



प्रधान आयुक्तका कार्यालय, सीमाशुल्क, अहमदाबाद

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

Shri Mohammedrafiq Mohamadsafi Savaijiwala S/o.

Mohamadsafi Ibrahimbhai Savaijiwala (herein after referred to as the 'passenger/ Noticee') residing at 3361, Savajis Street, Nadiawad, Jamalpur, Ahmedabad, Gujarat, India holding Indian Passport bearing No. T5368331 arrived from Jeddah by Indigo Flight No. 6E 92 dated 24.01.2024 at SVP International Airport, Ahmedabad on 24.01.2024. on the basis of scanning of Check in baggage of the passenger at the baggage screen machine, the Customs batch officers, SVPI Airport, Ahmedabad observed some suspicious metal images in 01 checked-in baggage of a passenger who was arriving by Indigo Flight No. 6E 92 from Jeddah to Ahmedabad dated 24.01.2024, which is suspected to carry high valued dutiable/ contraband goods, therefore, a thorough search of all the baggage of the passenger as well as his personal search was required to be carried out and when the passenger arrived at the red channel, after detection of the suspicious images, the passenger namely Shri Mohammedrafiq Mohamadsafi Savaijiwala along with his baggage was handed over by the red channel officers to the AIU officers at the green channel for further proceedings.

2.1 The AIU officers at green channel under Panchnama proceedings dated 24.01.2024 **[RUD No.-01]** in presence of two independent witnesses asked about identity of the passenger, the passenger identified himself as Shri Mohammedrafiq Mohamadsafi Savaijiwala S/o Mohamadsafi Ibrahimbhai Savaijiwala and showed his Passport which was an Indian Passport bearing No. T5368331. Further, he informed that he had travelled from Jeddah to Ahmedabad on 24.01.2024 by Indigo Flight No. 6E 92 and showed his Boarding Pass bearing Seat No. 21D. The officers and the Panchas observed that the said passenger had one trolley bag and one handbag. The AIU officers

asked Shri Mohammedrafiq Mohamadsafi Savaijiwala if he had anything to declare, in reply to which he denied. Thereafter, the AIU officer informed the passenger that they were going to conduct his personal search and detailed examination of his baggage and the officers offered their personal search to the passenger, but he denied saying that he was having full trust on the Officer. Thereafter, the AIU officer asked the passenger whether he wanted to be checked before an Executive Magistrate or Superintendent of Customs, in reply to which the passenger gave his consent to be searched in front of the Superintendent of Customs. Thereafter, the AIU officer asked the passenger to pass through the Door Frame Metal Detector (DFMD) Machine installed near the green channel in the Arrival Hall of Terminal 2 building, after removing all metallic objects from his body/ clothes. The passenger removed all the metallic objects such as mobile, purse etc. and kept in a plastic tray and passed through the DFMD. However, no beep sound was heard indicating there was nothing objectionable/ metallic substance on his body/ clothes. Thereafter, the said passenger, the panchas and the officers moved to the AIU office located opposite belt No. 2 of the Arrival Hall, Terminal-2, SVPI Airport, Ahmedabad along with the baggage of the passenger. The officers checked the baggage of the passenger, however nothing objectionable was found. Further, the officers scanned one chocolate colored trolley bags of the passenger in X-ray baggage scanning machine (BSM) installed near the green channel counter at terminal-2 of SVPI, Ahmedabad in which a dark black colored image with yellow outline appeared around the inner sides of the trolley bag. Now, the AIU officer thoroughly checked the trolley bag from which black coloured image appeared, but nothing was found inside the trolley bags. Further, the officers again scanned the said trolley bag after removing all the materials packed in the trolley bags and then confirmed that the dark black colored image with yellow outline was appearing in inner sides of the trolley bag. Thereafter, the officers had taken out one black color strip from the inner side of the trolley bag and on further removing the black tape from that Gold Wire coated with White Rhodium had been taken out from the trolley bag concealed inside around the inner sides of the trolley bag. The officer asked whether the Gold Wire coated with

White Rhodium was made of Gold, to which the passenger agreed that the Gold Wire was made of Gold.

2.3 Thereafter, to confirm the purity of the Gold Wire coated with White Rhodium recovered from the above said passenger concealed inside check in baggage, the AIU officers called the Government Approved Valuer. As the aforesaid passenger confirmed the Gold Wire recovered from them as Gold, he needed to come to the Airport for testing and Valuation of the said material. In reply, the Government Approved Valuer informed the AIU Officer that the testing of the said material would be only possible at his workshop as the gold recovered in various forms to be converted into gold bar by melting it and informed the address of his workshop.

2.4 Thereafter, on reaching the premises of the valuer, the AIU officer introduced the panchas as well as the passenger to one person named Mr. Kartikey Vasantrai Soni, Government Approved Valuer. Thereafter, Shri Mr. Kartikey Vasantrai Soni weighed the said Gold Wire coated with White Rhodium recovered from the passenger on his weighing scale. After weighing the Gold Wire coated with White Rhodium recovered from Shri Mohammedrafiq Mohamadsafi Savaijiwala, Mr. Kartikey Vasantrai Soni informed that the gross weight of Gold Wire was 1000.040 grams.



2.5 Thereafter, he leads us to the furnace, inside his workshop. Here, Mr. Kartikey Vasantrai Soni started the process of converting the said sticks/ thin strips recovered from Shri Mohammedrafiq Mohamadsafi Savaijiwala into solid gold bar by putting them into the furnace and upon heating the same, turned into liquid materials. The said substance in liquid state was taken out of furnace and poured in a bar shaped plate and after cooling for some time, it became yellow colored solid metal in form of a bar. After completion of the procedure, Government Approved Valuer informed that gold bar weighing **1000.020** Grams having purity 999.0/24kt was derived from the 1000.040 Grams of Gold Wire coated with White Rhodium which was recovered from Shri Mohammedrafiq Mohamadsafi Savaijiwala.

Gold bar (derived from Gold Wire coated with White Rhodium)



2.6 After testing the said yellow-colored metal, the Government Approved Valuer summarized that this gold bar is made up of 24 Kt. gold having purity 999.0 weighing **1000.020** Grams having market value of **Rs.64,40,129/-** (Rupees Sixty-Four Lakhs Forty Thousand One hundred and Twenty-Nine Only) and Tariff Value of **Rs.55,67,531/-** (Rupees Fifty-Five Lakhs Sixty-Seven Thousand Five Hundred and Thirty-One Only). The value of the gold bar has been calculated as per the Notification No. 02/2024-Customs (N.T.) dated 15.01.2024 (gold) and Notification No. 04/2024-Customs (N.T.) dated 18.01.2024 (exchange rate). He submits his valuation report to the AIU Officer which is in Annexure-A and Annexure-B. We, the above panchas and the said passenger put our dated signature on the said valuation report.

The details of the Valuation of the said gold bar is tabulated in below table:

Sl. No.	Details of Items	PCS	Net Weight in Gram	Purity	Market Value (Rs.)	Tariff Value (Rs.)
1.	Gold Bar	1	1000.020	999.0/ 24 Kt	64,40,129/-	55,67,531/-

3. The gold bar weighing 1000.020 Grams are of 24 KT (999.0 Purity) is having Rs.64,40,129/- [Market Value] and Rs.55,67,531/- [Tariff Value]. The said gold recovered from the passenger was attempted to be smuggled inside India with intent to evade payment of Customs duty and was a clear violation of the provisions of the Customs Act, 1962. Thus, having a reasonable belief that the said gold total weighing 1000.020 Grams was attempted to be smuggled by the passenger, were liable for confiscation under the provisions of the Customs Act, 1962; they were placed under seizure vide Panchnama dated 24.01.2024 drawn by the Officer of Customs (AIU) under a reasonable belief that the subject Gold was attempted to be smuggled into India and was liable for confiscation under Section 111 of the Customs Act, 1962 (**Seizure Report dated 24.01.2024- RUD No. 03**). Further, the gold, recovered from the passenger, was placed under seizure under section 110 of the Customs Act, 1962 vide Panchnama dated 24.01.2024 drawn by the Officer of the Customs, AIU, at SVPI Airport, Ahmedabad.

The following travelling documents and identity documents of the passenger were recovered and withdrawn for further investigation: -

- (i) Copy of Passport No. T5368331 issued at Ahmedabad on 12.04.2019 and valid up to 11.04.2029. (**RUD No. 04**)
- (ii) Boarding pass of Indigo Flight number 6E 92 having seat no. 21D from Jeddah to Ahmedabad dated 24.01.2024. (**RUD No.05**)
- (iii) Passenger Manifest of Indigo Flight number 6E 92 from Jeddah to Ahmedabad dated 24.01.2024 depicting name of Shri Mohammedrafiq Mohamadsafi Savaijiwala (**RUD -No. 6**).

4. A statement of the passenger Shri Mohammedrafiq Mohamadsafi Savaijiwala was recorded on 24.01.2024 under Section 108 of the Customs Act, 1962 (**RUD NO.-07**), wherein he, inter alia, stated that he arrived from Indigo Flight number 6E 92 on 24.01.2024 having seat

no. 21D, having Passport No. T5368331 at Sardar Vallabhbhai Patel International Airport, Ahmedabad. Furthermore, the passenger accepted that the said 01 Gold bar having weight 1000.020 Grams extracted from gold Wire coated with White Rhodium was carried by him belongs to him as it was purchased by him to earn some money for the marriage of his daughter on 14-15/02/2024 so that he can bear the marriage expenses. Under his statement, the passenger admitted that he was aware that the bringing gold by way of concealment to India was illegal and it was an offense. Further, he also stated that he had purchased this gold from his money and by borrowing some money from his friends so that he could sell the same in India at a higher rate, he agreed to conceal the same in his check-in baggage to bring it to India. His intention was to earn fast money, so he had done this illegal carrying of gold of 24 Kt. in commercial quantity in India without declaration. The same was clearly meant for commercial purpose and hence do not constitute bonafide baggage within the meaning of Section 79 of the Customs Act, 1962. Further, the said goods were also not declared before Customs by the pax. He stated that he was aware that smuggling of gold without payment of customs duty is an offence. Since he had to clear the gold without payment of Customs duty, he did not make any declarations in this regard. He admitted that he had opted for green channel so that he could attempt to smuggle the Gold without paying customs duty. Further, he again confirmed the recovery of gold weighing 1000.020 Grams of 24 KT (999.0 Purity) having Rs.64,40,129/- [Market Value] and Rs.55,67,531/- [Tariff Value] from him during Panchnama dated 24.01.2024.

5. Therefore, based on facts narrated above, the said gold weighing 1000.020 Grams of 24 KT (999.0 Purity) having Rs.64,40,129/- [Market Value] and Rs.55,67,531/- [Tariff Value], appeared liable for confiscation, was placed under seizure under Panchnama dated 24.01.2024 as said gold totally weighing 1000.020 grams seized under Panchnama dated 24.01.2024 was "smuggled goods" as defined under Section 2(39) of Customs Act, 1962. It also appeared that the said pax has conspired to smuggle the said gold into India. The offence committed has been admitted by the said passenger in his statement recorded on 24.01.2024 under Section 108 of the Customs Act, 1962.

He has committed an offence punishable under Section 135 (1) (a) & (b) of the Customs Act, 1962.

6. In terms of Board's Circulars No. 28/2015-Customs issued from F. No. 394/68/2013-Cus (AS) dated 23/10/2015 and 27/2015-Cus issued from F. No. 394/68/2013-Cus. (AS) dated 23/10/2015, as revised vide Circular No. 13/2022-Customs, 16-08-2022, the prosecution and the decision to arrest may be considered in cases involving outright smuggling of high value goods such as precious metal, restricted items or prohibited items where the value of the goods involved is Rs. 50,00,000/- (Rupees Fifty Lakhs) or more. Since the market value of gold amounted to Rs. 64,40,129/- totally weighing 1000.020 grams recovered from Shri Mohammedrafiq Mohamadsafi Savaijiwala is more than Rs.50,00,000/-, hence this case is fit for arrest of the said passenger under Section 104 of the Customs Act, 1962. Hence, the passenger was arrested on 24.01.2024.

7. RELEVANT LEGAL PROVISIONS:

A. THE CUSTOMS ACT, 1962:

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

(22) "goods" includes—

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

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

(33) "prohibited goods" means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with;

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

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

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

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

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

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

(d) any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;

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

(i) any dutiable or prohibited goods found concealed in any manner in any package either before or after the unloading thereof;

(j) any dutiable or prohibited goods removed or attempted to be removed from a customs area or a warehouse without the permission of the proper officer or contrary to the terms of such permission;

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

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

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

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

(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harboring, keeping,

concealing, selling or purchasing or in any manner dealing with any goods which he know or has reason to believe are liable to confiscation under Section 111, shall be liable to penalty.

VII) "SECTION 119- Confiscation of goods used for concealing smuggled goods – Any goods used for concealing smuggled goods shall also be liable to confiscation.

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

VIII) Section 104 of the Customs Act, 1962- The provisions of Section 104 (6) & (7) of the Customs Act, 1962 is reproduced as under:-

- (6) Notwithstanding anything contained in the Code of [(6) Criminal Procedure, 1973, (2 of 1974) an offence punishable under section 135 relating to –
 - (a) evasion or attempted evasion of duty exceeding fifty lakh rupees; or
 - (b) prohibited goods notified under section 11 which are also notified under sub-clause (C) of clause (i) of sub-section (1) of section 135; or
 - (c) import or export of any goods which have not been declared in accordance with the provisions of this Act and the market price of which exceeds one crore rupees; or
 - (d) fraudulently availing of or attempt to avail of drawback or any exemption from duty provided under this Act, if the amount of drawback or exemption from duty exceeds fifty lakh rupees, shall be non-bailable.
- (7) Save as otherwise provided in sub-section (6), all other offences under this Act shall be bailable.]

B. THE FOREIGN TRADE (DEVELOPMENT AND REGULATION) ACT, 1976;

I) "Section 3(2) - The Central Government may also, by Order published in the Official Gazette, make provision for prohibiting, restricting or otherwise regulating, in all cases or in specified classes of cases and subject to such exceptions, if any, as may be made by or under the Order, the import or export of goods or services or technology."

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

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

C. THE CUSTOMS BAGGAGE DECLARATIONS REGULATIONS, 2013:

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

CONTRAVICTION AND VIOLATION OF LAWS

8. It therefore appears that:

(a) Shri Mohammedrafiq Mohamadsafi Savaijiwala improperly imported the 01-gold bar (extracted from gold wire coated with White Rhodium) weighing 1000.020 Grams of 24 KT (999.0 Purity) having Rs.64,40,129/- [Market Value] and Rs.55,67,531/- [Tariff Value] concealed/hidden inside the inner layers of trolley bag (as discussed herein above) without declaring it to the Customs by denying that he has nothing to declare to customs with a deliberate intention to evade the payment of customs duty and fraudulently circumventing the restrictions and prohibitions imposed under the Customs Act 1962 and other allied Acts, Rules and Regulations. The passenger had knowingly and intentionally imported the said Gold improperly without declaring the same to the Customs authority under temptation to evade Customs Duty. Therefore, the gold imported by the passenger which was not declared to the Customs on arrival in India cannot be treated as bonafide household goods or personal effects. Shri Mohammedrafiq Mohamadsafi Savaijiwala has thus contravened the Foreign Trade Policy 2015-20 and Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1976 read with Section 3(2) and 3(3) of the Foreign Trade (Development and Regulation) Act, 1976.

(b) The passenger, by not declaring the contents of hidden in his baggage which included dutiable and prohibited

goods to the proper officer of the Customs has contravened Section 77 of the Customs Act, 1962 read with Regulation 3 of Customs Baggage Declaration Regulations, 2013.

- (c)** The improperly imported 01 gold bar (extracted from gold Wire coated with White Rhodium) hidden/concealed inside the check in baggage by the passenger without declaring it to the Customs is thus liable for confiscation under Section 111(d), 111(i) and 111(j) read with Section 2 (22), (33), (39) of the Customs Act, 1962 and further read in conjunction with Section 11(3) of the Customs Act, 1962.
- (d)** The passenger, by his above-described acts of omission and commission on his part, has rendered himself liable to penalty under Section 112 of the Customs Act, 1962.
- (e)** As per Section 123 of the Customs Act, 1962, the burden of proving that the 01-gold bar (extracted from Gold Wire coated with White Rhodium), weighing 1000.020 Grams of 24 KT (999.0 Purity) having Rs.64,40,129/- [Market Value] and Rs.55,67,531/- [Tariff Value] hidden in the check-in baggage by the passenger without declaring it to the Customs, are not smuggled goods, is upon the passenger and the Noticee, Shri Mohammedrafiq Mohamadsafi Savaijiwala.

9. Now therefore, **Shri Mohammedrafiq Mohamadsafi Savaijiwala**, resident of 3361, Savajis Street, Nadiawad, Jamalpur, Ahmedabad, Gujarat, India holding Indian Passport bearing No. T5368331, is called upon to show cause in writing to The Additional Commissioner of Customs, SVPI Airport, Ahmedabad having his office at Custom House, Nr. All India Radio, Income Tax Circle, Navrangpura, Ahmedabad, as to why:

- i) The 01 (one) gold bar (extracted from Gold Wire coated with White Rhodium), weighing **1000.020** Grams of 24 KT (999.0 Purity) having **Rs.64,40,129/-** [Market Value] and **Rs.55,67,531/-** [Tariff Value] placed under seizure under panchnama dated 24.01.2024 and seizure memo order dated 24.01.2024 should not be confiscated under Section 111(d), 111(f), 111(i), 111(j), 111(l) and 111(m) of the Customs Act, 1962;
- ii) Penalty should not be imposed upon the passenger Shri Mohammedrafiq Mohamadsafi Savaijiwala, under Section 112(a) and 112(b) of the Customs Act, 1962.

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

11. The passenger is further required to note that his reply should reach within **30 (thirty) days** from the receipt of this SCN or within such extended period as may be allowed by the adjudicating authority. If no cause is shown against the action proposed above, within 30 days from the receipt of this SCN or if he does not appear before the adjudicating authority as and when the case is posted for hearing, the case is liable to be decided ex-parte on the basis of facts and evidence available on record.

12. The relied upon documents for the purpose of this notice are listed in the **Annexure-R** and copies thereof are enclosed with this notice.

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

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

Vishal Malani
(Vishal Malani)
 Additional Commissioner,
 Customs, Ahmedabad

DIN : 20240571MN0000777DF0

F. No. VIII/10-68/SVPIA-D/O&A/HQ/2024-25

Date: 29/05/2024

BY SPEED POST

To,

Shri Mohammedrafiq Mohamadsafi Savaijiwala,
 3361, Savajis Street, Nadiawad,
 Jamalpur, Ahmedabad, Gujarat, India

Copy to:

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

ANNEXURE – 'R'

LIST OF DOCUMENTS/RECORDS RELIED UPON FOR THE PURPOSE OF SHOW CAUSE NOTICE ISSUED TO SHRI MOHAMMEDRAFIQ MOHAMADSAFI SAVAIJIWALA

S. No.	Nature of document	Remarks
1	Panchnama dated 24.01.2024 drawn at SVPI Airport, Ahmedabad	Copy already provided
2	Valuation Report of Government Approved Valuer Shri Kartikey Vasantral Soni vide his report dated 24.01.2024	
3	Seizure memo Order dated 24.01.2024 issued under Section 110(1) of the Customs Act, 1962.	
4	Copy of Passport No. T5368331 issued on 17.02.2017.	Available for Inspection at AIU, Group-D, SVPI, Airport, Ahmedabad
5	Copy of Boarding Pass showing Seat No. 21D of the passenger in Indigo 6E 92 from Jeddah to Ahmedabad dated 24.01.2024.	
6	Passenger Manifest of Indigo 6E 92 from Jeddah to Ahmedabad dated 24.01.2024 depicting name of Shri Mohammedrafiq Mohamadsafi Savaijiwala.	
7	Statement of Shri Mohammedrafiq Mohamadsafi Savaijiwala recorded on 24.01.2024.	