupees One Crore Ten Lakh Twelve Thousand Nine Hundred only)**. The said diamonds were kept in his baggage and clandestinely carried by him in 09 pouches, which had been concealed in the rod of the handle of the blue trolley bag. The diamonds concealed in the baggage did not belong to him and were given to him by another person for delivery in Dubai for monetary consideration. The said goods were clearly meant for commercial purposes and hence did not constitute bona fide baggage within the meaning of Section 79 of the Customs Act, 1962. Further, Shri Jignesh Batukbhai Moradiya had also contravened the provisions of Section 77 of the Customs Act, 1962 in as much as he did not declare the contents of the bag to the Customs officer at Surat International Airport. He also could not produce any valid documents and evidence to prove that the goods carried by him and concealed in his baggage were legitimately procured. Further, the seized goods attempted to be improperly exported by the passenger were commercial goods, which should have been properly exported by filing a Shipping Bill and by complying with the relevant provisions of the Customs Act, 1962, Foreign Trade (Development and Regulation) Act, 1992, Foreign Trade (Regulation) Rules, 1993, Foreign Trade Policy 2015-20, Notifications issued by Directorate General

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of Foreign Trade and other laws in force governing the export trade. He had thus contravened various legal provisions as given below:

- i. Section 11, 50, 77, and 79 of Customs Act, 1962.
- ii. Section 3, 7, and 11 of the Foreign Trade (Development and Regulation) Act, 1992.
- iii. Rules 11 and 12 of the Foreign Trade (Regulation) Rules, 1993.
- iv. DGFT-FTP Notification No.43/2015-20 dated 22.11.2021.
- v. Para 1.11, 2.05, 2.06, 2.08, 2.26 and 2.45 of Foreign Trade Policy 2015-2020.

Thus, by his above acts, Shri Jignesh Batukbhai Moradiya had rendered himself liable for penalty under Section 114 of the Customs Act, 1962.

14.2 Mr. Ashvinbhai Manubhai Monpara appeared to have involved himself in smuggling rough diamonds from Surat. He was aware that the rough diamonds were concealed in the trolley bag and were being carried out of India, being smuggled. He has actively aided, abetted, and knowingly concerned himself with smuggling rough diamonds through Surat International Airport. He was required to accompany Shri Jignesh Batukbhai Moradiya on his trip to Sharjah on 26.07.2023, even though the ticket was booked under a single PNR bearing No. D9V55R, but he deliberately got it bifurcated so as to avoid being caught by the Customs authorities. He had booked the tickets for himself and Shri Jignesh Batukbhai Moradiya for the flight dated 26.07.2023 and provided the documents to the ticket booking agency, M/s MIT International. Further, the rough diamonds were concealed in the rod of the handle of the trolley bag in his presence in the office of Shri Hitesh Moradiya. Thus, he appeared to have knowingly and willingly aided and abetted in the smuggling of rough diamonds and thereby contravened the provisions of Sections 11, 50, 77 and 79 of the Customs Act, 1962; Section 3, 7 and 11 of the Foreign Trade (Development and Regulation) Act, 1992; Rule 11 and 12 of the Foreign Trade (Regulation) Rules, 1993; DGFT-FTP Notification No.43/2015-20 dated 22.11.2021 as well as provisions of the Foreign Trade Policy 2015-2020. Thus, by his above acts, Shri Ashvinbhai Manubhai Monpara has rendered himself liable for penalty under Section 114 of the Customs Act, 1962.

14.3 Mr. Hiteshbhai Ranchhodbhai Moradiya appeared to have involved himself in smuggling rough diamonds from Surat to Sharjah. He deliberately evaded appearance before the investigation and dishonored the summonses. From the statement of Shri Ashvinbhai Manubhai Monpara, it is evident that Shri Hiteshbhai Ranchhodbhai Moradiya had instructed Shri Jignesh Batukbhai Moradiya and Shri Ashvinbhai Manubhai Monpara to carry the impugned rough diamonds from Surat to Sharjah. He also stated that he would bear all the trip expenses for traveling to Sharjah. The above facts had also been accepted by Shri Hiteshbhai Ranchhodbhai Moradiya in his statement dated 11.10.2023, recorded under Section 108 of the Customs Act, 1962. Therefore, it was evident that Shri Hiteshbhai Ranchhodbhai Moradiya was fully aware and involved in the incident of illegal export of rough diamonds through Surat International Airport. He willingly abetted the commission of the above-said acts of the passenger, Shri Jignesh Batukbhai Moradiya, which had rendered the goods liable to confiscation under Section 113 (d) and (e) of the Customs Act, 1962. Thus, he appeared to have knowingly and willingly aided and abetted in the smuggling of rough diamonds and thereby contravened the provisions of Sections 11, 50, 77 and 79 of the Customs Act, 1962; Section 3, 7 and 11 of the Foreign Trade (Development and Regulation) Act, 1992; Rule 11 and 12 of the Foreign Trade (Regulation) Rules, 1993; DGFT-FTP Notification No.43/2015-20 dated 22.11.2021 as well as provisions of the Foreign Trade Policy 2015-2020. By his above acts, Shri Hiteshbhai Ranchhodbhai Moradiya had rendered himself liable for penalty under Section 114 of the Customs Act, 1962.

14.4 Mr. Ritesh Hasmukhbhai Moradiya appeared to have been concerned about the smuggling of rough diamonds from Surat to Sharjah. He was present when the impugned diamonds were concealed in the trolley bag of Shri Jignesh Batukbhai Moradiya. He collected the impugned rough diamonds from the owner, Shri Pareshkumar Vallabhbhai Moradiya, and handed them over along with 500 Dirhams to Shri Ashvinbhai Manubhai Monpara, a co-noticee, who was also travelling to Sharjah on 26.07.2023 along with Shri Jignesh Batukbhai Moradiya. Shri Ritesh Hasmukhbhai Moradiya repeatedly and deliberately dishonored summonses and willfully avoided joining the investigation without giving any reason or seeking an extension. Therefore, it was evident that Shri Ritesh Hasmukhbhai Moradiya was fully aware and involved in the incident of an illegal attempt to export rough diamonds through Surat International Airport. He willingly connived and contributed to the commission of the above-said act, which had rendered the goods liable to confiscation under Section 113 (d) and (e) of the Customs Act, 1962. Thus, he appeared to have knowingly and willingly aided and abetted in the smuggling of rough diamonds and thereby contravened the provisions of Sections 11, 50, 77 and 79 of the Customs Act, 1962; Sections 3, 7 and 11 of the Foreign Trade (Development and Regulation) Act, 1992; Rules 11 and 12 of the Foreign Trade (Regulation) Rules, 1993; DGFT-FTP Notification No.43/2015-20 dated 22.11.2021 as well as provisions of the Foreign Trade Policy 2015-2020. By his above acts, Shri Ritesh Hasmukhbhai Moradiya had rendered himself liable for penalty under Section 114 of the Customs Act, 1962.

14.5 Mr. Pareshkumar Vallabhbhai Moradiya had also involved himself in the smuggling of rough diamonds from Surat to Sharjah. He was the owner of the firm, M/s Motiba Gems to which impugned diamonds belonged. In his statement dated 09.11.2023, recorded under Section 108 of the Customs Act, 1962, he had agreed and accepted that the impugned rough diamonds seized at Surat International Airport on 27.07.2023, belonged to his firm, M/s Motiba Gems. He had handed over the said diamonds to Shri Ritesh Hasmukhbhai Moradiya, who subsequently handed over the same along with 500 Dirhams to Shri Ashvinbhai Manubhai Monpara, a co-noticee, who was also travelling to Sharjah on 26.07.2023 along with Shri Jignesh Batukbhai Moradiya for illegal export of the impugned diamonds. It appeared that an instant act of smuggling was undertaken on the authorization and active directions of Shri Pareshbhai Vallabhbhai Moradiya. Neither Shri Hiteshbhai Ranchhodbhai Moradiya, who was just an employee working as a diamond assorter in the office of Shri Pareshbhai Vallabhbhai Moradiya, nor his cousin Shri Ritesh Hasmukhbhai Moradiya could have independently decided to authorize such illegal export of impugned diamonds valued at Rs. 1,10,12,900/-on their own without the consent, approval, and connivance of Shri Pareshbhai Vallabhbhai Moradiya, the owner of the diamonds, who was going to be the ultimate beneficiary from such illegal transaction. Shri Pareshkumar Vallabhbhai Moradiya also could not produce any bill/invoice regarding the sale of impugned diamonds. It appeared that the entire scheme of unlawful export was devised by Shri Pareshkumar Vallabhbhai Moradiya in collaboration with the co-noticees with an ulterior motive to defraud the govt. Exchequer. Thus it appeared that Shri Pareshbhai Vallabhbhai Moradiya hatched a plan and willingly and knowingly connived and abetted in the commission of above-said act of smuggling of rough diamonds which had rendered the said goods liable to confiscation under Section 113 (d) and (e) of the Customs Act, 1962 and thereby contravened the provisions of Section 11, 50, 77 and 79 of Customs Act, 1962; Section 3, 7 and 11 of the Foreign Trade (Development and Regulation) Act, 1992; Rule 11 and 12 of the Foreign Trade (Regulation) Rules, 1993; DGFT-FTP Notification No. 43/2015-20 dated 22.11.2021 as well as provisions of the Foreign Trade Policy 2015-2020. By his above acts, Shri Pareshbhai Vallabhbhai Moradiya had rendered himself liable for penalty under Section 114 of the Customs Act, 1962.

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15. Thus, the impugned diamonds attempted to be improperly exported/smuggled by the passenger by way of concealment in baggage appeared to have assumed the characteristics of prohibited goods due to contravention of the above-mentioned legal provisions. The passenger had failed to fulfill the conditions as required under various laws governing the export of goods in India before the clearance of export goods and thus rendered the goods liable to confiscation under the provisions of Section 113 (d) and (e) of the Customs Act, 1962 read with the provisions of Section 11 of the Customs Act, 1962 and Section 3 of the Foreign Trade (Development and Regulation) Act, 1992. By their above-discussed acts of omission and commission, the noticees had rendered the goods, viz, rough diamonds having total weight as 4910.30 Carats with a market value of Rs. 1,10,12,900/- (Rupees One Crore Ten Lakh Twelve Thousand Nine Hundred only) attempted to be improperly exported, liable to confiscation under Section 113(d) and (e) of the Customs Act, 1962. Further, by his above-described acts of omission and commission on his part, Shri Pareshkumar Vallabhbhai Moradiya, Shri Jignesh Batukbhai Moradiya, Shri Ashvinbhai Manubhai Monpara, Shri Hiteshbhai Ranchhodbhai Moradiya and Shri Ritesh Hasmukhbhai Moradiya had knowingly and willingly aided and abetted in the smuggling of rough diamonds, and hence, had rendered themselves liable to penalty under Section 114 of the Customs Act, 1962.

16. The baggage i.e., a Blue colour trolley bag carried by Shri Jignesh Batukbhai Moradiya, used for concealing the seized diamonds, also appeared liable to confiscation under Section 119 of the Customs Act, 1962. Further, the packing material, viz. plastic pouches used to conceal the diamonds, also appeared liable for confiscation under Section 118 of the Customs Act, 1962.

17. Accordingly, a Show Cause Notice bearing F. No. VIII/26-10/CUS/AIU/2023-24 dated 08.01.2024 was issued to Shri **Pareshkumar Vallabhbhai Moradiya**, the owner of the impugned seized diamonds and actively involved in the smuggling of the above-said diamonds, calling upon him to show cause in writing to the Additional Commissioner of Customs, Surat International Airport, Surat, having his office situated at 4th Floor, Customs House, beside SMC Ward office, Althan-Bhimrad Road, Althan, Surat – 395007 within thirty days from the receipt of notice as to why:

- (i) The **4910.30** Carats of rough diamonds, valued at **Rs. 1,10,12,900/- (Rupees One Crore Ten Lakh Twelve Thousand Nine Hundred Only)** recovered from the baggage of Shri Jignesh Batukbhai Moradiya, and seized vide Seizure Memo dated 27.07.2023 should not be confiscated under Section 113 (d) and 113 (e) of the Customs Act, 1962;
- (ii) Penalty should not be imposed on him under Section 114(i) of the Customs Act, 1962;

18. Accordingly, a Show Cause Notice bearing F. No. VIII/26-10/CUS/AIU/2023-24 dated 08.01.2024 was issued to Shri **Jignesh Batukbhai Moradiya**, person involved in smuggling of diamonds, calling upon him to show cause in writing to the Additional Commissioner of Customs, Surat International Airport, Surat, having his office situated at 4th Floor, Customs House, beside SMC Ward office, Althan-Bhimrad Road, Althan, Surat – 395007 within thirty days from the receipt of notice as to why:

- (i) The baggage, i.e., Blue Colour Trolley Bag, carried by him and used for concealing the diamonds attempted to be smuggled and seized vide Seizure Memo dated 27.07.2023 should not be confiscated under Section 119 of the Customs Act, 1962.

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- (ii) The packing materials, viz., plastic pouches used for concealment of the diamonds seized vide Seizure Memo dated 27.07.2023, should not be confiscated under Section 118 of the Customs Act, 1962.
- (iii) Penalty should not be imposed on him under Section 114 (i) of the Customs Act, 1962.

19. Accordingly, a Show Cause Notice bearing F. No. VIII/26-10/CUS/AIU/2023-24 dated 08.01.2024 was issued to Shri **Ashvinbhai Manubhai Monpara**, Shri **Hiteshbhai Ranchhodbhai Moradiya** and **Shri Ritesh Hasmukhbhai Moradiya**, persons involved in and abetting the smuggling of diamonds, calling upon them to show cause in writing to the Additional Commissioner of Customs, Surat International Airport, Surat, having his office situated at 4th Floor, Custom House, beside SMC Ward office, Althan-Bhimrad Road, Althan, Surat – 395007 within thirty days from the receipt of notice as to why:

- (i) Penalty should not be imposed on them under Section 114 (i) of the Customs Act, 1962.

20. DEFENCE REPLY

20.1 DEFENCE REPLY OF SHRI JIGNESH BATUKBHAI MORADIYA

Shri Jignesh Batukbhai Moradiya submitted his defence reply dated 15.10.2024 to the Show Cause Notice dated issued to him, wherein he has submitted that:

- he has completed only up to the 7th grade in education and has no prior experience or knowledge of air travel, customs procedures, or the rules and regulations pertaining to airports. He has further stated that he had never traveled by air in his life, and as a result, his passport does not bear even a single stamp of international travel;
- He was traveling with Shri Ashvinbhai Manubhai Monpara, a well-settled businessman in the diamond industry. Ashvinbhai, having traveled frequently, had invited him to accompany him to Dubai to teach him the basics of diamond trading. As someone who had never traveled by air, he relied entirely on Ashvinbhai's experience and guidance. He trusted him completely due to his established reputation in the diamond business;
- Before the trip, Ashvinbhai had informed him that Shri Riteshbhai, also known as Raghubhai, would meet me near a tea stall close to my residence and provide further instructions. As per his instructions, on the day of the journey, when he met Raghubhai at the tea stall, Shri Ritesh alias 'Raghubhai' instructed him to merge his luggage with his, and he had no reason to question this request or suspect that anything unlawful was happening. Being a novice traveler, he was not aware of any potential issues and did not know that diamonds were concealed in the luggage;
- Ashvinbhai, traveling with him, mentioned that he had to meet a friend outside the airport and told him to proceed inside first. Trusting his judgment and following his instructions, he had entered the airport alone. It was during this time that the Customs officers stopped him for inspection. When the customs officers found the diamonds hidden in the bag, he was completely shocked and had no knowledge of the existence of these diamonds. He immediately tried to

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contact Shri Riteshbhai, but he did not answer his phone and eventually switched it off;

- He had no knowledge that there were diamonds concealed in his luggage. He was traveling purely based on the instructions of Ashvinbhai and Riteshbhai, who he trusted as experienced and established individuals. He had no involvement in the procurement or ownership of these diamonds, nor did he intend to violate any customs laws. His limited education and lack of experience with air travel further demonstrate his complete reliance on Ashvinbhai for this journey;
- He had no criminal intent to smuggle goods or evade customs regulations. He was merely acting in good faith and trust, unaware of the contents of the luggage he was carrying. His actions were based on the belief that he was engaging in a legitimate trip to learn about diamond trading, as explained to him by Ashvinbhai;
- Given the above facts, he sincerely requests that the Customs authorities consider his complete lack of intent to commit any offence and the fact that he was misled by others without his knowledge. He further submits that he was merely an innocent participant in this situation, unaware of the events unfolding around him. He states that he has cooperated fully with the Customs officers throughout this process and has no prior record of involvement in unlawful activities.
- In light of these circumstances, he respectfully requests that all allegations against him be dropped and that the proceedings initiated against him be quashed. He was completely unaware of the situation and did not engage in any intentional violation of the Customs Act of 1962. He is willing to present himself for a personal hearing if required and is prepared to assist in any further investigations into this matter.

20.2 Shri Ashvinbhai Manubhai Monpara was asked to submit a reply to the Show Cause Notice issued to him in the instant case. However, I have observed that he has not filed any defence reply to the Show Cause Notice to date in this office.

20.3 DEFENCE REPLY OF SHRI HITESHBHAI RANCHHODBHAI MORADIYA

The noticee, **Shri Hiteshbhai Ranchhodbhai Moradiya**, has submitted his defence reply through his authorised representative, Shri Anish Goyal, Chartered Accountant, vide letter dated 10.12.2024, wherein he has submitted as under:

- At the very outset, the co-noticee has denied all the allegations set forth against him in the show cause notice. He has further submitted that the demand of penalty under section 114(i) of the Customs Act, 1962 is bad-in-law. They have further submitted that the co-noticee was a diamond assorter working in M/s Motiba Gems. Due to a lack of knowledge about the practice of export/import of goods, he was unaware that if diamonds were to be sold outside the domestic territories of a country, various compliances to fulfill the requirements of the Customs Act of 1962 were necessary. He was bona fide in believing that exports were treated as normal sales and did not require special compliances. Thus, it was humbly stated that the co-noticee had no mala fide intentions to carry out the illegal export of rough diamonds by concealing them from the customs authorities. Furthermore, the duty to disclose the export of goods lay upon the owner of such goods. Therefore, there was no liability on the co-noticee to disclose

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the export to the Customs, and he did not even have any intimation about the export being carried out. Moreover, there was no gain to the co-noticee from the illegal export of the diamonds as he was neither the owner nor a beneficiary of the goods. No person would attempt to carry out illegal export, taking such a huge risk, without any benefits being appropriated. Thus, it could be very well concluded that the co-noticee was not involved in exporting the rough diamonds illegally and had no bad intention to evade duties. Furthermore, he has referred to Section 114(i) of the Customs Act, 1962, and emphasizes that penalty under section 114(i) shall only be applicable if the goods were liable to be confiscated under section 113 of the Customs Act, 1962. As section 113 itself is not applicable to the co-noticee's case, the penalty under section 114(i) stands not applicable too.

- They have further submitted that the rough diamonds were not prohibited from export as the co-noticee had all the valid documents required for the export of rough diamonds. The co-noticee had the Bill of Entry (BOE No. 6820260 dated 11.07.2023), KP Certificate (AE/152727 dated 10.07.2023), proof of goods having been procured in foreign exchange, GJEPC certificate, etc. Thus, the question of imposing a penalty did not arise. In this regard, the co-noticee relied upon the judgment in SAGAR IMPEX Versus COMMISSIONER OF CUSTOMS AIRPORT, MUMBAI 2017 (358) E.L.T. 504 (Tri. - Mumbai), which held that there being no ban on the export of rough diamonds, there was no justification in enhancing the value of export goods, confiscating the same, and disallowing export by withdrawal on payment of redemption fine. Further, the co-noticee relied upon the judgment in HINDUSTAN STEEL LTD. Versus STATE OF ORISSA 1978 (2) E.L.T. (J 159) (S.C.), which stated that no penalty should be imposed for a technical or venial breach of legal provisions or in cases of bona fide belief. It was held that an order imposing a penalty for failure to carry out a statutory obligation was the result of a quasi-criminal proceeding, and penalties should not ordinarily be imposed unless the party acted deliberately in defiance of the law, was guilty of dishonest conduct, or acted in conscious disregard of its obligation. Even if a minimum penalty was prescribed, the competent authority could refuse to impose a penalty where the breach arose from a bona fide belief. Thus, the levy of a penalty under Section 114(i) of the Customs Act, 1962 did not arise.
- Furthermore, they have submitted that the demand for a penalty in the absence of *mens rea* was bad-in-law. It was humbly stated that the presence of *mens rea*, or the intention to commit a crime, was a fundamental element in determining culpability. In cases demonstrating a lack of *mens rea*, penalties should not have been applied. The absence of intent or knowledge negated the moral liability that typically warranted a punitive response. Without this essential element, the enforcement of penalties would not only have been unjust but also contrary to the principles of fair legal practice and natural justice. The co-noticee has stated that his case squarely fell under this umbrella. The co-noticee, who was just a diamond assorter, was unaware of the compliance required for exporting diamonds. Being honest and having no mala fide intent to evade duties or export illegally, the case lacked *mens rea*. Thus, the penalty under Section 114(i) of the Customs Act, 1962 was not justified under the statute. Hence, given the submission, the co-noticee has requested the authority not to confirm the demand for tax, interest, penalty, and fine.

20.4 DEFENCE REPLY OF SHRI RITESH HASMUKH MORADIYA

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The noticee, **Shri Ritesh Hasmukh Moradiya**, has submitted his defence reply through his authorised representative, Shri Anish Goyal, Chartered Accountant, vide letter dated 10.12.2024, wherein he has submitted as under:

- The co-noticee has denied all the allegations set forth against him in the show cause notice and submitted his arguments on the merits of the case. He has further stated that the demand for a penalty under Section 114(i) of the Customs Act, 1962 was bad in law. He stated that the co-noticee had merely handed over the rough diamonds from Shri Pareshbhai Vallabhbhai Moradiya to Shri Jignesh Batukbhai Moradiya without knowing the actual purpose of doing so. Due to a lack of knowledge about the practice of export/import of goods, he was also unaware that various compliances were required under the Customs Act 1962 if diamonds were to be sold outside the domestic territories of the country. He had no mala fide intention to carry out the illegal export of rough diamonds by concealing them from customs authorities. Furthermore, the duty to disclose the export of goods lay upon the owner of such goods, and thus, there was no liability on the co-noticee to disclose the export to Customs, nor did he have any intimation about the export being carried out. Moreover, the co-noticee had no financial gain in the illegal export of diamonds, as he was neither the owner of the goods nor a beneficiary. No person would have attempted to carry out illegal exports, assuming such a huge risk, without any benefits being appropriated to him. Thus, it was evident that the co-noticee was not involved in illegally exporting the rough diamonds and had no bad intention to evade duties. He further referred to Section 114(i) and emphasized that a penalty under this section would only be applicable if the goods were liable for confiscation under Section 113 of the Customs Act, 1962. He argued that rough diamonds were not prohibited from export, as he had all the valid documents required for the export of rough diamonds, including the Bill of Entry (BOE No. 6820260 dated 11.07.2023), KP Certificate (AE/152727 dated 10.07.2023), proof of procurement in foreign exchange, and a GJEPC certificate. Therefore, the question of imposing a penalty did not arise. In support of his argument, the co-noticee relied on the judgment in *SAGAR IMPEX Versus COMMISSIONER OF CUSTOMS AIRPORT, MUMBAI 2017 (358) E.L.T. 504 (Tri. - Mumbai)*, which ruled that there was no ban on the export of rough diamonds, and hence, there was no justification for enhancing the value of export goods, confiscating them, and disallowing export. He also relied on *HINDUSTAN STEEL LTD. Versus STATE OF ORISSA 1978 (2) E.L.T. (J 159) (S.C.)*, which stated that no penalty should be imposed for a technical or venial breach of legal provisions or in cases of bona fide belief. The ruling clarified that an order imposing a penalty for failure to carry out a statutory obligation was quasi-criminal in nature and that penalties should not ordinarily be imposed unless the party acted deliberately in defiance of the law, was guilty of dishonest conduct, or acted in conscious disregard of its obligation. Even if a minimum penalty was prescribed, the competent authority could refuse to impose a penalty in cases where the breach arose from a bona fide belief. Therefore, the levy of a penalty under Section 114(i) of the Customs Act, 1962 did not arise.
- The co-noticee further submitted that the demand for a penalty in the absence of ‘mens rea’ was bad in law. He argued that it was a well-established legal principle that ‘mens rea’, or the intention to commit a crime, was a fundamental element in determining culpability. In cases where ‘mens rea’ was absent, penalties should not have been applied. The absence of intent or knowledge negated the moral liability that typically warranted a punitive response. Without this essential element, the enforcement of penalties would have been unjust and contrary to the principles of fair legal practice and natural justice. The co-noticee further stated

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that his case squarely fell under this legal principle. Since he was unaware of the purpose of handing over the rough diamonds from one party to another, he could not have been alleged to have had any bad intentions. Being honest and having no mala fide intent to evade duties or export illegally, his case lacked '*mens rea*'. Therefore, a penalty under Section 114(i) of the Customs Act, 1962, was not justified under the statute. In view of his submissions, the co-noticee requested the authority not to confirm the demand for tax, interest, penalty, and fine.

20.5 DEFENCE REPLY OF SHRI PARESHKUMAR VALLABHBHAI MORADIYA

The noticee, Shri Pareshkumar Vallabhbhai Moradiya, has submitted his defence reply through his authorised representative, Shri Anish Goyal, Chartered Accountant, vide letter dated 10.12.2024, wherein he has submitted as under:

- The co-noticee has denied all the allegations set forth against him in the show cause notice and submitted his arguments on the merits of the case. The owner of the goods was bona fide and was unaware of the fact that the goods were to be carried all the way to Dubai. Therefore, the confiscation of goods under Sections 113(d) and 113(e) was bad in law. The co-noticee, namely Shri Pareshkumar Vallabhbhai Moradiya, was the proprietor of M/s Motiba Gems, to which the rough diamonds, alleged to have been smuggled, belonged. He was informed by Shri Hitesh that the latter had a customer for the diamonds. As Shri Hitesh was not in Surat, the co-noticee handed over the rough diamonds to Shri Ritesh, who was the cousin of Shri Hitesh, and after that, he left for Congo. Furthermore, he also stated that he had issued one bill of supply (Jhangad) for the anticipated sale of the said rough diamonds. It was a common practice in the diamond industry for the supplier to issue a bill of supply (Jhangad) at the time of dispatch of diamonds to show them to multiple customers in the diamond market. After the sale was confirmed, the supplier would issue a final invoice for the supply of rough diamonds. The co-noticee was unaware that the rough diamonds were being carried by Shri Jigneshbhai Batukbhai Moradiya. He only received the news of the seizure of the impugned diamonds from Shri Hitesh after a week, as he was in Congo then. Shri Hitesh informed him that the diamonds were given to Shri Ashvinbhai Manubhai Monpara for selling. The co-noticee was under the bona fide belief that his diamonds were not going to be smuggled to any other country and that the customer belonged to India only. Therefore, he had given his diamonds to Shri Ritesh for selling. The co-noticee had no mala fide intention to evade duties if leviable, on rough diamonds or to smuggle them to Dubai. Had he been aware of the smuggling of diamonds, he would have immediately taken steps to prevent it. In Para 11.3, page 9 of the show cause notice, it was stated that he failed to produce any bill of supply (Jhangad). However, in his statement dated 09.11.2023, he had stated that he had issued a bill of supply (Jhangad) for the same. A copy of the bill of supply (Jhangad) was enclosed as Annexure-I, proving that the facts mentioned in the show cause notice were incorrect. Additionally, the co-noticee had imported these rough diamonds, and a copy of the bill of entry was enclosed as Annexure-II. The co-noticee had imported these rough diamonds under a proper bill of entry vide BOE No. 6820260 dated 11.07.2023. The rough diamonds had a valid KP Certificate with No. AE/152727 dated 10.07.2023, a copy of which was enclosed as Annexure-III. The co-noticee had accounted for the purchase of rough diamonds, and there was no benefit to him in selling these accounted rough diamonds through illegal means. Furthermore, during the search conducted at the co-noticee's premises on 27.10.2023, no discrepancies were found in stock or the books of accounts. This fact was mentioned in Para 11.1 of the show cause notice, but the Panchnama dated 27.10.2023 was not relied upon as a document

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in the show cause notice, which itself proved that no discrepancies or adverse evidence was found during the search. The co-noticee also had a valid KP Certificate (No. AE/152727 dated 10.07.2023), a copy of which was enclosed as Annexure-III, and a GJEPC Certificate enclosed as Annexure-IV. The rough diamonds were not prohibited for export, as the co-noticee possessed all the valid documents required for export. Furthermore, there was no export duty on the export of rough diamonds. Had the co-noticee been informed prior to the attempt to export the goods, he would have provided all the requisite documents, such as the Bill of Entry, KP Certificate, proof of procurement in foreign exchange, and the GJEPC certificate. The case was not one where the co-noticee lacked relevant documents. There was no gain for him in withholding the relevant documents. On the contrary, he was aggrieved as his rough diamonds had been detained/seized by the Department. The investigating officers did not deny the fact that the owner of the rough diamonds was M/s Motiba Gems (IEC 5216927956), that the rough diamonds were legitimately imported through BOE No. 6820260 dated 11.07.2023 with a valid KP certificate (No. AE/152727 dated 10.07.2023), that no discrepancies or adverse findings were recorded during the search at the premises of M/s Motiba Gems, and that the goods were handed over to Shri Riteshbhai Moradiya under cover of Jhangad No. 1347 dated 21.07.2023 for an anticipated sale in India only. The co-noticee was as much deceived as the Department itself. Being a bona fide owner of the goods with no mala fide intention of smuggling, the confiscation of goods under Section 113(d) & 113(e) resulted in immense injustice to him. Thus, the confiscation of goods was bad in law.

- The co-noticee has further submitted that Shri Vikasraj Tilakraj Juneja was not an approved valuer for rough diamonds as per Public Notice No. 03/2022 dated 24.01.2023, issued by the Hon'ble Commissioner of Customs, Ahmedabad. Thus, the valuation report given by him could not be relied upon. The Surat International Airport fell under the jurisdiction of the Honourable Commissioner of Customs, Ahmedabad, and thus, the said public circular was applicable to the Customs Department at Surat. Relying on a valuation by an unapproved individual could have led to significant legal and financial repercussions, especially in the context of customs declarations or regulatory filings. Therefore, it was imperative to ensure that only valuations from certified and approved valuers were considered for any formal or legal process related to rough diamonds. In light of this, any valuation provided by Shri Vikasraj Tilakraj Juneja regarding rough diamonds could not be considered legally valid or reliable. Since he was not certified under the prescribed regulations, his assessment lacked the legal standing and sensitivity required to comply with customs and regulatory frameworks. Thus, his valuation could not be relied upon to determine the value of the seized goods. A copy of Public Notice No. 03/2022 dated 24.01.2023, issued by the Hon'ble Commissioner of Customs, Ahmedabad, was enclosed as Annexure-V, which had superseded all earlier notices. Since the valuation itself was not reliable, the question of seizure or confiscation of goods did not arise.
- The co-noticee has also requested a cross-examination of Shri Hiteshbhai Ranchhodbhai Moradiya. The statements of Shri Hiteshbhai Moradiya provided in the show cause notice stated that he informed the co-noticee that Shri Ashvinbhai Monpara had a customer for the purchase of rough diamonds. Therefore, the co-noticee handed over the rough diamonds to Shri Riteshbhai Moradiya to show them to the customer at the direction of Shri Hiteshbhai Moradiya. However, Shri Hiteshbhai Ranchhodbhai Moradiya only mentioned that there was a customer for rough diamonds but did not clarify that he was outside India. Thus, the co-noticee was under the bona fide assumption that the

customer was within India and, accordingly, issued a Jhangad along with the diamonds to Shri Riteshbhai Moradiya. As the diamonds were legally obtained by the co-noticee, he would not have benefited from their illegal export. Furthermore, the attempted export was also a breach of trust against him, as he was unaware of the carriage of the diamonds to Dubai. Thus, the co-noticee requested a cross-examination of Shri Hiteshbhai Moradiya.

- The co-noticee has further argued that the demand for a penalty and the confiscation of goods in the absence of *mens rea* was bad in law. It was a well-established legal principle that *mens rea*, or the intention to commit a crime, was a fundamental element in determining culpability. In cases where *mens rea* was absent, penalties should not have been applied. The absence of intent or knowledge negated the moral liability that typically warranted a punitive response. Without this essential element, the enforcement of penalties would have been unjust and contrary to the principles of fair legal practice and natural justice. The co-noticee's case fell squarely within this principle. As the owner of the impugned rough diamonds, he was unaware of the attempt to export them illegally. Being honest and having no mala fide intent to evade duties or export illegally, his case lacked *mens rea*. Thus, the confiscation of rough diamonds under Sections 113(d) & 113(e) was not justified under the statute.
- The co-noticee has further argued that the demand for a penalty under Section 114(i) of the Customs Act, 1962, was bad in law. Section 114(i) of the Customs Act, 1962 provided that any person who, in relation to any goods, did or omitted to do any act that would render such goods liable to confiscation under Section 113 or abetted such an act would be liable for a penalty. However, the penalty under Section 114(i) was applicable only if the goods were liable for confiscation under Section 113 of the Customs Act, 1962. Since Section 113 was not applicable to the co-noticee's case, the penalty under Section 114(i) was also not applicable. Furthermore, the co-noticee stated that rough diamonds were not prohibited from export as he had all the valid documents required for their export, including the Bill of Entry (BOE No. 6820260 dated 11.07.2023), KP Certificate (AE/152727 dated 10.07.2023), proof of goods procured in foreign exchange, and the GJEPC certificate. Therefore, the question of imposing a penalty did not arise. In support of this, the co-noticee relied on the judgment in *SAGAR IMPEX Versus COMMISSIONER OF CUSTOMS AIRPORT, MUMBAI 2017 (358) E.L.T. 504 (Tri. - Mumbai)*, which held that there was no ban on the export of rough diamonds and that enhancing the value of export goods, confiscating them, and disallowing export by withdrawal on payment of redemption fine was not justified. Additionally, the co-noticee relied on *HINDUSTAN STEEL LTD. Versus STATE OF ORISSA 1978 (2) E.L.T. (J 159) (S.C.)*, which stated that no penalty should be imposed for a technical or venial breach of legal provisions or in cases of bona fide belief. It was held that an order imposing a penalty for failure to carry out a statutory obligation was quasi-criminal in nature and that penalties should not ordinarily be imposed unless the party acted deliberately in defiance of the law, was guilty of dishonest conduct, or acted in conscious disregard of its obligation. Even if a minimum penalty was prescribed, the competent authority could refuse to impose a penalty in cases where the breach arose from a bona fide belief. The ruling further established that penalties should not be imposed merely because it was lawful to do so and that discretion should be exercised judicially, considering all relevant circumstances. Since the co-noticee had acted in an honest and genuine belief that his actions were lawful, no case for imposing a penalty was made out. Hence, in view of these submissions, the co-noticee requested that the goods not be confiscated and that no penalty be levied on him.

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21. RECORD OF PERSONAL HEARING:

21.1 “*Audi alteram partem*” is a cardinal principle of natural justice that dictates to hear the other side before passing any order. Therefore, opportunities to be heard in person were granted to all the noticees on 12.09.2024, 25.09.2024, and 10.12.2024 vide letters of even file No. dated 28.08.2024, 14.09.2024, and 25.11.2024, to appear and present their case before the Adjudicating authority.

21.2 Shri Govind D. Mer, Advocate Authorized representative on behalf of his client Shri Jignesh Batukbhai Moradiya, attended the personal hearing on 12.09.2024 and requested 15 days to submit his reply. Later, he filed a defence submission dated 15.10.2024 in this office.

21.3 Shri Anish Goyal, Authorized representative, appeared for the personal hearing on behalf of his three clients, namely Shri Hiteshbhai Ranchhodbhai Moradiya, Shri Ritesh Hasmukh Moradiya and Shri Pareshkumar Vallabhbbhai Moradiya on 17.12.2024 wherein, he filed defence submission dated 10.12.2024 for each of his clients and reiterated the same during the course of personal hearing in defence of the aforementioned three co-noticees.

21.4 Further, I have observed that despite scheduling multiple personal hearing dates for Co-noticee No. 2, Shri Ashvinbhai Manubhai Monpara, neither he nor his authorized representatives has appeared for the hearing.

22. DISCUSSION AND FINDINGS

I have carefully reviewed the facts of this case, the relied-upon documents, the defence submission of the noticees, relevant legal provisions pertaining to this case, and materials on record. I will, therefore, proceed to decide the case based on the evidence and documents available on record.

In the instant case, I find that the main issues to be decided are whether:

- (i) The 4910.30 Carats of rough diamonds, valued at Rs. 1,10,12,900/- (Rupees One Crore Ten Lakh Twelve Thousand Nine Hundred only) recovered from the baggage of Shri Jignesh Batukbhai Moradiya, and seized vide Seizure Memo dated 27.07.2023 should be confiscated under Section 113 (d) and 113 (e) of the Customs Act, 1962 otherwise;
- (ii) The baggage, i.e., Blue Colour Trolley Bag, carried by Shri Jignesh Batukbhai Moradiya and used for concealing the diamonds which were attempted to be smuggled and were seized vide Seizure Memo dated 27.07.2023 should be confiscated under Section 119 of the Customs Act, 1962 or otherwise;
- (iii) The packing materials, viz., plastic pouches used for concealment of the diamonds seized vide Seizure Memo dated 27.07.2023 should be confiscated under Section 118 of the Customs Act, 1962 or otherwise;
- (iv) Penalty should be imposed on Shri Jignesh Batukbhai Moradiya under Section 114 (i) of the Customs Act, 1962 or otherwise;
- (v) Penalty should be imposed on Shri Ashvinbhai Manubhai Monpara under Section 114 (i) of the Customs Act, 1962 or otherwise;

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- (vi) Penalty should be imposed on Shri Hiteshbhai Ranchhodbhai Moradiya under Section 114 (i) of the Customs Act, 1962 or otherwise;
- (vii) Penalty should be imposed on Shri Ritesh Hasmukhbhai Moradiya under Section 114 (i) of the Customs Act, 1962 or otherwise;
- (viii) Penalty should be imposed on Shri Pareshkumar Vallabhbhai Moradiya under Section 114 (i) of the Customs Act, 1962 or otherwise.

23. I find that Panchnama has recorded the fact that, based on suspicion, Shri Jignesh Batukbhai Moradiya, suspected to be carrying some suspicious items in his baggage, was stopped during a security check while he was proceeding to board a Sharjah-bound flight on 26.07.2023. While scanning of his baggage, some stone-like images were seen in the metal fixtures of the blue-coloured trolley bag. Thereafter, the officers, in the presence of the panchas, opened the metallic fixtures of the blue trolley bag and found that it contained 09 sealed pouches, which contained small crystal-like items of various sizes/shapes that appeared to be diamonds. The officers then asked the passenger about the crystal-like items, to which he stated that the said items were rough diamonds. Thereafter, the government-approved valuer, Shri Vikasraj Tilakraj Juneja, was called to examine the goods, appeared to be diamonds. Thereafter, the valuer arrived at Surat International Airport and examined the aforementioned goods to determine their exact nature and value. The valuer, after examining the crystal-like items, identified the same as rough diamonds having total weight of 4910.30 Carats with a market value of Rs. 1,10,12,900/- (Rupees One Crore Ten Lakh Twelve Thousand Nine Hundred only). Accordingly, he issued a Valuation Certificate dated 27.07.2023. Thereafter, on the identification of the crystal-like items as diamonds, the officers in the presence of the panchas asked the passenger about the ownership and purchase/export documents of the above diamonds, to which the passenger, Shri Jignesh Batukbhai Moradiya, informed the officers that no documents related to the above diamonds were with him. The subject consignment, comprising diamonds weighing 4910.30 carats and valued at Rs. 1,10,12,900/- as per the valuation certificate dated 27.07.2023, was found cleverly concealed in passenger baggage in an attempt to be smuggled out of India. The said goods, being commercial in nature and quantity, do not qualify as bona fide personal effects under Section 79 of the Customs Act, 1962. I observe that the passenger failed to declare the goods to Customs, rendering them liable for confiscation due to improper export violating the Customs Act, 1962. Consequently, the diamonds were seized under Section 110 of the Customs Act, 1962, vide seizure memo dated 27.07.2023 on the reasonable belief that they were subject to confiscation. Additionally, the blue-coloured trolley bag used for concealment and the packing materials (plastic pouches) were seized under Section 119 and 118 respectively of the Customs Act, 1962, on the reasonable belief that they had facilitated the smuggling attempt.

24. Furthermore, upon reviewing the documents and records, I find that during the investigation, statements from multiple noticees i.e. Shri Jignesh Batukbhai Moradiya, Shri Ashvinbhai Manubhai Monpara, Shri Hiteshbhai Ranchhodbhai Moradiya and Shri Pareshkumar Vallabhbhai Moradiya were recorded under Section 108 of the Customs Act, 1962. Shri Ritesh Hasmukhbhai Moradiya dishonored the multiple summonses issued to him and did not appear to tender his statement. I further note that Shri Jignesh Batukbhai Moradiya, vide letter dated 09.08.2023, has retracted his statement dated 27.07.2023, asserting that the statement was recorded under stress and duress. Upon further examination of the records, I concur with the investigating officer's view that the statement was taken as per his (Jignesh's) account and is supported by evidence. In the statement, he has disclosed certain facts that were known to him only and unknown to the recording officer. Therefore, the claim that the statement was given under stress and duress does not hold because he had signed it only after reviewing all

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the pages and confirming the correctness of its contents. The retraction of the statement and the request to re-record it appear to be an afterthought based on legal counsel aimed at protecting himself from legal repercussions and to obstruct the investigation. Additionally, it is essential to highlight that the statement recorded under Section 108 of the Customs Act, 1962, is considered material evidence, even if later retracted. To further support my position, I rely on the following rulings from various courts, which have underscored the evidentiary value of statements recorded under Section 108 of the Customs Act, 1962:

- The Hon'ble Apex Court in the case of ***Naresh Kumar Sukhwani vs Union of India 1996(83) ELT 285(SC)*** has held that the statement made under Section 108 of the Customs Act, 1962 is a material piece of evidence collected by the Customs Officials. That material incriminates the Petitioner, inculcating him in the contravention of provisions of the Customs Act. Therefore, the statements under Section 108 of the Customs Act, 1962 can be used as substantive evidence in connecting the applicant with the act of contravention.
- In the case, ***Collector of Customs, Madras, and Ors vs. D. Bhoormull- 1983 (13) ELT 1546(S.C.)***, the Hon'ble Supreme Court has held that the Department was not required to prove its case with mathematical precision. The whole circumstances of the case appearing in the case records, as well as other documents, are to be evaluated, and necessary inferences are to be drawn from these facts as otherwise it would be impossible to prove everything in a direct way.
- In the case of ***Surjeet Singh Chabra vs. UOI 1997 (84) ELT (646) SC***. Hon'ble Supreme Court held that the statement made before the Customs Officer though retracted within six days, is an admission and binding since Customs Officers are not Police Officers. As such, the statement tendered before Customs is valid evidence under law.

In light of the judgments cited above, I am inclined to regard their statements as material evidence in this case. The statements have sufficient evidentiary value to demonstrate that the passenger, intercepted by the Customs officers on 27.07.2023, had attempted to smuggle the diamonds out of India.

25. Further, I find that the passenger has neither questioned the manner of the Panchnama proceedings at the material time nor controverted the facts detailed in the Panchnama while recording their statements. Every procedure conducted during the Panchnama by the officers was well-documented and prepared in the presence of the panchas and the passenger. Upon a comprehensive review of the statements from the individuals involved in the case, it is evident that there was a coordinated effort to smuggle rough diamonds out of India. Shri Jignesh Batukbhai Moradiya served as the courier, knowingly transporting undeclared rough diamonds concealed in his baggage. He has confessed that Shri Raghubhai, aka Shri Riteshbhai Moradiya, had provided the bag containing the diamonds and covered his travel expenses, and despite understanding the illegality under the Customs Act, he had proceeded for monetary gain. Shri Ashvinbhai Manubhai Monpara had acted as a co-conspirator, facilitating the operation by booking flights under the direction of Shri Hiteshbhai Ranchhodbhai Moradiya, coordinating the transport of diamonds to Sharjah and being present along with Shri Jignesh Batukbhai Moradiya during their concealment in the trolley bag at Shri Hiteshbhai's office. He was aware that the diamonds belonged to Shri Hiteshbhai Ranchhodbhai Moradiya and Shri Pareshbhai Vallabhdbhai Moradiya and had knowingly participated in the smuggling without declaring the diamonds to Customs authorities. Further, Shri Hiteshbhai Ranchhodbhai Moradiya, employed as a diamond assorter by

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Shri Pareshbhai, organized and facilitated the smuggling operation. He had coordinated with Shri Ashvinbhai, and arranged for the concealment of diamonds in his office, agreed to cover all trip expenses, and promised Rs. 50,000/- to Shri Jignesh for transporting the diamonds, and has acknowledged that they belonged to Shri Pareshbhai and were intended for sale to a customer identified by Shri Ashvinbhai. It is clear from the facts that Shri Pareshbhai Vallabhbhai Moradiya, proprietor of M/s Motiba Gems and partner in Kashiba Gems with operations in Congo, had supplied the rough diamonds to Shri Ritesh Hansmukhbhai Moradiya around 20-21.07.2023, issuing a bill of supply (jhangad). He has submitted in his defence that he was unaware that Shri Jignesh was carrying the diamonds and claims that he was informed about the seizure approximately a week after the incident by Shri Hiteshbhai Ranchhodbhai Moradiya while he was in Congo. Collectively, these actions and individual admissions indicate active participation of every co-noitcee in the smuggling attempt, with each individual playing a specific role in the coordinated effort. Thus, I am conclusively driven to the determination that the noticees have violated the provisions of the Customs Act, 1962; the Baggage Rules, 2016; the Foreign Trade (Development and Regulation) Act, 1992; the Foreign Trade (Development and Regulation) Rules, 1993; and the Foreign Trade Policy 2015-2020/2023.

26. Additionally, I find that the aforementioned diamonds were attempted to be smuggled out of India by the passenger through Surat International Airport on 27.07.2023, in violation of the Foreign Trade Policy and the Customs Act, 1962. I further find that the passenger failed to declare them to the Customs Authorities with the sole intent of smuggling the diamonds out of India, as he had admitted in his statement that he was acting as a courier for monetary gain. This is a clear case of non-declaration with the intent to smuggle the diamonds out of Indian territory. Furthermore, I find sufficient evidence that the passenger had concealed the diamonds within the metallic fixtures of his luggage, which was in his possession, and did not declare them to the Customs Authorities at the time of departure from Surat International Airport. Notably, Shri Jignesh Batukbhai Moradiya, in his statement dated 27.07.2023, has explicitly admitted that he carried diamonds weighing 4910.3 carats without declaring them to the Customs Authorities and, consequently, attempted to smuggle them out of India. He was aware that carrying diamonds concealed in baggage or on a person without declaration was an offence under the Customs Act, but he chose to take a risk to gain some money. It is conclusively established that the accused was found in possession of diamonds that had been kept undeclared, and it is further proven that these diamonds were intended to be smuggled for monetary gain. Thus, it is also established that the passenger, Shri Jignesh Batukbhai Moradiya, has violated Section 77 and Section 79 of the Customs Act, 1962 for the export/smuggling of diamonds in commercial quantity, which was not for bona fide use, and has therefore violated Rule 11 of the Foreign Trade Regulation Rules, 1993, as well as Para 2.45 of the Foreign Trade Policy 2015-20/2023.

27. I, further, find that as per the DGFT Notification No. 43/2015-2020 dated 22.11.2021, the export of rough diamonds is not permitted unless the concerned exporter is registered with Gems & Jewellery EPC, which is the designated importing and exporting authority of India for Kimberley Process Certification Scheme (KPCS). In this case, when the passenger was asked to produce legal proof/document and a KPC Certificate about the possession of rough diamonds by him, he failed to produce any proof before the authorities. Therefore, it demonstrates that the diamonds recovered from the passenger were not legitimately sourced and were meant to be used for commercial purposes to earn some money. Further, the passenger has admitted in his statement that he had kept diamonds undeclared with the intent of smuggling them for monetary consideration.

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28. From the facts discussed above, I find that it is evident that Shri Jignesh Batukbhai Moradiya had surreptitiously carried the rough diamonds weighing 4910.30 carats kept in 9 pouches and concealed in the metallic fixtures of the blue trolley bag while departing from Surat International Airport, with the intention to smuggle the same without declaration before the Customs authorities, thereby rendering the said diamonds liable for confiscation, under the provisions of Sections 113 (d), and 113 (e) of the Customs Act, 1962. By cleverly concealing the said diamonds in the metallic fixture of the trolley bag and not declaring the same before Customs, it is undoubtedly established before me that the passenger had a clear intention to smuggle the diamonds in a clandestine manner without declaring them before the Customs Authorities. Therefore, the commission of the above act has made the impugned goods fall within the ambit of 'smuggling' as defined under Section 2(39) of the Act.

29. Further, when one alludes to Section 2(33) of the Customs Act, 1962, "**prohibited goods**" have been defined as 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. I find that, in the instant case, the passenger had attempted to illicitly export the impugned diamonds by way of concealment in his baggage without declaration to the Customs and without complying with the relevant provisions of the Customs Act, 1962; Foreign Trade (Development and Regulation) Act, 1992, Foreign Trade (Regulation) Rules, 1993 Foreign Trade Policy 2015-20/2023. Thus, I find that thereby the passenger has contravened the various legal provisions viz, Section 11, 50, 77 and 79 of Customs Act, 1962; Section 3, 7 and 11 of the Foreign Trade (Development and Regulation) Act, 1992; Rule 11 and 12 of the Foreign Trade (Regulation) Rules, 1993; DGFT-FTP Notification No.43/2015-20 dated 22.11.2021 and Para 1.11/1.13, 2.05, 2.06, 2.08, 2.26/2.27 and 2.45 of Foreign Trade Policy 2015-2020/2023. I find that the DGFT-FTP Notification No.43/2015-20 dated 22.11.2021 clearly stipulates that "*Export of rough diamonds shall not be permitted unless the concerned exporter is registered with Gems & Jewellery EPC, which is the designated importing and exporting authority of India for Kimberley Process Certification Scheme (KPCS).*" The passenger could not produce any document evidencing registration with the Gems & Jewellery EPC. Further, the Foreign Trade Policy has mandated documents viz, Bill of Lading/ Airway Bill/ Lorry Receipt/ Railway Receipt/Postal Receipt; Commercial Invoice cum Packing List; Shipping Bill/Bill of Export/ Postal Bill of Export for export of goods. The passenger could not produce any of the requisite documents in this regard. He did not have an IEC (Importer Exporter Code), which is mandatory for export/import from/to India, as detailed in paragraph 2.05 of the Foreign Trade Policy. Given the contraventions of the various law provisions as detailed supra, I reasonably infer that the impugned diamonds have assumed the characteristics of '*prohibited goods*' as defined in Section 2(33) of the Act.

30. Further, I find that the Hon'ble Supreme Court in the case of **Om Prakash Bhatia reported in 2003 (155) ELT 423 (SC)** has held that if the importation and exportation of goods are subject to certain prescribed conditions, which are to be fulfilled before or after clearance of goods, the goods would fall within the ambit of '*prohibited goods*' if such conditions are not fulfilled. In the instant case, the diamonds were kept undeclared, concealed, and were being carried by the said passenger without fulfilment of prescribed conditions. Further, when the passenger was asked to produce legal proof/document and a KPC Certificate about the possession of rough diamonds by him, he failed to produce any proof before the authorities. Therefore, it demonstrates that the diamonds recovered from the noticee were not legitimately sourced and were meant to be used for commercial purposes to earn some money. Further, the passenger has confessed in his statement that he had kept diamonds undeclared with the intent of smuggling the same for monetary consideration. Thus, it has been proved that the

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goods are offending in nature and, therefore, prohibited from exporting. Here, the passenger did not fulfill the mandatory conditions required to export diamonds in baggage.

31. Upon an exhaustive review of the preceding, I am conclusively led to the determination that the impugned 4910.3 carats of rough diamonds, valued at Rs. 1,10,12,900/- attempted to be improperly exported without declaration to the Customs are therefore, liable for absolute confiscation under Section 113(d) and 113(e) of the Customs Act, 1962. The passenger in his statement dated 27.07.2023 has confessed that he was carrying the impugned diamonds concealed in his baggage but had not declared the same before Customs Authorities at Surat International Airport as he wanted to smuggle the said goods. Given the discussions in the foregoing paragraphs, I hold that the Rough Diamonds 4910.3 Carats, surreptitiously carried by the passenger Shri Jignesh Batukbhai Moradiya with an intention to export the same illicitly from Customs Airport without declaration are liable for absolute confiscation under the provisions of Customs Act, 1962. In the instant case, I am therefore, not inclined to use my discretion to give an option to redeem the diamonds on payment of redemption fine, as envisaged under Section 125 of the Act. To fortify my position, I rely upon the following observations/judgments of the Hon'ble Courts:

31.1 In this context, I would like to reinforce my stand by placing my reliance on the case of **Hon'ble High Court of Madras in the matter of COMMISSIONER OF CUSTOMS (AIR), CHENNAI-I Versus P. SINNASAMY 2016 (344) E.L.T. 1154 (Mad.)** has held that -

“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.”

31.2 Further, I seek to strengthen support for my argument from the case of **Samynathan Murugesan [2009 (247) ELT 21 (Mad)]**, wherein 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 Samyanathan 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.

31.3 Furthermore, I would like to reinforce my stand by placing my reliance on the case of **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).*

32. ASSESSMENT OF THE CO-NOTICEES' ROLE, EVALUATION OF THEIR DEFENCE SUBMISSION, AND DETERMINATION OF THEIR CULPABILITY IN THE DIAMONDS SMUGGLING SCHEME

In the forthcoming paragraphs, I will carefully examine the role played by the noticees in the diamond smuggling operation, analyzing their specific involvement, actions, and degree of complicity. I will also consider the defence submissions advanced by the co-noticees and evaluate their credibility in light of corroborative evidence on record. Based on the weight of evidence and applicable legal provisions, I will determine their culpability under the Customs Act of 1962 and their consequent liability for penal action.

32.1 CO-NOTICEE NO. 01 - SHRI JIGNESH BATUKBHAIR MORADIYA

32.1.1 Assessment of the Role played by Shri Jignesh Batukbhai Moradiya in the entire Diamond smuggling scheme

I will now proceed to assess the role of Shri Jignesh Batukbhai Moradiya in light of the allegations against him in the Show Cause Notice dated 08.01.2024.

- As outlined earlier in the Show Cause Notice and the brief facts of the case, it has been found that Shri Jignesh Batukbhai Moradiya was intercepted at Surat International Airport while attempting to board Air India Express Flight No. IX-171 to Sharjah. Upon examination of his blue-colored trolley bag, Customs officers found 4910.30 carats of rough diamonds concealed within the metallic fixtures of the bag. The market value of the diamonds, as per the Government-approved valuer, was determined at Rs. 1,10,12,900/-. I have observed that the passenger has failed to produce any valid purchase or export documents for the diamonds, thereby indicating his improper and illegal export of the aforementioned goods.
- Further, I have gone through his statement dated 27.07.2023, recorded under Section 108 of the Customs Act, 1962, wherein he has confessed that he was handed the trolley bag by one Shri Riteshbhai (Raghubhai; Co-noticee No. 4) and was instructed to deliver it to Shri Hiteshbhai (Co-noticee No. 3) in Dubai. The travel expenses for the journey were borne by Shri Riteshbhai, which suggests his premeditated involvement in the smuggling scheme. Further, it has been established that the diamonds were commercial goods, not bona fide baggage, thus violating Section 79 of the Customs Act, 1962.
- Further, upon going through the statements of the co-noticees, I find that Shri Jignesh Batukbhai Moradiya's involvement in the smuggling scheme has been suitably corroborated through the statements of co-accused individuals and further substantiated by call detail records. I find that Shri Ashvinbhai Monpara has explicitly stated that Shri Jignesh Moradiya was carrying the rough diamonds under the instructions of Shri Hiteshbhai Moradiya, who had promised him Rs. 50,000/- and that the diamonds were concealed in the trolley bag in his presence. Additionally, Shri

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Hiteshbhai Moradiya has further admitted that he had arranged for Shri Jignesh Moradiya to transport the diamonds to Sharjah and covered all expenses for the trip. Additionally, the call data records have established frequent communication between Shri Jignesh Moradiya and other accused individuals, particularly Shri Ashvinbhai Monpara and Shri Riteshbhai Moradiya, in the days leading up to the smuggling attempt, confirming that Shri Jignesh Moradiya was not merely an unaware traveler but was actively involved in the operation.

32.1.2 Evaluation of Defence Submission of Shri Jignesh Batukbhai Moradiya

- I find that in his defence submission dated 15.10.2024, Shri Jignesh Moradiya, has submitted that with only a 7th-grade education and no air travel experience, he had never traveled internationally, so his passport lacks any stamps. He has further stated that he was accompanying Ashvinbhai Monpara, a diamond businessman, to Dubai to train in diamond trading. He has further stated that trusting Ashvinbhai, he had followed instructions to meet Riteshbhai (Raghubhai) at a tea stall, who asked him to merge his luggage with his. As a novice traveler, he didn't suspect any wrongdoing or that diamonds were hidden in the luggage. I find that the contention that Shri Jignesh Batukbhai Moradiya was an innocent participant unaware of the smuggling attempt is contradicted by substantial evidence. His claim of being an inexperienced traveler with no knowledge of customs procedures does not absolve him of liability under the Customs Act, 1962. Shri Ashvinbhai Manubhai Monpara, in his statement dated 11.08.2023, has explicitly stated that the rough diamonds were concealed in the rod of the handle of the trolley bag in front of him at the office of Shri Hitesh Moradiya, in the presence of Shri Jignesh Batukbhai Moradiya, Shri Ritesh Hansmukhbhai Moradiya, and one unknown person. This statement confirms that Shri Jignesh was not merely an unwitting carrier but had direct knowledge of the concealment process. Furthermore, Shri Jignesh's own statement recorded on 27.07.2023 corroborates his awareness that carrying undeclared diamonds was an offence, yet he admitted to "*taking a chance*" for monetary benefit. His subsequent retraction appears to be an afterthought to evade legal consequences. I observe that call records (CDR/SDR details) establish frequent communication between Shri Jignesh and his co-conspirators, contradicting his claim of ignorance. His attempt to distance himself from the smuggling operation is further weakened by the deliberate bifurcation of his and Shri Ashvinbhai's flight tickets—an act intended to reduce suspicion. The fact that he neither declared the diamonds nor questioned why his luggage was being merged demonstrates his active participation. I believe that the circumstances of concealment, his established connections with the co-accused, and his initial confession strongly support the conclusion that he knowingly attempted to smuggle rough diamonds out of India. His plea of innocence is, therefore, untenable, and the proceedings initiated against him are legally justified.

- Further, Shri Jignesh, in his submission, has further submitted that he was unknowingly caught in a smuggling attempt. He has stated that trusting Ashvinbhai and Riteshbhai, whom he believed to be experienced businessmen, he had followed their instructions without question. He has stated that Shri Ashvinbhai told him to enter the airport first while he met a friend outside. During this time, Customs officers intercepted Jignesh and found concealed diamonds in his luggage, leaving him shocked. He then tried to contact Riteshbhai, but his calls went unanswered. He has stated that he had no knowledge of the diamonds and had no involvement in their procurement, and was having no intent to violate customs laws and had acted purely on misplaced trust. I find that the claim that Shri Jignesh Batukbhai Moradiya was an innocent participant unaware of the smuggling attempt is directly contradicted by overwhelming evidence, particularly the statement of Shri Ashvinbhai Manubhai Monpara dated 11.08.2023, which unequivocally establishes his presence during the concealment of rough diamonds. Shri Ashvinbhai explicitly stated that the diamonds were concealed in

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the rod of the handle of the trolley bag at the office of Shri Hitesh Moradiya in the presence of Shri Jignesh Batukbhai Moradiya, Shri Ritesh Hansmukhbhai Moradiya, and an unknown person. This statement dismantles Shri Jignesh's contention that he had no knowledge of the concealed diamonds, as he was physically present when the smuggling plan was put into action. His attempt to portray himself as an unwitting traveler misled by his co-passengers is further negated by his own voluntary statement recorded under Section 108 of the Customs Act, 1962, on 27.07.2023, where he admitted that he was aware of the illegality of carrying undeclared diamonds but chose to "take a chance" for monetary gain. His subsequent retraction appears to be a calculated afterthought aimed at evading liability. I further find that his continuous communication with co-accused persons, as revealed by the CDR/SDR records, demonstrates that he was in close coordination with the masterminds of the smuggling attempt. The call records establish that he was in frequent contact with Ashvinbhai Monpara and Riteshbhai (Raghubhai) both before and after his interception at the airport. This sustained communication strongly suggests that he was actively engaged in the conspiracy rather than an unsuspecting victim of manipulation. Additionally, the deliberate bifurcation of his flight ticket from Ashvinbhai's, as per the statement of the travel agent and Ashvinbhai himself, further indicates an effort to minimize suspicion and compartmentalize responsibility. If Shri Jignesh had no knowledge of the illegal activity, there would have been no need for such deliberate separation. I also observe that the argument that he was unaware of the diamonds in his luggage is implausible given the manner in which they were concealed. The diamonds were hidden in a specially designed compartment within the metal fixtures of the trolley bag, not in an open or easily accessible manner. Such sophisticated concealment methods are not incidental but indicative of a well-planned attempt to evade customs detection. Given that he personally carried the bag, it is inconceivable that he would not have been aware of its unusual modifications. Additionally, when questioned at the airport, he failed to produce any supporting documents or declare the diamonds, despite being given the opportunity to do so, further reinforcing his culpability. I further note that he was merely an ill-informed traveler with no experience in air travel does not hold legal merit. It is a well-settled legal principle that ignorance of the law is no defence under the Customs Act, 1962. Moreover, his association with individuals well-versed in the diamond trade, particularly Ashvinbhai Monpara, a frequent traveler with established business connections, suggests that he had the means to verify the legitimacy of his travel purpose. The argument that he was simply following instructions without questioning them is contradicted by his direct involvement in the scheme, as demonstrated by the evidence. If he was truly unaware, he would have raised objections upon learning that he was expected to transport undeclared diamonds. Instead, he remained silent and proceeded with the attempted smuggling. It seems to me that his attempt to reach Riteshbhai (Raghubhai) after his interception by customs officials, only for the latter to switch off his phone, indicates a coordinated effort among the accused to evade consequences once their plan was compromised. A genuinely innocent individual would have immediately disassociated himself from those involved and fully cooperated with the authorities without making desperate attempts to establish contact with co-conspirators. In light of the above, I believe the assertion that Shri Jignesh was an innocent participant misled by others is completely untenable. The cumulative weight of evidence, including witness statements, call records, physical concealment, and his own admissions, establishes beyond doubt that he was an active participant in the smuggling attempt. The proceedings initiated against him under the Customs Act, 1962, are legally justified, and his contention is devoid of merit.

32.1.3 Determination of Culpability of Shri Jignesh Batukbhai Moradiya

- I find that the statements of multiple co-accused individuals suitably corroborate the role of Shri Jignesh Batukbhai Moradiya in the smuggling scheme and establish his

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prior knowledge, involvement, and intent to facilitate the illegal export of rough diamonds. Shri Ashvinbhai Manubhai Monpara, in his statements recorded under Section 108 of the Customs Act, 1962, on 28.08.2023 has explicitly confirmed that Shri Jignesh Moradiya was aware of the concealed diamonds as the diamonds were ingeniously concealed in the rod of the handle of the blue trolley bag in his presence and was tasked with carrying them to Sharjah as per the instructions of Shri Hiteshbhai Ranchhodbhai Moradiya, who had arranged the entire operation. Shri Ashvinbhai has further admitted that he and Jignesh Moradiya were traveling together with the illicit goods, and their flight tickets were initially booked under a single PNR but were later bifurcated to avoid detection, demonstrating a calculated attempt to evade customs checks. Shri Hiteshbhai Ranchhodbhai Moradiya, in his statement recorded on 11.10.2023, has corroborated these facts, stating that the diamonds belonged to him and Pareshbhai Vallabhbhai Moradiya, and he had instructed Jignesh Moradiya to carry them to Sharjah while covering his travel expenses. This directly contradicts Shri Jignesh Moradiya's defence that he was an unknowing and innocent participant. Moreover, Shri Ritesh Hasmukhbhai Moradiya, who has been identified as the person who physically handed over the smuggled diamonds to Jignesh Moradiya, has been implicated in the statements of both Ashvinbhai and Hiteshbhai, further reinforcing that Jignesh was not merely an unwitting carrier but an integral part of the smuggling chain. Additionally, the call records between Jignesh Moradiya and others who co-accused in the days leading up to the smuggling attempt further validate these statements, proving consistent communication and coordination. Given these corroborating statements and supporting evidence, I find that Shri Jignesh Batukbhai Moradiya's involvement in the smuggling operation is fully established, and the subsequent retraction of his voluntary statement appears to be a deliberate afterthought to evade legal consequences.

- Further, I find that Shri Jignesh Batukbhai Moradiya's defence submission suitably lacks credibility due to multiple inconsistencies and contradictions in his statements. His voluntary statement under Section 108 of the Customs Act, 1962, wherein he admitted to carrying the concealed diamonds, has been corroborated by evidence, including call records linking him to the co-accused, refuting his later retraction as an afterthought. The method of concealment, wherein high-value rough diamonds were hidden within a specialized compartment of the trolley bag, suggests deliberate intent rather than mere ignorance, further weakening his defence. Moreover, statements from co-noticees establish that he was promised financial compensation for transporting the concealed diamonds, which directly contradicts his claim of being an innocent and unaware participant. Given these facts, I find that Shri Jignesh Moradiya was knowingly and willfully involved in the smuggling scheme, making him culpable under the Customs Act, 1962 and liable for appropriate legal action.
- Furthermore, I find that Shri Jignesh Batukbhai Moradiya has appropriately committed the offence of attempted smuggling by willfully carrying 4910.30 carats of rough diamonds, valued at Rs. 1,10,12,900/- in a concealed manner within a blue trolley bag at Surat International Airport. His failure to declare the diamonds to Customs authorities and his intentional efforts to transport them to Sharjah without valid export documentation constitute a deliberate violation of Customs laws. The fact that his travel expenses were covered by a co-conspirator and he was promised financial compensation for the act further indicates his conscious involvement in the illicit export of commercial goods. Additionally, his intentional omission to file a Shipping Bill or obtain necessary clearances under the Foreign Trade (Development and Regulation) Act, 1992, confirms his role in the smuggling attempt. The presence of co-conspirators, including Shri Ashvinbhai Monpara and Shri Hiteshbhai Moradiya, who arranged the illicit transport, and Shri Riteshbhai Moradiya, who facilitated the handover of the contraband, reinforces the pre-planned and organized nature of the smuggling operation.

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in which Shri Jignesh Moradiya played an active role. His retraction, therefore, remains entirely unsubstantiated and does not absolve him of liability.

I find that Shri Jignesh Batukbhai Moradiya's ***mens rea*** in the smuggling attempt is established through multiple corroborative statements and circumstantial evidence demonstrating his prior knowledge, intent, and active involvement. Shri Ashvinbhai Manubhai Monpara, in his statements dated 28.08.2023 and 12.09.2023, categorically confirmed that Shri Jignesh Batukbhai Moradiya was present when the rough diamonds were concealed in the rod of the handle of the blue trolley bag. This deliberate concealment indicates a clear understanding of the illicit nature of the act. Further, the flight ticket initially booked under a single PNR but later bifurcated to evade detection demonstrates a calculated effort to avoid customs scrutiny. I further find that Shri Hiteshbhai Ranchhodbhai Moradiya's statement on 11.10.2023 affirms that Jignesh was instructed to transport the concealed diamonds, and his travel expenses were covered, proving his conscious participation. His call records with co-accused individuals in the days leading up to the smuggling attempt further substantiate his role, eliminating any possibility of ignorance. Further, Shri Jignesh, in his statement, admitted that he was aware that carrying diamonds concealed in baggage or on a person without declaring the same was an offence under the Customs Act, but he took a chance to gain some money. Thus, **criminal intent (*mens rea*)** on the part of Shri Jignesh Batukbhai Moradiya is firmly established, making him liable under the Customs Act, 1962.

- Legally, it is evident that Shri Jignesh Moradiya has violated multiple provisions of the Customs Act, 1962, and related trade regulations. His act of carrying undeclared commercial goods intended for illegal export attracts Section 77 (failure to declare baggage) and Section 79 (goods not constituting bona fide baggage) of the Customs Act. The deliberate concealment of diamonds within the trolley bag renders them liable for confiscation under Section 113(d) and (e), while his participation in the smuggling attempt makes him liable for penalties under Section 114. I note that he has contravened Sections 11 and 50 of the Customs Act, 1962, which govern restrictions and procedures on exports, as well as Sections 3, 7, and 11 of the Foreign Trade (Development and Regulation) Act, 1992, which regulate foreign trade practices. Given that he knowingly attempted to export prohibited goods illegally, his actions constitute an offence under Section 135 of the Customs Act, 1962, making him subject to prosecution, as already mentioned in the Show Cause Notice. I am of the view that his non-compliance with the Foreign Trade (Development and Regulation) Act, 1992, along with Rules 11 and 12 of the Foreign Trade (Regulation) Rules, 1993, and DGFT-FTP Notification No. 43/2015-20, further solidifies his culpability. Therefore, Shri Jignesh Moradiya has wilfully engaged in the act of smuggling, warranting strict legal consequences, including confiscation of goods, financial penalties, and criminal prosecution under the Customs Act, 1962.

- It would be relevant to refer **Section 114(i)** of the Customs Act, 1962, which prescribes penalties for attempts to improperly export goods that are liable for confiscation under Section 113. It states that any person who, in relation to any goods, commits an act or omission that renders the goods liable for confiscation, or abets such an act, shall be penalized. In cases involving prohibited goods, the penalty may be up to three times the value of the goods or an amount determined under the Act, whichever is higher. For dutiable goods, the penalty may be up to ten percent of the duty sought to be evaded or, in other cases, up to the value of the goods. In the present case, as discussed in the foregoing paras, Shri Jignesh Moradiya had attempted to smuggle rough diamonds worth Rs. 1,10,12,900/- without proper declaration and documentation, rendering the goods liable for confiscation under Section 113(d) & (e). It is, therefore, proved beyond doubt that the noticee has committed an offence of the

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nature described in Section 114 of the Customs Act, 1962. Accordingly, I hold him liable for penalty under Section 114 (i) of the Customs Act, 1962, for attempting to export these goods violating the law.

- **Further, Section 118** of the Customs Act provides that if any goods liable for confiscation are found in a package, the entire package and its contents shall also be confiscated. In this case, Shri Jignesh Batukbhai Moradiya concealed smuggled rough diamonds in plastic pouches and then in a specialized compartment within his blue-colored trolley bag, which was intercepted at Surat International Airport. Since the plastic pouches served as the medium for concealing and transporting the smuggled goods, I am of the considered opinion that it is liable for confiscation along with the diamonds under Section 118 of the Customs Act, 1962. Further, **Section 119** of the Customs Act mandates that any goods used for concealing smuggled items shall also be confiscated. In the present case, the blue-colored trolley bag used to conceal the rough diamonds was deliberately modified to evade customs checks. Since the trolley bag was specifically used as a concealment mechanism, I unequivocally conclude that both the aforementioned items viz. plastic pouches and the blue color trolley bag are liable for confiscation under Section 119 of the Customs Act, 1962.

32.2 CO-NOTICEE NO. 02 - SHRI ASHVINBHAI MANUBHAI MONPARA

32.2.1 Assessment of the Role played by Shri Ashvinbhai Manubhai Monpara in the entire Diamond smuggling scheme

- As outlined earlier in the Show Cause Notice and brief facts of the case, Shri Ashvinbhai Manubhai Monpara has allegedly been involved in smuggling rough diamonds from Surat. He was aware that the rough diamonds were concealed in the trolley bag and were being carried out of India for being smuggled. He has actively aided, abetted, and knowingly concerned himself with the smuggling of rough diamonds through Surat International Airport. He was to accompany Shri Jignesh Batukbhai Moradiya on his trip to Sharjah on 26.07.2023, even though the ticket was booked under a single PNR bearing No. D9V55R, but he deliberately got it bifurcated so as to avoid being caught by the Customs authorities. Further, I find that he had booked the tickets for himself and Shri Jignesh Batukbhai Moradiya for the flight dated 26.07.2023 and provided the documents to the ticket booking agency, M/s MIT International. Further, the rough diamonds were concealed in the rod of the handle of the trolley bag in his presence in the office of Shri Hitesh Moradiya. Thus, he appears to have knowingly and willingly aided and abetted in the smuggling of rough diamonds and thereby contravened the provisions of Sections 11, 50, 77, and 79 of Customs Act, 1962; Sections 3, 7, and 11 of the Foreign Trade (Development and Regulation) Act, 1992; Rule 11 and 12 of the Foreign Trade (Regulation) Rules, 1993; DGFT-FTP Notification No.43/2015-20 dated 22.11.2021 as well as provisions of the Foreign Trade Policy 2015-2020/2023. Shri Ashvinbhai Manubhai Monpara, by his above acts, has rendered himself liable for penalty under Section 114 of the Customs Act, 1962.

32.2.2 Evaluation of Defence Submission of Shri Ashvinbhai Manubhai Monpara

Further, I have observed that no defence submission has been received in response to the Show Cause Notice issued to Shri Ashvinbhai Manubhai Monpara in this office to date.

32.2.3 Determination of Culpability of Shri Ashvinbhai Manubhai Monpara

- I find that Shri Ashvinbhai Manubhai Monpara has played an active and deliberate role in the smuggling of rough diamonds from Surat to Sharjah, as evidenced

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by his own statements, corroborating statements of co-accused, and supporting documentary evidence. The investigation has revealed that he was directly involved in booking travel arrangements for both himself and Shri Jignesh Batukbhai Moradiya under a single PNR D9V55R, which was later intentionally bifurcated to avoid suspicion from Customs authorities. This conscious attempt to evade detection and facilitate the illegal transport of diamonds indicates premeditation and criminal intent. Furthermore, Shri Monpara has admitted that he was present when the rough diamonds were concealed within the trolley bag at the office of Shri Hiteshbhai Moradiya in the presence of Shri Riteshbhai Moradiya and Shri Jignesh Batukbhai Moradiya. His continued coordination with Shri Hiteshbhai and Shri Riteshbhai Moradiya in the planning and execution of this smuggling operation is further corroborated by call detail records, which establish a pattern of communication leading up to the offence. Additionally, Shri Monpara has confessed that Shri Hiteshbhai Moradiya assured him that he would bear all trip expenses and that Shri Jignesh Moradiya was promised Rs. 50,000/- for smuggling the diamonds. These facts undeniably prove that Shri Monpara was not merely a passive accomplice but an essential facilitator in the entire smuggling operation.

- I further find that Shri Ashvinbhai Monpara's culpability is aggravated by his deliberate attempts to mislead investigators and his failure to appear in response to the summonses. Despite being summoned multiple times, he initially evaded questioning and only appeared on 28.08.2023 and 12.09.2023 after repeated notices. His admissions confirm that he was aware that the rough diamonds were being smuggled without proper customs declaration and that he knowingly aided, abetted, and facilitated the offence. His defence submissions do not provide any credible justification for his actions and stand wholly contradicted by evidence, including witness statements, travel documents, and financial arrangements. By participating in an organized smuggling racket, he has violated Sections 11, 50, 77, and 79 of the Customs Act, 1962, as well as Sections 3, 7, and 11 of the Foreign Trade (Development and Regulation) Act, 1992, and the relevant provisions of the Foreign Trade (Regulation) Rules, 1993. The seized rough diamonds, his travel arrangements, and his coordination with co-accused establish beyond reasonable doubt that Shri Monpara has willfully engaged in the act of smuggling, making him liable for confiscation of goods, penalties under Section 114 of the Customs Act, and prosecution under Section 135 for his role in the illicit export of commercial goods. Section 114(i) of the Customs Act, 1962 prescribes penalties for any person who attempts, facilitates, or abets the improper export of goods liable for confiscation under Section 113. In cases involving prohibited goods, the penalty may extend to three times the value of the goods or an amount determined under the Act. I find that Shri Ashvinbhai Manubhai Monpara has willfully violated Section 114(i) by facilitating and abetting the smuggling of 4910.30 carats of rough diamonds valued at Rs. 1,10,12,900/-. His booking and bifurcation of flight tickets to evade customs scrutiny, presence during the concealment of diamonds, and coordination with co-accused individuals, as confirmed by statements and call records, establish his ***mens rea*** (criminal intent). By knowingly failing to declare the smuggled goods and actively participating in the execution of the illegal export attempt, I hold Shri Ashvinbhai Manubhai Monpara liable for penalties under Section 114(i) of the Customs Act, 1962.

32.3 CO-NOTICEE NO.03 - SHRI HITESHBHAI RANCHHODBHAI MORADIYA

32.3.1 Assessment of the Role played by Shri Hiteshbhai Ranchhodbhai Moradiya in the entire Diamond smuggling scheme

- As outlined earlier in the Show Cause notice and the brief facts of the case, Shri Hiteshbhai Ranchhodbhai Moradiya has allegedly involved himself in the smuggling of rough diamonds from Surat to Sharjah. He has deliberately evaded appearance before

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the investigation and dishonored the summons issued to him. From the statement of Shri Ashvinbhai Manubhai Monpara, it is evident that Shri Hiteshbhai Ranchhodbhai Moradiya had instructed Shri Jignesh Batukbhai Moradiya and Shri Ashvinbhai Manubhai Monpara to carry the impugned rough diamonds from Surat to Sharjah. He has also stated that he would bear all the trip expenses for travelling to Sharjah. The above facts have also been accepted by Shri Hiteshbhai Ranchhodbhai Moradiya in his statement dated 11.10.2023, recorded under Section 108 of the Customs Act, 1962. Therefore, it is evident that Shri Hiteshbhai Ranchhodbhai Moradiya was fully aware and involved in the incident of illegal export of rough diamonds through Surat International Airport. I find that he has willingly abetted the commission of the above-said acts of the passenger, Shri Hiteshbhai Ranchhodbhai Moradiya, which has rendered the goods liable to confiscation under Section 113 (d) and (e) of the Customs Act, 1962. He has been alleged to have knowingly and willingly aided and abetted in the smuggling of rough diamonds thereby contravening the provisions of Sections 11, 50, 77, and 79 of the Customs Act, 1962; Sections 3, 7, and 11 of the Foreign Trade (Development and Regulation) Act, 1992; Rule 11 and 12 of the Foreign Trade (Regulation) Rules, 1993; DGFT-FTP Notification No.43/2015-20 dated 22.11.2021 as well as provisions of the Foreign Trade Policy 2015-2020/2023. By his above acts, Shri Hiteshbhai Ranchhodbhai Moradiya has rendered himself liable for penalty under Section 114 of the Customs Act, 1962.

32.3.2 Evaluation of Defence Submission of Shri Hiteshbhai Ranchhodbhai Moradiya

- Upon reviewing the defence submission of Shri Hiteshbhai Ranchhodbhai Moradiya, I find that his claim of being merely a diamond assorter with no role in the attempted smuggling is contradicted by the facts on record. His active participation in the process—from introducing the idea of a potential buyer, coordinating the transfer of diamonds to his cousin, and facilitating their movement towards Dubai—demonstrates clear abetment of the offence. The sequence of events, as established through statements recorded during the investigation, has confirmed that he played a pivotal role in ensuring the unauthorized export of the diamonds. Since Section 114(i) of the Customs Act, 1962, covers not just the principal offender but also those who abet the offence, I am unequivocally led to the conclusion that his liability stands established beyond doubt.
- Further, I find that the co-noticee's argument regarding ignorance of customs laws is legally untenable. I observe that the doctrine of "***ignorantia juris non excusat***" has strong roots in Indian jurisprudence, meaning that ignorance of the law is no excuse. This general principle applies to all types of laws, not merely those based on common sense. It places the responsibility on individuals to be aware of and comply with the laws of the land, regardless of their actual knowledge of it. In the legal context, it is a well-established principle that all citizens are presumed to have knowledge of the laws governing their country. This doctrine, often expressed as "***ignorantia juris non excusat***" (ignorance of the law is no excuse), holds that a lack of awareness or understanding of legal provisions does not exempt an individual from liability for violations. This presumption ensures the effective enforcement of laws and upholds the principle of legal certainty within a jurisdiction. Indian courts and tribunals have consistently upheld the principle that ignorance of the law is not a valid defence for the accused. Shri Hitesh, being associated with the diamond trade, was reasonably expected to be aware of the compliance requirements for exporting rough diamonds. Even if he lacked specific knowledge, his actions- coordinating the movement of diamonds for export without customs declaration—constitute an offence under Section 113 of the Customs Act, 1962. The claim that the duty of disclosure lies solely with the

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owner of the goods is incorrect, as the law holds liable not just the owner but anyone who facilitates or participates in the illegal export.

- Further, I find that the absence of export duty on rough diamonds does not absolve the co-noticee of liability. The Customs Act is not solely concerned with revenue collection but also with regulating the lawful movement of goods. An export made without declaration, even if no duty is applicable, is classified as smuggling. The act of attempting to export rough diamonds without following prescribed Customs procedures renders the goods liable for confiscation under Section 113 and makes the co-noticee liable for a penalty under Section 114(i) of the Customs Act, 1962. Therefore, the argument that there was no financial motive is irrelevant to the legality of the offence and hence is brushed aside.
- Further, I find that the reliance placed by Shri Hitesh on *SAGAR IMPEX vs. COMMISSIONER OF CUSTOMS AIRPORT, MUMBAI (2017)* is misplaced. It is pertinent to note that the case pertained to valuation discrepancies and did not involve an outright attempt to bypass Customs procedures. The present case concerns an attempted illegal export, making the precedent inapplicable. Similarly, another judgment relied by the co-noticee of *HINDUSTAN STEEL LTD. vs. STATE OF ORISSA (1978)*, which discusses penalties for technical breaches, does not support the co-noticee's case, as this is a case of deliberate non-compliance rather than an inadvertent procedural lapse. Therefore, I am of the considered opinion that the co-noticee's reliance on these judgments does not provide a valid ground for relief, and thus, they stand dismissed.
- Further, I find that the co-noticee's argument of the absence of *mens rea* is not sustainable. The co-noticee's direct involvement in coordinating the movement of the diamonds shows that he had knowledge of the intended export. The concept of *mens rea* in Customs offences does not require direct financial gain but includes wilful participation in an act that violates Customs laws. Since he actively facilitated the transportation of goods without disclosure, his liability under Section 114(i) is well established.

32.3.3 Determination of Culpability of Shri Hiteshbhai Ranchhodbhai Moradiya:

- I find that Shri Hiteshbhai Ranchhodbhai Moradiya has played a pivotal role in the illegal export of rough diamonds, as established through statements of co-accused, call records, and supporting evidence. His statement under Section 108 of the Customs Act, 1962, recorded on 11.10.2023, confirms that the diamonds belonged to him and Shri Pareshbhai Vallabhbhai Moradiya and that he instructed Shri Jignesh Batukbhai Moradiya to smuggle the goods to Sharjah, promising financial compensation. I find that he had oversaw the concealment of the diamonds within the trolley bag at his office, as admitted by Shri Ashvinbhai Monpara. His financial backing of the smuggling attempt, including booking and bifurcating flight tickets and covering travel expenses, further proves his central role in the conspiracy. The call detail records (CDR) establish his continued coordination with co-accused individuals in the lead-up to the smuggling attempt, confirming his active involvement in executing the crime. I find his '*mens rea*' clearly established through his pre-planned and calculated actions to smuggle rough diamonds out of India through deceitful means. Given the premeditated nature of his involvement, Shri Hiteshbhai Ranchhodbhai Moradiya is not merely an abettor but a key conspirator, making him liable for penal consequences under Section 114(i) of the Customs Act, 1962. Given the above, I find that Shri Hiteshbhai Ranchhodbhai Moradiya has knowingly and willingly aided and abetted in the smuggling of rough diamonds, thereby contravening the provisions of Sections 11, 50, 77, and 79 of the Customs Act, 1962; Sections 3, 7, and 11 of the Foreign Trade (Development and

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Regulation) Act, 1992; Rule 11 and 12 of the Foreign Trade (Regulation) Rules, 1993; DGFT-FTP Notification No.43/2015-20 dated 22.11.2021 as well as provisions of the Foreign Trade Policy 2015-2020/2023.

- Therefore, based on the foregoing discussions, I find that Shri Hiteshbhai Ranchhodbhai Moradiya has actively facilitated the attempted smuggling of rough diamonds by coordinating their movement through multiple intermediaries and ensuring their transport to Dubai without a customs declaration, thereby rendering the goods liable for confiscation under Section 113 of the Customs Act, 1962. His actions amount to abetment of smuggling, making him liable for a penalty under Section 114(i) of the Customs Act, 1962, which prescribes a penalty of up to three times the value of the goods. The plea of ignorance of customs compliance is untenable in law, as liability under Section 114(i) extends to both principal offenders and those who abet the act. Given the clear evidence of his involvement, I unequivocally hold him liable for imposition of penalty under Section 114 (i) of the Customs Act, 1962.

32.4 CO-NOTICEE NO.04 - SHRI RITESH HASMUKH MORADIYA

32.4.1 Assessment of the Role played by Shri Ritesh Hasmukh Moradiya in the entire Diamond smuggling scheme

- As outlined earlier in the Show Cause Notice and the brief facts of the case, Shri Ritesh Hasmukhbhai Moradiya has allegedly been concerned with the smuggling of rough diamonds from Surat to Sharjah. He was present when the impugned diamonds were concealed in the trolley bag of Shri Jignesh Batukbhai Moradiya. He had collected the impugned rough diamonds from the owner, Shri Pareshkumar Vallabhbhai Moradiya, and handed over along with 500 dirhams to Shri Ashvinbhai Manubhai Monpara, a co-noticee, who was also travelling to Sharjah on 26.07.2023 along with Shri Jignesh Batukbhai Moradiya. I have found that Shri Ritesh Hasmukhbhai Moradiya had repeatedly and deliberately dishonored summons and willfully avoided joining the investigation without giving any reason or seeking an extension. Therefore, it is evident that Shri Ritesh Hasmukhbhai Moradiya was fully aware of and involved in the incident of an illegal attempt to export rough diamonds through Surat International Airport. It is sufficiently proven that he has willingly connived and contributed to the commission of the above-mentioned act, which has rendered the goods liable to confiscation under Section 113 (d) and (e) of the Customs Act, 1962. Thus, he has been alleged to have knowingly and willingly aided and abetted in the smuggling of rough diamonds and thereby contravened the provisions of Sections 11, 50, 77, and 79 of Customs Act, 1962; Section 3, 7 and 11 of the Foreign Trade (Development and Regulation) Act, 1992; Rule 11 and 12 of the Foreign Trade (Regulation) Rules, 1993; DGFT-FTP Notification No. 43/2015-20 dated 22.11.2021 as well as provisions of the Foreign Trade Policy 2015-2020/2023. By his above acts, Shri Ritesh Hasmukhbhai Moradiya has rendered himself liable for penalty under Section 114 of the Customs Act, 1962.

32.4.2 Evaluation of Defence Submission of Shri Ritesh Hasmukh Moradiya

- I have gone through the defence submission of the co-noticee and find that he has contended that his role was strictly limited to handing over the rough diamonds from Shri Pareshbhai Vallabhbhai Moradiya to Shri Jignesh Batukbhai Moradiya on the instructions of his cousin, Shri Hiteshbhai Moradiya. He has asserted that he had no knowledge of the actual purpose behind the transfer of diamonds and was completely unaware that they were being sent for export. In this regard, upon reviewing the brief facts of the case, I have found that the co-noticee's role was not passive; instead, it has directly facilitated the unauthorized movement of goods. It merits attention that Section

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114(i) of the Customs Act, 1962, penalizes not only the principal offender but also any person who abets the offence, regardless of whether they were fully aware of all aspects of the smuggling attempt. By participating in the handover of goods that were later attempted to be exported without Customs declaration, the co-noticee has actively contributed to an illegal act and is, therefore, liable for action under the law.

- Further, the co-noticee has contended that the demand for a penalty under Section 114(i) is legally unsustainable, as he had no mala fide intent or awareness that the diamonds were being exported. He has argued that he was unfamiliar with Customs procedures and that the responsibility for declaring export goods lies with the owner of the goods. Since he was neither the owner nor a beneficiary, he has asserted that there was no reason for him to have any involvement in illegal export activities. The co-noticee has contended that he was unaware of Customs requirements and that the duty of disclosure rests solely with the owner of the goods. As stated in previous discussions, I reiterate the settled legal principle which postulates that '*ignorance of the law is not a defence*'. As an individual involved in handling goods that were ultimately attempted to be smuggled, it was his duty to exercise due diligence before engaging in the transaction. The Customs Act does not absolve individuals who facilitate smuggling under the pretext of lack of knowledge. It is significant to state that even indirect involvement, when it aids in circumventing Customs procedures, constitutes an abetment under Section 114(i) of the Customs Act.

- Further, the co-noticee has contended that the rough diamonds were not prohibited for export and that all necessary documentation, including the Bill of Entry (BOE No. 6820260 dt. 11.07.2023), Kimberley Process (KP) Certificate (AE/152727 dt. 10.07.2023), proof of foreign exchange procurement, and a GJEPC certificate, was in place. He argues that since these documents were available, there was no violation of Customs regulations, and consequently, the penalty under Section 114(i) is not justified. However, I find that all the aforementioned documents submitted by the co-noticee pertain to import of diamonds into India by the importer M/s. Motiba Gems. However, no Shipping Bill, a valid Kimberley Process (KP) Certificate and other mandatory documents required for lawful export of rough diamonds have not been provided before Customs by the passenger at the point of export or later till date. It should be brought to attention that the offence lies in failing to declare the diamonds to Customs before attempting to transport them out of the country.

- Further, the co-noticee has contended that judicial precedents support his case, citing *SAGAR IMPEX vs. COMMISSIONER OF CUSTOMS AIRPORT, MUMBAI (2017) 358 ELT 504 (Tri. - Mumbai)*, which held that rough diamonds are not prohibited goods and that penalties should not be imposed where no duty evasion or export ban exists. He has also relied on *HINDUSTAN STEEL LTD. vs. STATE OF ORISSA (1978) 2 ELT J159 (SC)*, which states that penalties should not be imposed for technical or venial breaches in cases where a party acted in a bona fide belief of compliance. However, I find that the issue in *Sagar Impex* was related to valuation discrepancies and misdeclaration, whereas in the present case, the primary offence is unauthorized export without customs declaration. Similarly, reliance on *HINDUSTAN STEEL LTD. vs. STATE OF ORISSA (1978)* is misplaced, as that case involved technical breaches of tax laws, whereas this case concerns an outright violation of Customs regulations. The principle of strict liability under the Customs Act applies, making the co-noticee liable regardless of whether he intended to evade duty or was merely acting under instructions.

- Furthermore, the co-noticee has contended that *mens rea* (guilty intent) is absent in his case, as he did not know that the diamonds were intended for smuggling. He has argued that he was merely following instructions and had no reason to believe that the

transaction was illegal. Since there was no deliberate intent to violate customs laws, he submits that a penalty under Section 114(i) is unwarranted. However, I find that liability under Section 114(i) does not require direct criminal intent but extends to any act or omission that renders goods liable for confiscation under Section 113. Even if the co-noticee was unaware of the full extent of the smuggling plan, his direct participation in the physical movement of the diamonds constitutes an act of abetment. Customs law imposes strict liability, meaning that even inadvertent actions leading to non-compliance attract penalties. The argument of no personal financial gain does not absolve liability, as Customs law focuses on preventing unauthorized exports, irrespective of the individual's motive.

32.4.3 Determination of Culpability of Shri Ritesh Hasmukh Moradiya

- Upon careful examination of the facts, statements, and submissions on record, I find that Shri Ritesh Hasmukhbhai Moradiya's actions directly contributed to the unauthorized export attempt of rough diamonds. His physical act of handling and transferring the goods played a key role in facilitating the illegal export. The defence that he was merely following instructions and had no knowledge of the smuggling attempt is not legally tenable, as Customs law imposes strict liability on individuals who abet or assist in acts that render goods liable for confiscation. Ignorance of the law or absence of financial gain does not absolve him from responsibility, as abetment does not require the offender to be the principal beneficiary of the crime. His involvement in the logistics of transferring diamonds, which were later intercepted at the airport, constitutes direct participation in an act that contravenes Customs regulations.

- I find that Shri Ritesh Hasmukhbhai Moradiya's role as a key intermediary in the smuggling operation is substantiated by statements of co-accused, call records, and his deliberate non-cooperation with the investigation. Shri Ashvinbhai Monpara, in his statement under Section 108 of the Customs Act, 1962, confirmed that Shri Ritesh Moradiya had handed over the concealed diamonds to Shri Jignesh Moradiya at the direction of Shri Hiteshbhai Ranchhodbhai Moradiya, demonstrating his full knowledge and participation in the illicit act. Further, Shri Hiteshbhai Moradiya has corroborated that the rough diamonds were initially handed over to Shri Ritesh Moradiya, who then ensured their eventual delivery to the carrier for smuggling. I further find that his continuous communication with co-accused persons, as evidenced by call detail records (CDR), establishes a premeditated conspiracy, contradicting any claims of ignorance or innocence. Additionally, Shri Ritesh Moradiya's repeated defiance of multiple summonses issued under Section 108 of the Customs Act, 1962, further underscores his attempt to evade responsibility and hinder the investigation. His failure to cooperate with the investigation despite multiple opportunities indicates his active role and involvement in the smuggling scheme. His *mens rea* in smuggling rough diamonds is clearly established through his active facilitation, coordination, and willful evasion of legal procedures. He has demonstrated clear criminal intent by facilitating the transfer of smuggled goods, actively coordinating with the conspirators, and deliberately avoiding investigation. Therefore, he is liable for penal action under Section 114(i) of the Customs Act, 1962 for willful involvement in the attempted smuggling of rough diamonds. I find that is evident that Shri Ritesh Hasmukhbhai Moradiya was fully aware of and involved in the incident of an illegal attempt to export rough diamonds through Surat International Airport. He has willingly connived and contributed to the commission of the above-mentioned act, which has rendered the goods liable to confiscation under Section 113 (d) and (e) of the Customs Act, 1962. Thus, I find that he has knowingly and willingly aided and abetted in the smuggling of rough diamonds and thereby contravened the provisions of Sections 11, 50, 77, and 79 of the Customs Act, 1962; Sections 3, 7 and 11 of the Foreign Trade (Development and Regulation) Act, 1992; Rule 11 and 12 of the Foreign Trade (Regulation) Rules, 1993; DGFT-FTP Notification No.

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- It would be relevant to refer to **Section 114(i)** of the Customs Act, 1962, which states that any person who, in relation to any goods, commits or omits any act that renders such goods liable for confiscation under Section 113, or abets such an act, shall be liable for a penalty. I find that Shri Ritesh Hasmukhbhai Moradiya has actively abetted the unauthorized export of rough diamonds by facilitating their movement through an undisclosed transfer to another individual involved in the smuggling attempt. His act of handling and transferring the diamonds without ensuring compliance with customs regulations constitutes an offence under the Customs Act. The failure to declare the goods before exportation renders them liable for confiscation under Section 113, thereby attracting a penalty under Section 114(i) of the Customs Act, 1962. Since the statutory provision imposes strict liability on persons abetting an offence, his claim of ignorance does not absolve him from culpability. In view of the direct role played by Shri Ritesh Moradiya in the unauthorized movement of goods, I hold that the imposition of a penalty under Section 114(i), which may extend up to three times the value of the goods, is legally justified and warranted.

32.5 CO-NOTICEE NO.05 - SHRI PARESHKUMAR VALLABHBHAI MORADIYA

32.5.1 Assessment of the Role played by Shri Pareshkumar Vallabhbhai Moradiya in the entire Diamond smuggling scheme

- Upon going through the SCN, I find that Mr. Pareshkumar Vallabhbhai Moradiya has also involved himself in the smuggling of rough diamonds from Surat to Sharjah. He is the owner of the firm, M/s Motiba Gems to which impugned diamonds belong. In his statement dated 09.11.2023, recorded under Section 108 of the Customs Act, 1962, he has agreed and accepted that the impugned rough diamonds seized at Surat International Airport on 27.07.2023, belong to his firm, M/s Motiba Gems. He had handed over the said diamonds to Shri Ritesh Hasmukhbhai Moradiya, who subsequently handed over the same along with 500 dirhams to Shri Ashvinbhai Manubhai Monpara, a co-noticee, who was also travelling to Sharjah on 26.07.2023 along with Shri Jignesh Batukbhai Moradiya for illegal export of the impugned diamonds. It appears that an instant act of smuggling was undertaken on the authorization and active directions of Shri Pareshbhai Vallabhbhai Moradiya. Neither Shri Hiteshbhai Ranchhodbhai Moradiya, who was just an employee working as a diamond assorter in the office of Shri Pareshbhai Vallabhbhai Moradiya, nor his cousin Shri Ritesh Hasmukhbhai Moradiya could have independently decided to authorize such illegal export of impugned diamonds valued at Rs. 1,10,12,900/- on their own without the consent, approval, and connivance of Shri Pareshbhai Vallabhbhai Moradiya, the owner of the diamonds, who was going to be the ultimate beneficiary from such illegal transaction. Shri Pareshkumar Vallabhbhai Moradiya also could not produce any bill/invoice regarding the sale of impugned diamonds. It is demonstrable that the entire scheme of illegal export was devised by Shri Pareshkumar Vallabhbhai Moradiya in collaboration with the co-noticees with an ulterior motive to defraud the Govt. Exchequer. Thus it appears that Shri Pareshbhai Vallabhbhai Moradiya had hatched a plan and willingly and knowingly connived and abetted in the commission of the above-said act of smuggling of rough diamonds, which has rendered the said goods liable to confiscation under Section 113 (d) and (e) of the Customs Act, 1962 and thereby contravened the provisions of Section 11, 50, 77 and 79 of Customs Act, 1962; Sections 3, 7 and 11 of the Foreign Trade (Development and Regulation) Act, 1992; Rule 11 and 12 of the Foreign Trade (Regulation) Rules, 1993; DGFT-FTP Notification No.43/2015-20 dated 22.11.2021 as well as provisions of the Foreign Trade Policy

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2015-2020/2023. By his above acts, Shri Pareshbhai Vallabhbhai Moradiya has rendered himself liable for penalty under Section 114 of the Customs Act, 1962.

32.5.2 Evaluation of Defence Submission of Shri Pareshkumar Vallabhbhai Moradiya

- I have gone through the defence reply of Shri Paresh and find that the co-noticee has contended that he is the proprietor of M/s Motiba Gems and was in lawful possession of 4910.30 carats of rough diamonds valued at ₹1,10,12,900/-. The co-noticee has contended that he had handed over the rough diamonds to Shri Ritesh Hasmukhbhai Moradiya on the assurance of Shri Hiteshbhai Ranchhodbhai Moradiya, who claimed to have a prospective buyer. At the time, the co-noticee was unaware that the diamonds would be transported to Dubai and believed the transaction was domestic. He further stated that he had issued a Bill of Supply (Jhangad) as per standard industry practice, confirming his good faith in the transaction. The co-noticee was in Congo at the time of the alleged incident and learned of the seizure only a week later. I find that the co-noticee has sought to evade liability by asserting ignorance of the attempted export of rough diamonds. However, the facts and circumstances of the case establish his active involvement. The co-noticee has admitted that the diamonds belonged to M/s Motiba Gems and that he handed them over to Shri Ritesh Hasmukhbhai Moradiya, who subsequently transferred them for export. The chain of custody clearly demonstrates that the diamonds were intended for export without the requisite customs declaration. His claim of ignorance is untenable, as a person engaged in the diamond trade is expected to exercise due diligence regarding the movement of high-value goods.
- Further, the co-noticee has contended that the diamonds in question were legally imported under Bill of Entry No. 6820260 dated 11.07.2023, supported by a valid Kimberley Process (KP) Certificate (No. AE/152727 dated 10.07.2023) and a GJEPC Certificate. There exists no prohibition on the export of rough diamonds, nor is there any duty applicable to such exports. Had the authorities informed him beforehand, he would have furnished the necessary documents to demonstrate the legitimacy of the transaction. I find that the co-noticee has relied on the argument that the diamonds were legally imported under a valid Bill of Entry and supported by a Kimberley Process (KP) Certificate. However, the legality of imports does not grant immunity from export control regulations. The critical issue is not the lawful import of diamonds but their **attempted export without customs clearance (*emphasis supplied*)**, in contravention of Sections 113(d) and 113(e) of the Customs Act, 1962. The presence of valid import documents does not absolve the co-noticee from the requirement of declaring the goods before export.
- Further, the co-noticee has contended that the valuation of the diamonds was conducted by Shri Vikas Raj Tilakraj Juneja, who is not an approved valuer as per Public Notice No. 03/2022 issued by the Commissioner of Customs, Ahmedabad. Consequently, the valuation report lacks legal validity and cannot form the basis for seizure or confiscation. The co-noticee has also emphasized that the department has not denied that M/s Motiba Gems is the lawful owner of the seized goods and that no discrepancies were found in stock or accounts during the search conducted at his premises on 27.10.2023. I find that the co-noticee has challenged the valuation conducted by Shri Vikas Raj Tilakraj Juneja, claiming he is not an approved valuer. It is to be noted that Shri Juneja is a registered Govt. approved valuer as per the letter F. No. SRT/CCIT/ITO/OSD/RV-IV/2005-06 dated 19.04.2007 of the Chief Commissioner, Income Tax, Surat. This argument of the co-noticee is a mere diversionary tactic, as the valuation of the seized goods is not the sole basis for confiscation. The act of

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unauthorized export itself is an offence under the Customs Act, regardless of valuation. Furthermore, the co-noticee has not provided any alternative valuation to refute the findings of the department. Mere contestation of the valuer's credentials does not nullify the legal consequences of the attempted smuggling.

- Further, the co-noticee has contended that confiscation under Sections 113(d) and 113(e) of the Customs Act, 1962, is legally unsustainable in the absence of *mens rea*. Since he had no knowledge of the diamonds being transported to Dubai, there was no intention to commit an offence. Reliance has been placed on judicial precedents, including *Sagar Impex vs. Commissioner of Customs (2017)* and *Hindustan Steel Ltd. vs. State of Orissa (1978)*, which establish that penalties should not be imposed for technical breaches or actions taken under a bona fide belief. Accordingly, the imposition of a penalty under Section 114(i) is also untenable. I find that the co-noticee has attempted to shield himself by arguing that there was no *mens rea* (guilt intent). However, intent can be inferred from conduct. The deliberate handing over of diamonds to intermediaries, the lack of any customs declaration, and the subsequent transport of goods to Dubai establish a conscious effort to evade customs scrutiny. The defence that he was unaware of the final destination is self-serving and contrary to the principles of commercial prudence expected from a diamond trader. Moreover, judicial precedents relied upon by the co-noticee pertain to technical breaches, whereas this case involves an attempt to smuggle high-value goods without compliance with export procedures.

- Further, the co-noticee has contended that the confiscation and penalty are without legal merit and should be set aside. He has requested a cross-examination of Shri Hiteshbhai Ranchhodbhai Moradiya to establish the facts of the case. Furthermore, he seeks the release of the confiscated diamonds and urges that no penalty be imposed upon him, given the absence of any unlawful intent or violation of statutory provisions. I find that the co-noticee has sought to undermine the confiscation under Sections 113(d) and 113(e) by arguing that rough diamonds are not subject to export duty. However, the absence of export duty does not negate the requirement for proper customs clearance. The statutory provisions mandate that all exports be declared and processed through the proper channels. The failure to comply renders the goods liable for confiscation and attracts penal consequences under Section 114(i) of the Customs Act, 1962.

Further, I find that the co-noticee has requested the cross-examination of Shri Hiteshbhai Ranchhodbhai Moradiya. I find that the Panchnama dated 26/27.07.2023 has well-documented all the procedures carried out at the time of the search and seizure of the impugned diamonds. The crux of the case, i.e., recovery of 4910.30 carats of rough diamonds valued at ₹1,10,12,900/- from the baggage of Shri Jignesh Batukbhai Moradiya at Surat Airport on 27.07.2023, which were attempted to be illegally exported to Dubai without declaration were confiscated under Sections 113(d) and 113(e) of the Customs Act, 1962, along with a penalty under Section 114(i). Hence, the request for cross-examination of Shri Hiteshbhai Ranchhodbhai Moradiya seems unnecessary and does not have any basis. Further, the right of cross-examination cannot be considered as a mandate in a quasi-judicial proceeding and depends upon the facts and circumstances of each case. Hence, the request for cross-examination of Shri Hiteshbhai Ranchhodbhai Moradiya in this case appears to be an attempt to delay and vitiate the proceedings and hence cannot be acceded to.

In the above context, reliance is placed on the following decisions:

- a) In the case of **Surjeet Singh Chhabra vs. the Union of India & Others** reported in 1997 (89) E.L.T. 646 (S.C.), the Hon'ble Supreme Court has held that the Customs officials are not police officers. The confession, though retracted, is

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an admission and binds the petitioner. So there is no need to call panch witnesses for examination and cross-examination by the petitioner.

- b) In the case of **Commissioner of Customs, Hyderabad V. Tallaja Impex** reported in 2012(279) ELT 433 (Tri.), it was held that-

“In a quasi-judicial proceeding, strict rules of evidence need not to be followed. Cross-examination cannot be claimed as a matter of right.”

- c) In the case of **Patel Engg. Ltd. vs. UOI** reported in 2014 (307) ELT 862 (Bom.) Hon’ble Bombay High Court has held that;

“Adjudication – Cross-examination – Denial of- held does not amount to violation of principles of natural justice in every case, instead it depends on the particular facts and circumstances – Thus, right of cross-examination cannot be asserted in all inquiries and which rule or principle of natural justice must be followed depends upon several factors – Further, even if cross-examination is denied, by such denial alone, it cannot be concluded that principles of natural justice had been violated.” [para 23].

- d) In the case of **Union of India Vs. Rajendra Bajaj** [2010(253) E.L.T.165 (Bom.)], Hon’ble Bombay High Court stated in Para 6, which is reproduced herein below-

*“the Supreme Court held in K.L. Tripathi v. State Bank of India (1984) 1 SCC 43 that where there is no dispute as to the facts, or the weight to be attached on disputed facts but only an explanation of the acts, **absence of opportunity to cross-examination does not create any prejudice in such cases and does not vitiate the decision.**”*

- e) Hon’ble **Punjab High Court in the case Ranchodbhai M. Patel vs. Central Board of Revenue, New Delhi** reported as 2000 (125) ELT 281 (Punj.) has held that:

“Natural justice – Petitioner himself having signed the panchnama made in his presence, production of panchas before him for cross-examination not necessary – Principles of natural justice not violated – Section 122 of the Customs Act, 1962.”

- f) Hon’ble CESTAT, Delhi in its decision in the case of **Om International vs. CC, New Delhi** reported in 2007 (217) ELT 88 (Tri. Del.) held that

“.....appellants have not been prejudiced in any manner by denial of Cross-examination of seizing officer, panch witnesses and officers, who recorded statement. contents of these statements fully reproduced in the show cause notice itself and appellants have been granted ample opportunities to reply the same.”

Furthermore, a letter of even file number dated 11.03.2025, to this effect, has already been sent to Shri Pareshkumar Vallabhbbhai Moradiya, informing him denial of his request for cross-examination.

32.5.3 Determination of Culpability of Shri Pareshkumar Vallabhbbhai Moradiya

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- The determination of culpability of Shri Pareshkumar Vallabhbhai Moradiya hinges upon his knowledge, involvement, and intent in the unauthorized export of rough diamonds seized at Surat Airport. The material facts establish that he was the lawful owner of the seized goods, and his actions facilitated their attempted smuggling. Under the Customs Act, 1962, liability is not limited to direct physical possession but extends to all persons who play a substantive role in an offence. By entrusting the diamonds to intermediaries without ensuring compliance with customs regulations, he has actively participated in the commission of an offence under Sections 113(d) and 113(e) of the Act.
- The plea of ignorance advanced by the co-noticee does not exonerate him from liability. As a seasoned diamond trader and proprietor of M/s Motiba Gems, he is expected to exercise due diligence in the handling and movement of high-value goods, particularly those subject to international trade regulations. The contention that he believed the transaction was limited to the domestic market is inconsistent with the fact that the diamonds were ultimately transported for export. Criminal intent (***mens rea***) can be inferred from circumstantial evidence, including his failure to ensure proper Customs compliance before parting with the goods. In matters of smuggling and export violations, the absence of direct participation does not absolve an individual from culpability if their actions contributed to the offence.
- Furthermore, I find that Shri Pareshkumar Vallabhbhai Moradiya has sought to dispute the valuation process as a defence strategy. However, the valuation of goods, even if contested, does not diminish the fact that an attempt was made to export them without mandatory customs clearance. The Customs Act does not make culpability contingent upon the quantum of valuation but rather upon the act of misdeclaration, non-declaration, or unauthorized export. His failure to monitor the movement of goods and ensure legal compliance indicates gross negligence at best and deliberate facilitation at worst, both of which attract penal consequences under Section 114(i) of the Customs Act, 1962.
- It is also significant that the co-noticee had legal avenues to prevent unauthorized export, yet he failed to exercise them. Had he acted in good faith, he would have ensured that all Customs formalities were duly completed before the diamonds left his possession. His argument that rough diamonds are not prohibited goods under export regulations is misplaced, as it does not override the fundamental requirement of Customs declaration. The absence of duty on an item does not imply unrestricted exportability, and the deliberate omission of a legally mandated process constitutes an offence.
- Shri Pareshkumar Vallabhbhai Moradiya's '***mens rea***' in the smuggling of rough diamonds is evident and supported by documentary and circumstantial evidence. His statement recorded under Section 108 of the Customs Act, 1962, on 09.11.2023, confirms that the seized rough diamonds belonged to his firm, M/s Motiba Gems, and that he handed them over to Shri Ritesh Hasmukhbhai Moradiya, who subsequently passed them to Shri Ashvinbhai Monpara for smuggling. His claim of ignorance regarding illicit export is contradicted by his failure to produce any legitimate sales or export documents for the goods, demonstrating an intentional attempt to evade customs regulations at the time of investigation as promised. In his statement dated 09.11.2023, he has claimed to submit the bill of supply (Jhangad) and purchase invoice for the disputed rough diamond within two days. However, he has failed to submit those documents even after a year had passed. Thus, he did not cooperate in the investigation by not providing the documents within the promised time frame. Furthermore, only at the time of the personal hearing did the authorized representative submit a copy of the

promised documents. Upon reviewing the bill of supply (Jhangad), I notice that it lacks credibility. It resembles a *Parchi Book* listing the name of Shri Riteshbhai Moradiya without any address, mobile number, or other identification. Further, no details on quality or rate of diamonds were mentioned. Based on such a document, it is hard to believe that someone would be given diamonds worth over one crore. It is further inexplicable why someone would take valuable goods, such as diamonds worth over one crore, out of the country without the owner's due permission. Will any diamond broker take such immense risk just for a commission, knowing they could be caught by Customs on smuggling charges? The following questions naturally arise in my mind: *What was the purpose of the payment of 500 Dirhams by Shri Ritesh Hasmukh Moradiya to Shri Jignesh Batukbhai Moradiya at the office of Shri Hiteshbhai Moradiya? Why was Shri Hiteshbhai Moradiya covering the trip expenses and further obligated to pay Rs. 50,000/- to Shri Jignesh Batukbhai Moradiya?* Further, it is also forthcoming that had the scheme succeeded, Shri Pareshbhai Vallabhbhai Moradiya would have emerged as the principal beneficiary of the smuggling operation. The statements from co-accused individuals, including Shri Hiteshbhai Moradiya and Shri Riteshbhai Moradiya, establish that he, Shri Pareshkumar Vallabhbhai Moradiya, was fully aware of the plan to smuggle the diamonds out of India and that he played an active role in the logistics by coordinating the movement of contraband through trusted intermediaries. Furthermore, in his statement, when asked, Shri Pareshkumar stated that he was in touch with his lawyers and would take legal action against those responsible for smuggling, to date, he has not informed this office if he has taken any legal action against them or otherwise, it only further suggests that he was a willing participant in the offence. I believe that based on documentary and circumstantial evidence, including his statement recorded under Section 108 of the Customs Act, 1962 on 09.11.2023, it is clear that Shri Pareshkumar Vallabhbhai Moradiya had knowingly orchestrated the scheme of smuggling of rough diamonds. His acknowledgment that the seized goods belonged to his firm and his transfer of the merchandise to intermediaries demonstrates clear '*mens rea*' on his part. His failure to produce legitimate export documentation and the submission of a dubious bill of supply, together with contradictory statements from co-accused individuals, evidences a deliberate intent to evade customs regulations and engage in unlawful export practices clearly beyond a reasonable doubt.

- In conclusion, I find it incontrovertibly proved that Shri Pareshkumar Vallabhbhai Moradiya has facilitated the illegal export of rough diamonds by failing to exercise control and ensuring proper Customs compliance. His involvement in the unauthorized export attempt renders him liable for confiscation of goods under Sections 113(d) and 113(e) and for penal action under Section 114(i) of the Customs Act, 1962. His defence is legally untenable, and I am of the considered opinion that principles of strict liability and constructive culpability must be applied to determine his accountability under the law.
- Shri Pareshkumar Vallabhbhai Moradiya has been charged under Sections 113(d), 113(e), and 114(i) of the Customs Act, 1962 for facilitating the attempted smuggling of rough diamonds without customs declaration. Under Section 113(d), goods attempted to be exported in violation of Customs laws are liable for confiscation. The rough diamonds were found in outbound baggage without proper declaration, making them subject to seizure. Section 113(e) further applies as the goods were sought to be exported by suppression of material facts and omission of mandatory disclosure. Additionally, Section 114(i) imposes a penalty on any person whose acts or omissions lead to goods becoming liable for confiscation. The co-noticee's failure to ensure compliance with customs procedures directly contributed to the illegal export attempt, making him liable for a penalty of up to three times the value of the goods. In conclusion, I unequivocally hold Shri Pareshkumar Vallabhbhai Moradiya culpable for the attempted smuggling of rough diamonds and 4910.30 Carats of Rough diamonds

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liable for confiscation under Section 113 (d) and 113 (e) of the Customs Act, 1962. Consequently, I also hold the co-noticee liable for imposition of penalty under Section 114 (i) of the Customs Act.

33. Accordingly, in the exercise of the powers vested in me as the Adjudicating authority, I pass the following order:

ORDER

- (i) I order **absolute confiscation** of the **4910.30 Carats** of rough Diamonds, valued at **Rs. 1,10,12,900/- (Rupees One Crore Ten Lakh Twelve Thousand Nine Hundred only)** recovered from the baggage of Shri Jignesh Batukbhai Moradiya, under Section 113 (d) and 113 (e) of the Customs Act, 1962.
- (ii) I order **absolute confiscation** of the baggage, i.e., Blue Colour Trolley Bag, carried by him and used for concealing the diamonds attempted to be smuggled, under Section 119 of the Customs Act, 1962.
- (iii) I order **absolute confiscation** of the packing materials, viz., plastic pouches used to conceal the diamonds under Section 118 of the Customs Act, 1962.
- (iv) I impose a **penalty** of **Rs. 25,00,000/- (Rupees Twenty-Five Lakhs only)** on Shri Jignesh Batukbhai Moradiya under Section 114(i) of the Customs Act, 1962.
- (v) I impose a **penalty** of **Rs. 25,00,000/- (Rupees Twenty-Five Lakhs only)** on Shri Ashvinbhai Manubhai Monpara under Section 114(i) of the Customs Act, 1962.
- (vi) I impose a **penalty** of **Rs. 25,00,000/- (Rupees Twenty-Five Lakhs only)** on Shri Hiteshbhai Ranchhodbhai Moradiya under Section 114(i) of the Customs Act, 1962.
- (vii) I impose a **penalty** of **Rs. 20,00,000/- (Rupees Twenty Lakhs only)** on Shri Ritesh Hasmukhbhai Moradiya under Section 114(i) of the Customs Act, 1962.
- (viii) I impose a **penalty** of **Rs. 20,00,000/- (Rupees Twenty Lakhs only)** upon Shri Pareshkumar Vallabhbhai Moradiya under Section 114(i) of the Customs Act, 1962.

34. This order is issued without prejudice to any other action that may be taken against the noticee under the provisions of the Customs Act, 1962 as amended or rules made thereunder or under any law for the time being in force.

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(Anunay Bhati)
Additional Commissioner
Surat International Airport,
Customs, Surat

**BY SPEED POST AD/E.MAIL/NOTICE BOARD /WEBSITE/ OTHER LEGALLY
PERMISSIBLE MODE/BY SPEED POST-A.D.**

F. No. VIII/26-10/CUS/AIU/2023-24
DIN: 20250371MN000000BB8E

Date: 21.03.2025

To,

1. Shri Pareshkumar Vallabhbhai Moradiya,
A-704, Heny Heights, Near Dabholi Road,
Katargam, Surat- 395004.
2. Shri Jignesh Batukbhai Moradiya,
S/o Shri Batukbhai Karmashibhai Moradiya,
20, Kalapi Society, Gajera School,
Katargam, Surat.
3. Shri Ashvinbhai Manubhai Monpara,
S/o Shri Manubhai Monpara,
B-904, Saffron Sky, Singanpore Road,
Opp. Hari Krishna Flats, Omkar Society-2,
Riddhi Siddhi Society, Singanpore, Surat-395004.
4. Shri Hiteshbhai Ranchhodbhai Moradiya,
S/o Shri Ranchhodbhai Devjibhai Moradiya,
160, Haridarshan Society, Dabholi Char Rasta,
Katargam, Surat, Gujarat 395004.
5. Shri Ritesh Hasmukh Moradiya,
159, Haridarshan Society,
Dabholi Char Rasta, Katargam,
Surat-395004.

Copy to:

1. The Principal Commissioner of Customs, Ahmedabad. (Kind Attn: RRA Section).
2. The Deputy Commissioner of Customs (TRC), Ahmedabad.
3. The Superintendent (Disposal), Customs, Surat International Airport, Surat.
4. The Superintendent (Recovery), Customs, Surat International Airport, Surat.
5. The System In-Charge, Customs, HQ., Ahmedabad for uploading on the official website. (Soft copy to be mailed via email)
6. Guard File.