

OIO No:110 /ADC/SRV/O&A/2025-26
F. No: VIII/10-258/DRI/SVPIA/O&A/HQ/2024-25



प्रधान आयुक्त का कार्यालय, सीमा शुल्क ,अहमदाबाद

“सीमाशुल्कभवन ,”पहलीमंजिल ,पुरानेहाईकोर्टकेसामने ,नवरंगपुरा ,अहमदाबाद – 380009.

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DIN: 20250771MN0000555EC3

PREAMBLE

A	फाइलसंख्या/ File No.	:	VIII/10-258/DRI/SVPIA/O&A/HQ/2024-25
B	कारणबताओनोटिससंख्या—तारीख / Show Cause Notice No. and Date	:	DRI/AZU/GI-02/ENQ-33/2024 dated 07.02.2025
C	मूलआदेशसंख्या/ Order-In-Original No.	:	110/ADC/SRV/O&A/2025-26
D	आदेशतिथि/ Date of Order-In-Original	:	30.07.2025
E	जारीकरनेकीतारीख/ Date of Issue	:	30.07.2025
F	द्वारापारित/ Passed By	:	Shree Ram Vishnoi, Additional Commissioner, Customs, Ahmedabad
G	आयातककानामऔरपता / Name and Address of Importer / Passenger	:	<p>(i) Shri Murtaza Ali Bhopalwala, 102, Rehmat Manzil, 148-149, Mohammedi Gali Noori Colony, Manik Bagh Road, Indore, MP-452014.</p> <p>(ii) Ms. Farida Bhopalwala, 102, Rehmat Manzil, 148-149, Mohammedi Gali Noori Colony, Manik Bagh Road, Indore, MP-452014</p> <p>(iii) Ms. Fatema Shabbir Presswala, 6, Bohara Bakhal Marg Nan3, Alirajpur, Madya Pradesh-457887</p> <p>(iv) Shri Ajij @ Abu Dhabi (To be served through Notice Board)</p> <p>(v) Shri Dilmeer Alim Sayyed Pirjade, Idgah Road, Stadium Mage, At/Post- Sangmner, Ahmadnagar, Maharashtra-422605Shri Bharatbhai.</p> <p>(vi) Ms. Nafisa Husain Burhanpurwala (To be served through Notice Board)</p>

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			(vii) Shri Gauravkumar Himatlal Parihar , 402, 4 th Floor, Jyoti Apartment, C-Wing, Narayan nagar, Thane, Maharashtra-400612
(1)	यह प्रति उन व्यक्तियों के उपयोग के लिए निःशुल्क प्रदान की जाती है जिन्हें यह जारी की गयी है।		
(2)	कोई भी व्यक्ति इस आदेश से स्वयं को असंतुष्ट पाता है तो वह इस आदेश के विरुद्ध अपील इस आदेश की प्राप्ति की तारीख के 60 दिनों के भीतर आयुक्त कार्यालय, सीमा शुल्क अपील)चौथी मंज़िल, हुडको भवन, ईश्वर भुवन मार्ग, नवरंगपुरा, अहमदाबाद में कर सकता है।		
(3)	अपील के साथ केवल पांच (5.00) रुपये का न्यायालय शुल्क टिकिट लगा होना चाहिए और इसके साथ होना चाहिए:		
(i)	अपील की एक प्रति और;		
(ii)	इस प्रति या इस आदेश की कोई प्रति के साथ केवल पांच (5.00) रुपये का न्यायालय शुल्क टिकिट लगा होना चाहिए।		
(4)	इस आदेश के विरुद्ध अपील करने इच्छुक व्यक्ति को 7.5 % (अधिकतम 10 करोड़) शुल्क अदा करना होगा जहां शुल्क या इयूटी और जुर्माना विवाद में है या जुर्माना जहां इस तरह की दंड विवाद में है और अपील के साथ इस तरह के भुगतान का प्रमाण पेश करने में असफल रहने पर सीमा शुल्क अधिनियम, 1962 की धारा 129 के प्रावधानों का अनुपालन नहीं करने के लिए अपील को खारिज कर दिया जायेगा।		

Brief facts of the case:

An intelligence was received by Directorate of Revenue Intelligence, Zonal Unit Ahmedabad, (hereinafter also referred to as DRI) that two passengers namely (a) Shri Murtaza Ali Bhopalwala, Male, Passport No. B9138911 and (b) Ms. Farida Bhopalwala, Female, Passport No. Y5949078, arriving by Air Arabia Flight 3L 111 on 11.08.2024 from Abu Dhabi to Ahmedabad are suspected to be carrying restricted/prohibited goods in their baggage or in person.

2. Action taken on the intelligence:

2.1 Acting on the said intelligence, a team of officers from DRI along with officers of Air Intelligence Unit, Customs, SVPI Airport Ahmedabad, intercepted Shri Murtaza Ali Bhopalwala and his wife Ms. Farida Bhopalwala, arrived by Air Arabia Flight No. 3L 111 (Seat No. 15B E-Ticket No. 514236558586201 and Seat No. 15A E-Ticket No. 514236558586101 respectively) on 11.08.2024 from Abu Dhabi to Ahmedabad, when they both tried to exit through Green Channel at arrival hall of terminal 2 of Sardar Vallabhbhai Patel International Airport (SVPI) Ahmedabad. All the further proceedings were recorded under Panchnama dated 11.08.2024.

2.2 DRI Officers then asked Shri Murtaza Ali Bhopalwala and Ms. Farida Bhopalwala whether they want to declare anything before the Customs, in reply to which they stated that they do not have anything to declare before the Customs.

2.3 The officers, asked Shri Murtaza Ali Bhopalwala and Ms. Farida Bhopalwala, whether they wish to be searched before a Gazetted officer or Magistrate, for which they agree to being searched in front of a Gazetted officer. Before conducting the search, the DRI officer offer his personal search to Shri Murtaza Ali Bhopalwala and similarly, the lady female officer, offer her personal search to Ms. Farida Bhopalwala, in reply of which both the passengers politely decline.

2.4 On directions by the DRI officer, Shri Murtaza Ali Bhopalwala and Ms. Farida Bhopalwala remove all the metallic objects from their body and worn clothes and passed through the DFMD machine. No beep sound was heard indicating that there was no metallic substance on the body/clothes of Shri Murtaza Ali Bhopalwala and Ms. Farida Bhopalwala. Then, the DRI Officer, instructed Shri Murtaza Ali Bhopalwala to place his 2 (two) check-in baggage viz. 1 (one) Dark Blue Coloured plastic trolley bag having marks as "KAMILIANT" on the bag, 1 (one) Light Blue & Dark Blue Coloured cloth trolley bag having marks as "STRINGS" on the bag, one by one into the Baggage Screening Machine. On examination of images of all the above 2 baggage, displayed from the Baggage Screening Machine, the DRI & Custom officers did not notice any unusual image indicating anything objectionable present in all the bags.

2.5 Thereafter, DRI and Customs Officers asked Shri Murtaza Ali Bhopalwala and Ms. Farida Bhopalwala whether they both were concealing any high value dutiable goods, to which they both replied in negative. The DRI Officers informed that they have specific input that they both are carrying high valued dutiable goods hence again asked both the passenger whether they had concealed any substance in their body, to which they both replied in negative. After thorough interrogation of Shri Murtaza Ali Bhopalwala by the officers of DRI and Customs and Ms Farida Bhopalwala by the lady Officer, Shri Murtaza Ali Bhopalwala and Ms Farida Bhopalwala both confessed that they both had concealed 2 (two) Black coloured capsules (total 4 capsule) consisting of gold in paste form mixed with chemicals in their body part i.e. rectum.

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2.6 Subsequently, both the passengers, voluntarily removed the said concealed capsules from their body i.e. rectum by way of excretion and handed over to the DRI Officers for testing and valuation purpose.

2.7 On being asked by the DRI officers, Shri Murtaza Ali Bhopalwala and Ms. Farida Bhopalwala informed that all the 4 capsules i.e. 2 capsules retrieved from Shri Murtaza Ali Bhopalwala and 2 capsules retrieved from Ms. Farida Bhopalwala were handed over to them in Abu Dhabi by a person whose actual name is not known to them but the person was known as "Azij" and as per his instructions they inserted the capsules into their body through rectum. On being asked by the DRI officers, Shri Murtaza Ali Bhopalwala and Ms. Farida Bhopalwala informed that those all the 4 capsules were to be handed over to the representative of "Azij" who would receive them at SVPI Airport on 11.08.2024. On being asked by the DRI officers, Shri Murtaza Ali Bhopalwala and Ms. Farida Bhopalwala further informed that the person who would come to receive them his name was "Alim Saiyyed Pirjade" and "Azij" had shared their photo and mobile number to the receiver and the receiver waiting outside SVPI Airport, Ahmedabad would identify them by calling on the mobile number and then he would first take them to the hotel and there they were to remove the capsules from their body and hand them over to him for which they were to receive commission in cash.

2.8 The officer called the Government Approved Valuer Shri Kartikey Vasantrai Soni and informed him that total 4 (four) capsules containing gold in paste form mixed with chemical had been recovered from passenger Shri Murtaza Ali Bhopalwala and Ms. Farida Bhopalwala and requested him to come to the Airport for testing and Valuation of the said material. In reply, the Government Approved Valuer Shri Kartikey Vasantrai Soni informed the DRI officer that the testing of the said material was only possible at his workshop as gold had to be extracted from such solid or semisolid paste material form by melting it and also informed the address of his workshop. On reaching the workshop, Shri Kartikey Vasantrai Soni, weighed first 2 (two) capsule recovered from body (rectum) of Shri Murtaza Ali Bhopalwala on his weighing scale and informed that the gross weight of said substance contained in 2 capsules is **695.68 grams**. Thereafter, Shri Kartikey Vasantrai Soni, weighed other 2 (two) capsules recovered from body (rectum) of Ms. Farida Bhopalwala on his weighing scale and informed that the gross weight of said substance contained in 2 capsules is **694.76**

grams. The DRI officers took the photograph of the weight which is as under:



(Image 1 – Image showing gross Weight 695.68 grams of 2 capsules covered with black coloured adhesive tape and recovered from body (rectum) of Shri Murtaza Ali Bhopalwala)



(Image 2 – Image showing gross Weight 694.76 grams of 2 capsules covered with black coloured adhesive tape and recovered from body (rectum) of Ms Farida Bhopalwala)

2.9 Thereafter, Shri Kartikey Vasantraai Soni started the process of converting the said paste like substances of 2 capsules recovered from body (rectum) of Shri Murtaza Ali Bhopalwala by putting the 2 capsules in crucible and then placing the crucible into the furnace and upon continuous heating the said semi-solid substances, that turned into liquid

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(Image 4 – Image showing Net Weight of Gold Bar – 612.64 grams recovered from melting of 2 capsules covered with black coloured adhesive tape and recovered from body (rectum) of Ms Farida Bhopalwala)

2.11 After completion of entire testing and purity process, Shri Soni Kartikey Vasantrai, submitted Valuation Report vide certification no. 581/2024-25 dated 11.08.2024 in respect of Shri Murtaza Ali Bhopalwala and certification no. 580/2024-25 dated 11.08.2024 in respect of Ms Farida Bhopalwala. As per the certificate No. 581/2024-25 dated 11.08.2024, the total Net weight 620.03 Grams of gold bar recovered from gold paste recovered from Shri Murtaza Ali Bhopalwala was having purity 999.0/24kt and total Market Value at Rs. 44,55,536/- (Rupees Forty Four Lakhs Fifty Five Thousand Five Hundred Thirty Six only) and total tariff value at Rs. 40,19,450/- (Rupees Forty Lakhs Nineteen Thousand Four Hundred Fifty only). As per the certificate No. 580/2024-25 dated 11.08.2024, the total Net weight 612.64 Grams of gold bar recovered from gold paste recovered from Ms. Farida Bhopalwala was having purity 999.0/24kt and total Market Value at Rs. 44,02,431/- (Rupees Forty Four Lakhs Two Thousand Four Hundred Thirty One only) and total tariff value at Rs. 39,71,543/- (Rupees Thirty Nine Lakhs Seventy One Thousand Five Hundred Forty Three only). The value of the gold bar had been calculated as per the Notification No. 53/2024-Customs (N.T.) dated 31.07.2024 (gold) and Notification No. 45/2024-Customs (N.T.) dated 20.06.2024 (exchange rate). The details of which are as under:-

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S. No.	Details of Items	PC S	Net Weight in Gram	Purity	Market value (Rs)	Tariff Value (Rs)
1	Gold Bar	1	620.03	999.0 24Kt	44,55,536/-	40,19,450/-
2	Gold Bar	1	612.64	999.0 24Kt	44,02,431/-	39,71,543/-
	Total	2	1232.67		88,57,967/-	79,90,993/-

2.12 Seizure of smuggled gold:

The DRI Officers informed Shri Murtaza Ali Bhopalwala and Ms Farida Bhopalwala that the Gold bar of 24Kt. with purity 999.0 totally weighing 620.03 Grams derived from Semi Solid substance material consisting of Gold & Chemical Mix having the total Market Value at Rs. 44,55,536/- (Rupees Forty Four Lakhs Fifty Five Thousand Five Hundred Thirty Six only) and total tariff value at Rs. 40,19,450/- (Rupees Forty Lakhs Nineteen Thousand Four Hundred Fifty only) recovered from Shri Murtaza Ali Bhopalwala and the Gold bar of 24Kt. with purity 999.0 totally weighing 612.64 Grams derived from Semi Solid substance material consisting of Gold & Chemical Mix having the total Market Value at Rs. 44,02,431/- (Rupees Forty Four Lakhs Two Thousand Four Hundred Thirty One only) and total tariff value at Rs. 39,71,543/- (Rupees Thirty Nine Lakhs Seventy One Thousand Five Hundred Forty Three only) recovered from Ms. Farida Bhopalwala were attempted to be smuggled into India with an intent to evade payment of Customs duty which was a clear violation of the provisions of the Customs Act, 1962. Thus, the DRI officer informed that they had a reasonable belief that the above said Gold was being attempted to be smuggled by Shri Murtaza Ali Bhopalwala and Ms. Farida Bhopalwala and was liable to confiscation as per the provisions of Customs Act, 1962; hence, that was placed under seizure vide Seizure Memos dated 11.08.2024. The seized gold bars were handed over to the Ware House In charge, SVPI Airport, Ahmedabad vide Ware House Entry No. 6709 and 6710 dated 11.08.2024 respectively for safe custody.

3. 2nd Panchnama drawn at Hotel Kanchan Palace Hotel Kanchan Palace, 3rd Floor, Jaypunj Complex, Opp. Shankar Bhuvan, Gandhi Bridge Corner, Shahpur Road, Ahmedabad – 380004

3.1 Based on the further intelligence that contraband had been attempted to be smuggled in to India through Sardar Vallabhbhai Patel International Airport (AMD) by one passenger and the said passenger had

been received by another person namely Shri Dilmeer Alim Sayyed Pirjade, who was currently staying in the Hotel Kanchan Palace, 3rd Floor, Jaypunj Complex, Opp. Shankar Bhuvan, Gandhi Bridge Corner, Shahpur Road, Ahmedabad - 380004 by impersonating himself as Shri Gauravkumar Parihar, a search was conducted at the premises of Hotel Kanchan Palace, 3rd Floor, Jaypunj Complex, Opp. Shankar Bhuvan, Gandhi Bridge Corner, Shahpur Road, Ahmedabad - 380004 and all the proceedings thereof were recorded under the Panchnama dated 11.8.2024.

3.2 After reaching at the hotel, the DRI officer showed the Authorization of Search to the receptionist and explained the purpose of their visit. The officers of DRI enquired from person sitting on the reception, who introduced himself as Shri Jagdeesh Singh Guman, Owner of Hotel Kanchan Palace, about booking of a room in the aforesaid hotel in the name of Shri Gaurav Parihar, to which he confirmed about booking and staying of said person by giving a copy of his ID Card available with him and further indicated towards a person, who was standing near reception and informed the officers about the said person that he was Shri Gauravkumar Parihar, the officers were looking for and he further informed the officers that Shri Gauravkumar Parihar was staying in Room No. 305 of the Hotel Kanchan Palace along with Ms. Nikita Gauravkumar Parihar. The receptionist also informed that one person namely Ms. Fatema had also come to his booked hotel room as visitor. The officers of DRI asked Shri Dilmeer Alim Sayyed Pirjade (Impersonated as Shri Gaurav Parihar) to move to the Room No. 305 of the said Hotel.

3.3 Thereafter, officers of DRI and Shri Dilmeer Alim Sayyed Pirjade knocked the room no 305 and one lady person opened the gate who introduced herself as Ms. Fatema (Passport No. M9194464) and informed the officers that she arrived from Abu Dhabi to Ahmedabad on Etihad Flight No. EY 284 at around 04:00 AM in the morning of 11.08.2024 and showed her passport and boarding pass with PNR JL8S97. The officers further enquired from Shri Dilmeer Alim Sayyed Pirjade (impersonated as Shri Gaurav Parihar) about his original Identity, to which, he informed by showing his Aadhar Card that his original name is Dilmeer Alim Sayyed Pirjade but for booking of hotel, he used his fake ID impersonating as Shri Gaurav Parihar on the instruction of a person, Mr. Azij@Abudhabi. The officers then enquired both individuals whether they were carrying any

contraband goods in person or in baggage, for which, Shri Dilmeer Alim Sayyed Pirjade and Ms. Fatema replied in negative. Thereafter, the officers started systematic search of Room No. 305. During the course of search, total five bags i.e. one brown colored ladies handbag, one brown colored Luggage bag, one shoulder bag and 2 trolley (one of green colour and another of black colour) were found in the room. The officers started searching all the above five bags one after another. On being searched the brown-coloured ladies hand bag belonging to Ms. Fatema, the officers recovered three capsules covered with black coloured tape containing paste form substances. On being asked about such materials, Shri Dilmeer Alim Sayyed Pirjade informed that the said three capsules contain foreign origin gold in paste form, which had been brought by Ms. Fatema from Abu Dhabi via Etihad Flight No. EY 284 at around 04:00 AM in the morning of 11.08.2024. Ms. Fatema had confirmed that she carried the said 3 capsules containing gold paste by way of concealment of the same in her body.

3.4 In order to retrieve gold from the above said 3 capsules containing foreign origin gold in paste form, all individuals along with the said 3 capsules were escorted to Soni Kartikey Vasantrai, 301, Golden Signature, Bh. Ratnam Complex, C.G. Road, Ahmedabad – 380 006, a government approved valuer. Upon reaching the valuer’s premises, weighing of the said 3 capsules were undertaken, which comes to 960.31 gram. The image taken during the said process is shown below:



(Image 5 – Image depicting gross Weight 960.31 grams of 3 capsules containing foreign origin gold in paste form)

3.5 Further, the said three capsules covered with black tape were cut opened and found to be containing brown colour paste like material which was uniform in colour, texture, nature and odour. Thereafter, the valuer undertook the retrieval process of said paste material claimed to be gold in paste form. Then the valuer retrieved yellow metal appears to be Gold totally weighing 861.480 grams in 02 gold bars. The valuer then examined the yellow colour metal retrieved from the paste like material and confirmed the said yellow color metal to be Gold of 24 carat purity (999.0) and weighed & valued the same as follows:

S. No.	Details of Items	Net Weight in Gram	Purity	Market value (Rs)	Tariff Value (Rs)
1	Gold Bar	861.480	999.0 24Kt	6190595	5584691
	Total	861.480		6190595	5584691

3.6 The valuer after verifying the purity stated that value of retrieved gold weighing 861.480 grams as Rs. 61,90,595/- (Rupees Sixty One Lakh Ninety Thousand Five Hundred and Ninety Five Only) based on the market value and issued a certificate No. 579/2024-25 dated 11.08.2024 to that effect. The image of gold bar taken during the process is shown below:



(Image 6 – Image depicting Net Weight of 2 Gold Bar – 861.48 grams recovered from melting of 3 capsules)

3.7 On being asked, Shri Dilmeer Alim Sayyed Pirjade informed that Nikita Gauravbhai Parihar was staying with him in his room no. 305 at Hotel Kanchan Palace. He further stated that he along with Nikita had left from the Hotel Kanchan Palace at around 5:30 AM on 11.08.2024 to the Sardar Vallabhbhai International Airport, Ahmedabad to receive a passenger who would be smuggling Gold through Ahmedabad International Airport. Then, after waiting for some time at the airport, when the said passenger did not come outside the airport, he left the Airport and waited at the Hotel Kanchan Palace and Nikita was at the airport when he left and after that he did not have any idea about Nikita.

3.8 Seizure of smuggled gold:

Since, Ms. Fatema did not declare the said gold to the Customs Authorities and thereby smuggled the gold in a concealed manner with an intention to evade payment of Customs duty in violation of the provisions of the Customs Act, 1962, a total of 861.480 Grams Gold of 24Kt. with purity 999.0, having total market value of Rs. 61,90,595/- (Rupees Sixty One Lakh Ninety Thousand Five Hundred Five only) and total tariff value of Rs. 55,84,691/- (Rupees Fifty Five Lakh Eighty Four Thousand Six Hundred Ninety One only) extracted from the 960.31 Grams of Gold in Paste form recovered from her were placed under seizure vide seizure memo dated 11.08.2024 on the reasonable belief that the said gold was smuggled by Ms. Fatema and was liable to confiscation as per the provisions of Section 110 of the Customs Act, 1962.

4. STATEMENTS OF KEY PERSONS:

Upon completion of the panchnama proceedings at SVPI Airport and Hotel Kanchan Palace, Ahmedabad, summonses were issued to (i) Shri Murtaza Ali Bhopalwala (ii) Ms. Farida Bhopalwala (iii) Shri Dilmeer Alim Sayyed Pirjade and (iv) Ms. Fatema for recording their statement under Section 108 of the Customs Act, 1962.

4.1 Statement of Shri Murtaza Ali Bhopalwala was recorded under Section 108 of the Customs Act, 1962 on 11-12.08.2024, wherein he inter-alia stated that:

- He confirmed that a total of 620.03 grams of gold bar was recovered from the gold paste form which was recovered from his body (rectum) and market value of the said recovered gold was Rs. 44,55,536/-;

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- He confirmed that 612.64 grams of gold bar was recovered from the gold paste form which was recovered from his wife's body (rectum) who was travelling along with him and market value of the said recovered gold was Rs. 44,02,431/-;
- He went to Abu Dhabi on 26.07.2024 from Mumbai along with his wife Ms. Farida; they went to Abu Dhabi on the tickets provided by one Shri Aziz and arrived at SVPI Airport, Ahmedabad by Air Arabia Flight Number 3L 111 on 11.08.2024 and his seat No. was 15B; his wife was also travelling with him and she also came by the same flight and her seat number was 15A;
- He agreed with the fact that 695.68 grams of gold in semi-solid substance in paste form in two capsules were recovered from his body (rectum concealment) and subsequently upon extraction 620.03 Grams of Pure gold with purity 999.0/24 KT were recovered and seized. On being asked he added that it was concealed in such a manner that the said gold paste could be fully covered/concealed and the same could be cleared from the Airport without the knowledge of Customs Authority at SVPI Airport Customs, Ahmedabad;
- He received the said quantity of the gold at around 20.00 Hrs. of 10.08.2024 from one person namely Shri Aziz at AL Ansaar Building located in Al Nada Gift Centre, Sharjah. He stated that they only stayed at that building which was type of flat; that Shri Aziz gave him 2 capsules of Gold paste (Gold and Chemical Mixed) and asked him to bring the same in a conceal manner while travelling to Abu Dhabi to Ahmedabad and asked him to clear at Ahmedabad airport without the knowledge of Airport Customs; that Shri Aziz also explained the method of concealing/carrying the said 2 gold paste capsules in rectum; that following Shri Aziz's directions, he inserted 2 capsules of gold paste in his body i.e. rectum; that at around 23.00 hrs. of 10.08.2024 Shri Aziz dropped him at the airport at Abu Dhabi alongwith a copy of ticket.
- On being shown the Valuation Certificate No. 581/2024-25 dated 11.08.2024 by Shri Soni Kartikey Vasantraai, Shri Murtaza Ali Bhopalwala stated that the details of the Gold recovered, its purity, market value, Tariff value of the gold seized, etc., had been mentioned in the said report and he agreed with the details given therein; he agreed to the facts stated

therein the report and confirmed the smuggled Gold Bar retrieved from the semi solid substance consisting of Gold and Chemical mix;

- Shri Aziz had handed over the Gold in semi paste form in 2 capsules;
- He denied to had anything to be declared to the Customs authority at SVPI Airport, Ahmedabad;
- His wife was accompanying him during the whole journey; they had gone to Abu Dhabi from Mumbai together and came back to Ahmedabad in same flight; he also stated that his wife had also travelled along with him for carrying gold and she had also carried two capsules alongwith him and the same were seized at airport;
- No details were shared to him/them but it was informed at Abu Dhabi that the receiver would call him on his mobile number and after meeting he (the receiver) would be calling to Shri Aziz and on his confirmation, Shri Murtaza Ali Bhopalwala would be handing over the same to the receiver at SVPI airport Ahmedabad;
- Initially before departing from India he was informed by Shri Aziz that they had to carry gold from Abu Dhabi to India and on that basis only they had been provided the tickets from India to Abu Dhabi; he further stated that Shri Aziz, who handed over the gold, informed that if he would bring the gold to India and then our journey would be sponsored by them; if he agreed to his proposal of bringing gold from Abu Dhabi to Ahmedabad they would bear their whole to and fro expense from Abu Dhabi to Ahmedabad, expenditure for stay/travelling at Abu Dhabi and also would give 25,000/- in cash per person per trip.
- They had not paid for the ticket from Mumbai to Abu Dhabi and return ticket from Abu Dhabi to Ahmedabad; their ticket was forwarded to them from a person namely Babu Bhai on the instructions of Shri Aziz;
- They came by Bus from Indore to Mumbai; he and his wife came together from Indore to Mumbai;
- He met Mr. Aziz once in Dubai wherein he offered him the sponsored tour to Abu Dhabi; as he offered them 25,000/- in cash per person per trip and he was in need of money he accepted his offer; he added that he might be around the age of 30 to 35 years; he did not know further about Mr. Aziz;

- Mr. Aziz phone no. was +971552393552;
- He did not receive any call or message from Mr. Aziz during their stay at Abu Dhabi and during return journey from Abu Dhabi to Ahmedabad; he further stated that usually he used to meet them in the building only where they stayed;
- He accepted that it was illegal to smuggle gold without declaring the same to the Customs authorities;
- He had been explained the provisions of Section 111 of the Customs Act, 1962 and after understanding the same he stated that the said gold smuggled in any form was liable for confiscation under the provisions of Customs Act, 1962;
- He had been explain the provisions of Section 110, 111, 112 135 of the Customs Act, 1962 and after understanding the same, he agreed with the fact that the said gold bars recovered from the Gold Paste, he brought from Abu Dhabi was liable to confiscation under the provisions of Customs Act, 1962. Further, he agreed that as per Section 112 of the Customs Act, 1962, the 'smuggled goods, viz. gold bar which were seized vide seizure memo dated 11.08.2024, was liable to confiscation as per Section 111 of the Customs Act, 1962 and penalty under Section 112 of the Customs Act, 1962; therefore, in the individual capacity he had committed an offence punishable under Section 135 of the Customs Act 1962.

4.2 Statement of Ms. Farida Bhopalwala was recorded under Section 108 of the Customs Act, 1962 on 11-12.08.2024, wherein she inter-alia stated that:

- she confirmed her husband's and her arrival at Ahmedabad around 06:00 A.M. on 11.08.2024 by Air Arabia Flight No 3L 111 (Seat No. 15A E-Ticket No. 514236558586101),
- she also confirmed that her husband carried 2 capsules concealed in his rectum from which 620.03 grams of gold bar was recovered from the gold paste and market value of the said recovered gold was Rs. 44,55,526/-;
- she also confirmed that total 2 capsules of gold paste (weight of 694.76 grams) were concealed in her body (Rectum) during my return journey

from Abu Dhabi wherein total (612.64 gm of gold) gold in the form of bar were extracted in her presence by the Valuer;

- she also confirmed that the market value of the same was Rs. 44,02,431/-; she stated that a person named Sh. Aziz had given the said capsules of Gold Paste at AL Ansar Building in Al Nada Gift Center, Sharjah and also instructed that one person named, Shri Alim Saiyyed Pirjade would come to receive both of them at the SVPI Ahmedabad, and would identify them himself;
- she had travelled few times abroad, as mentioned below:-
 - Indore –Dubai -Mumbai from 02.11.2023 to 16.11.2023,
 - Mumbai-Dubai- Mumbai from 15.03.2024 to 30.03.2024,
 - Chennai-Dubai- Ahmedabad from 05.01.2024 to 15.01.2024,
 - Mumbai-Malaysia–Ahmedabad from 04.05.2024 to 12.05.2024 and
 - Mumbai-Dubai-Ahmedabad from 26.07.2024 to 11.08.2024;
- she undertook all the above-mentioned journeys with her husband to attend Dr. Saiyyad Sahab's meetings; that it was the first time she had concealed gold inside her rectum;
- the 2 capsules were given to her by her husband and was instructed to keep them inside her rectum by his husband; her husband had told her that the work would fetch around 25,000/-;
- since she had to pay fee of school of her children, she had no money, therefore, she agreed to that keep the two capsules in her rectum while travelling from Abu Dhabi to Ahmedabad on 11.08.2024;
- it was the first time she had undertaken such action on instruction of her husband for earning some money to pay her children's school fee.
- she was aware that it is illegal to smuggle gold without declaring the same before the Customs Authorities;
- she had been explained the provisions of Section 111 of the Customs Act, 1962 and after understanding the same she stated that the said gold smuggled in any form was liable for confiscation under the provisions of Customs Act, 1962;
- she had been explained the provisions of Section 110, 111, 135 of the Customs Act, 1962 after understanding the same, she agreed with the

fact that the said gold bars recovered from the Gold Paste she brought from Abu Dhabi was liable for confiscation under the provisions of Customs Act, 1962, the smuggled goods viz. Gold bar which were seized vide seizure memo dated 11.08.2024 which was liable for confiscation as per Section 111 of the Customs Act, 1962 and penalty under Section 112 of the Customs Act, 1962, therefore, in the individual capacity she admitted that she had committed an offence punishable under Section 135 of the Customs Act, 1962.

4.3 Statement of Shri Dilmeer Alim Sayyed Pirjade was recorded under Section 108 of the Customs Act, 1962 on 11.08.2024 and 12.08.2024, wherein he inter-alia stated that:

- he agreed to the facts of Panchanama dated 11.08.2024; that one person namely Mr. Azij@AbuDhabi had given three capsules containing gold paste to Ms. Fatima, who was travelling from Abu Dhabi to Ahmedabad through Etihad Flight EY 286 scheduled to be arrived at around 04:00 AM on 11.08.2024; that Mr. Aziz had called him on 10.08.2024 and informed him that total three passengers were coming to Ahmedabad with capsules containing foreign origin gold and asked him to receive such gold from all three passengers; after getting his instruction, he received Ms Fatema from SVPI Airport at around 04:30 AM on 11.08.2024 and took her to Hotel Kanchan Palace; after reaching at Hotel Kanchan Palace, Ms Fatema informed him that she had been carrying three capsules containing gold in paste form in her body; thereafter, Ms Fatema removed said three capsules from her body; after that he instructed to put all three capsules in her handbag and further told her to hand over the same to him in afternoon of 11.08.2024;
- he didn't know about whereabouts of Ms Fatema; he was instructed by Mr. Azij@AbuDhabi to receive the above gold paste from her; Mr. Azij had also sent him the photograph & flight details of Ms. Fatema and once he took her to Hotel Kanchan Place, Mr. Azij deleted the photograph & flight details of Ms. Fatema.
- Around 6-7 months earlier, he had spoken to one of his friends namely Mr. Mustaffa, who resides in Dubai and asked about any type of work for him so as he would earn some money, to which, he replied that one of his friends namely Mr. Azij undertakes some work related to smuggling of gold from Dubai/Abu Dhabi to Ahmedabad and asked him

to telephonically contact with Mr. Azij. Thereafter, he telephonically contacted Mr. Azij, who offered him a job of carrying gold/gold paste from passengers arriving at SVPI Airport and offered him commission of Rs. 5,000/- per passenger; that he agreed to the offer made by Mr. Azij@Abu Dhabi to be receiver of smuggled gold in lieu of consideration/commission; Mr. Aziz@AbuDhabi further guided him all the process of receiving such gold to the effect that he would send him photograph & Flight ticket details of the passengers, who used to come from Dubai/Abu Dhabi to Ahmedabad, one day before their/his arrival at SVPI Airport and after receiving the passengers, he was instructed to take them to any hotel, where, he would be staying and subsequently he would receive such smuggled gold from those passengers;

- Mr. Aziz never gave him any name or contact details of any persons; he was supposed to hand over such smuggled gold in all the instances to the person, who used to come to his Hotel and Mr. Aziz used to guide him through call to hand over the said smuggled gold to the said person; the person, who came to collect smuggled gold from him always gave him his commission amount of Rs. 5,000/-; in addition to his commission amount, he was also paid total expenditure of his stay, fooding, transportation etc., which he made during the course of receiving such smuggled gold.
- he admitted that he was part of the plan of such smuggling of above two gold bars as he had been undertaking work related to receiving of such smuggled gold from passengers on direction of Mr. Azij@Abu Dhabi.
- he approached one of his friends, Shri Mustafa, by whatsapp call, working at mobile shop in Dubai for work, six months back; then 3 months back, one friend of Shri Mustafa, Shri Aziz contacted me by whatsapp call, and informed him about work related to handling of passengers at Ahmedabad international airport, who would be carrying gold with them in capsules form, concealed inside their body;
- he was told to receive that gold from passengers at the hotel and then hand over the same to its actual buyer in Ahmedabad; for the work, he was offered Rs 2000 per passenger; he also used to receive amount of miscellaneous expenses borne by him on stay, food, travel etc.;
- he used to get contacted on his phone via whatsapp by Shri Mustafa, Shri Aziz, Shri Chikoobhai about sharing information about the

passengers carrying smuggled gold, about the recipient to whom he had to handover the smuggled gold and got his commission and expenses payment;

- prior to that, he had been involved in smuggling activity 14-15 times in similar modus operandi, in which he had approximately carried out smuggling of the gold carried by approx. 19-20 passengers in last 2-3 months; he never weighed the smuggled gold; the passengers used to handover smuggled gold paste capsules wrapped in plastic bags, which he used to ultimately handover to the recipient at bridge area;
- he could not remember exact dates about the past instances of gold smuggling activity done by him using similar modus operandi; however, he stated that he started that activity since May-June 2024 and since last 1 month person namely Nikita joined him in the said activity; passengers used to arrive at Ahmedabad international airport from Dubai/Sharjah/Abu Dhabi at the time, between 4am-7am; he never weighed the smuggled gold; the passengers used to handover smuggled gold paste capsules wrapped in plastic bags, which he used to ultimately handover to the recipient at bridge area;
- he had interacted by his phone via whatsapp with Shri Mustafa, Shri Aziz, Shri Chikoobhai about sharing information about the passengers carrying smuggled gold, about the recipient to whom he used to handover the smuggled gold and get his commission and expenses payment; apart from them, he had not interacted with any other person for the said activity;
- the passengers working for that syndicate used to carry gold either in paste form, gold capsules or 100 grams gold biscuits wrapped inside the black plastic tape; they used to handover that smuggled gold from Dubai, at Kanchan Hotel; he had no clear idea about the mode of concealment for the smuggled gold, adopted by those passengers at earlier instances;
- he used to deliver that smuggled gold to recipient of the gold at Ahmedabad itself, near bridge at Kanchan hotel; there used to be a different person on each occasion for receiving the smuggled gold;
- he used to receive commission and expenses borne by him and Ms. Nikita, in cash only; the amount used to vary between Rs 30,000 and 1,00,000;

- payments were always made in cash only;
- he used to share expenses borne by him on each instance, with Shri Aziz and Ms Nikita (mobile, saved in his mobile as Gaurav wife whatsapp number +91 7987445349), by whatsapp chat, using his mobile phone; most of those chats have been deleted by him; however, some of those might be still in his mobile; as allowed, he had exported the said chat at driaazu@nic.in; he also confirmed that print out taken from said exported chats were the same what he had shared the expense borne by him on each carrying instance with Shri Aziz and Ms Nikita;
- he had no idea about the financial arrangements between other members of the gold smuggling syndicate;
- he had been never asked to handle or transfer any funds related to the smuggling operation;
- Ms. Nikita joined the syndicate two months back; she had the role like that of his of handling the passengers' movement from Ahmedabad international airport till Kanchan Hotel; the passengers in family form, Husband-wife, carrying gold together, started after Ms. Nikita joined the syndicate; he further state that he had her picture saved on his mobile, saved in his mobile as Gaurav wife whatsapp number +91 7987445349;
- two months back when he had come to Ahmedabad for gold smuggling activity, Shri Aziz informed him telephonically about a girl named Ms. Nikita, joining as assistant for receiving work at Ahmedabad international Airport, for smuggling of the gold; Shri Aziz further shared her contact number by whatsapp for further communication with her; then, he immediately called her and asked her to join him at Hotel Kanchan, for the purpose of passengers' receiving from Ahmedabad international airport and taking them to the hotel;
- his and Ms. Nikita's role to carry passengers from Ahmedabad international airport to Hotel Kanchan and then receive smuggled gold from passengers at the hotel; later he used to hand over the same to its actual buyer in Ahmedabad;
- he didn't have any information about current whereabouts of Ms. Nikita; she was with him that day morning at 7am, at Ahmedabad International Airport; later, she left and he went straight to Hotel Kanchan;

- he accepted that he was aware that it is illegal to smuggle gold without declaring the same to the Customs authorities;
- he had been explained the provisions of Section 111 of the Customs Act, 1962 and after understanding the same he stated that the said gold smuggled in any form was liable for confiscation under the provisions of Customs Act, 1962;
- he agreed with the fact that the said gold bars recovered from the Gold Paste, which were smuggled by Ms Fatema-Passport No. M9194464, Shri Murtaza Ali Bhopalwala Passport No. B9138911 & Ms Farida Bhopalwala Passport No. Y5949078 from Abu Dhabi and cleared/attempted to clear without the knowledge of Customs were liable for confiscation under the provisions of Customs Act, 1962. Further, he agreed that as per Section 112 of the Customs Act, 1962, the 'smuggled goods, viz. Gold bar which were seized vide seizure memo dated 11.8.2024 which was liable for confiscation as per Section 111 of the Customs Act, 1962 and penalty under Section 112 of the Customs Act, 1962; therefore, in the individual capacity he had committed an offence punishable under Section 135 of the Customs Act 1962.

4.4 Statement of Ms. Fatema was recorded under Section 108 of the Customs Act, 1962 on 11-12.08.2024, wherein she inter-alia stated that:

- She was housewife so they were in need of money; then, around 6 months earlier, one of her friends asked her if she was willing to work as a Househelp/Cook in the Sharjah, she had one contact and she gave me Contact details of Mr. Mustafa; then, she contacted Mr. Mustafa telephonically regarding the work in Sharjah and Mr. Mustafa agreed to give her a work related to cooking in his house and in return consideration of Rs. 25,000/-; then, 3 months earlier, Mr. Mustafa sent her tickets for Sharjah and asked her to come to Sharjah for cooking purpose and since then she was working as a cook in the house of Mustafa;
- her family lived in Alirajpur, Madhya Pradesh; so she came to India to visit her family; she also added that around 1 month back, she came to know that one person Mr. Azij@Abu Dhabi was providing some money along with tickets from Sharjah to Ahmedabad in lieu of smuggling of Gold into India; through some friend, she came in contact with Mr. Azij@Abu Dhabi telephonically and she informed him that she would

carry/smuggle Gold into India; he told her to inform him whenever she wanted to visit India; on 08.08.2024, she contacted Mr. Azij@Abu Dhabi that she wanted to visit to India; Mr. Azij@Abu Dhabi provided her flight tickets from Abu Dhabi to Ahmedabad and 3 capsules containing Gold paste with an instruction to conceal the said 3 capsules in her body (rectum) while travelling to India and told her to provide Rs. 25000/- for the trip; she was also instructed that someone would come to receive her at the SVPI, International Airport, Ahmedabad; she arrived at Ahmedabad around 04.00 AM on 11.08.2024 from Flight No EY 284; after exiting the SVPI airport, Ahmedabad one person namely Shri Dilmeer Alim Sayyed pirjade identified her and instructed her to take a ride on the car and brought her to one Hotel Kanchan Palace; after reaching the Hotel, Dilmeer Alim Sayyed pirjade took her to the Room No. 305 of the said hotel and instructed her to remove the 3 capsules containing Gold paste and further instructed her to place the same in her bag;

- On being shown the image of Shri Dilmeer, she stated that he was the person who had come at the airport and asked her to sit in the car and she didn't know the said person; he came to receive her at the SVPI, Airport and she met him first time.
- She agreed with the fact that 960.31 grams of gold in semi-solid substance in paste form in two capsules were recovered from her body (rectum concealment) and subsequently upon extraction 861.840 Gram of Pure gold with purity 999.0/24 KT were recovered and seized; that it was concealed in such a manner that the said gold paste could be fully covered/concealed and the same could be cleared from the Airport without the knowledge of Customs Authority at SVPI Airport Customs, Ahmedabad;
- she denied to had anything to be declared to the Customs authority at SVPI Airport, Ahmedabad;
- she didn't have any idea from where 3 capsules containing gold past gold was purchased in Abu Dhabi; Shri Azij@AbuDhabi handed over the same to me in Abu Dhabi;
- she didn't have any idea about the purchase bills of the said smuggled gold; that she even did not bother to inquire for the same as it was

intended for smuggling only; she didn't have any foreign currency with her;

- she accepted that it was illegal to smuggle gold without declaring the same to the Customs authorities and would amount to violation of the Baggage Rules, 2016; it was brought with the clear intention of smuggling only to earn flight ticket & commission amount;
- she agreed that she didn't have any proof to prove that the gold seized are not smuggled; she didn't have any objection for the disposal of the said gold;
- she agreed that the smuggled gold she brought from Abu Dhabi was liable for confiscation under the provisions of Customs Act, 1962; further, she agreed that as per Section 112 of the Customs Act, 1962, the 'smuggled goods, viz., foreign origin gold bars which were seized vide Panchanama dated 11.08.2024 which was liable for confiscation as per Section 111 of the Customs Act, 1962 and penalty under Section 112 of the Customs Act, 1962; therefore, in the individual capacity she had committed an offence punishable under Section 135 of the Customs Act 1962.

5. Arrest of the Concerned/Involved persons:

Based on the evidences gathered and the statement recorded, it appeared that to Shri Murtaza Ali Bhopalwala, Ms. Farida Bhopalwala, Shri Dilmeer Alim Sayyed Pirjade and Ms. Fatema had committed an offence punishable under the Customs Act, 1962. The above-mentioned persons had the common intention to smuggle the gold into India and being a part of gold smuggling syndicate to evade the applicable custom duty and receive the commission after facilitating the smuggled gold from Ahmedabad Airport to gold syndicate members, the said gold smuggled by the above persons was liable to confiscation under the provisions of Section 111 of the Customs Act, 1962. Thus, they had knowingly concerned themselves in an offence punishable under Section 135(1) of the Customs Act, 1962; they had knowingly concerned themselves in dealing/carrying capsules containing gold in paste form having total weight of 2350.75 Gram from which gold bars of 24 carat having total weight of 2094.15 Grams and purity of 999 and total market value of Rs. 1,50,48,562/- (Tariff Value Rs. 1,35,75,684/-) were retrieved and concerned themselves in carrying, removing, depositing, harboring, keeping, concealing of smuggled Gold

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which they knew and/or had reasons to believe were liable to confiscation under Section 111 of the Customs Act, 1962. Hence, Shri Murtaza Ali Bhopalwala, Ms. Farida Bhopalwala, Shri Dilmeer Alim Sayyed Pirjade and Ms. Fatema were arrested on 12.08.2024 under the provisions of Section 104 of the Customs Act, 1962.

6. Further Investigation:

6.1 SDR/CDR details of contact no. belong to Ms. Nikita:

Shri Dilmeer Alim Sayyed Pirjade, the receiver at the SVPI Airport Ahmedabad, in his statement dated 11-12.08.2024 has deposed that one lady namely Ms. Nikita was staying with him at Room Number 305, Hotel Kanchan in room number 305 on 10-11.8.2024 and they both used to pick up the carrier-passengers from SVPI airport then carry the said carrier-passengers at Hotel Kanchan Palace, 3rd Floor, Jaypunj Complex, Opp. Shankar Bhuvan, Gandhi Bridge Corner, Shahpur Road, Ahmedabad - 380004. Further, at hotel the said passenger used to handover them the retrieved gold paste capsules carried by them from Dubai, concealed inside their body. They both used to hand over the same to another person as per the direction received from Shri Aziz. Further, he and Ms. Nikita carried one passenger namely Ms. Fatema from SVPI airport to Hotel Kanchan at around 4.30 am on 11.08.2024. He also shared the mobile number of Ms Nikita. Accordingly, Subscriber Data Record (SDR)/Call Data Record (CDR) details of the mobile number +91 7987445349 belonging to Ms. Nikita was called for and from the SDR, it was found that the said number was registered in the name of Ms. Nafisa Husain Burhanpurwala showing residential address as 1046, Noorani Nagar, Dhar Road, Near 2 Home E.N.G. College, Indore, Madhya Pradesh - 452002. In this regard, on perusal of the chat between Shri Dilmeer Alim Sayyed Pirjade (Mobile No. +919579079625) and Ms. Nikita (Mobile No. +917987445349), whose mobile number was saved in the mobile of Shri Dilmeer as 'Gaurav wife whstp No', emailed at driaazu@nic.in by Shri Dilmeer during the course of statement dated 12.08.2024, it is observed that the name of Nafisa was appearing multiple times in the said chat. Accordingly, summons dated 30.09.2024, 14.10.2024 and 11.11.2024 were issued to Ms. Nafisa Husain Burhanpurwala at the address available in the SDR but she didn't appear to tender her statement till now.

6.2 Verification Report/Incident Report in respect of visit at the residential premises of Ms. Nafisa Husain Burhanpurwala:

As Ms. Nafisa Husain Burhanpurwala didn't appear to tender her statement, the officers of DRI, Indore Zonal Unit were asked to visit at the address of Ms. Nafisa, available in the SDR i.e. 1046, Noorani Nagar, Dhar Road, Near 2 Home Eng. College, Indore, Madhya Pradesh - 452002. DRI, Indore Zonal Unit, vide their letter dated 17.12.2024, informed that during their visit, it was found that a person namely Shri Mohammed Javed had purchased the said house from Shri Shakir Burhanpurwala and Mrs. Rashida Shakir Burhanpurawala approximately two and a half year ago and was residing there along with his family.

6.3 Delivery of Summons issued to Ms. Nafisa Husain Burhanpurwala:

As the summons issued to Ms. Nafisa Husain Burhanpurwala dated 30.09.2024, 14.10.2024 and 11.11.2024 were showing delivered to the recipient on the Indiapost website, this office called for details of the recipient and proof of delivery of such summons sent through speed post from the Sub Postmaster, Indore City-2 Sub Post Office. The Sub Post master, Indore City-2 Sub Post Office vide their letter dated 28.12.2024 reported that the said speedpost/summons were delivered to a person namely Shri Shakir. Further, a statement of Shri Shakir Burhanpurwala was recorded under Section 108 of the Customs Act, 1962 on 29.01.2025, wherein he inter-alia stated that he used to reside at 1046, Noorani Nagar, Dhar Road, Indore 3 years ago and then he sold that said house; that the summons issued by the DRI, Ahmedabad Zonal Unit were in English language and he didn't know English and after hearing that letters were addressed to Ms Nafisa from the postman, he was receiving/acknowledging the same; that Ms. Nafisa was his daughter-in-law (wife of his son Shri Husain Burhanpurwala) who had taken divorce from his son in July, 2021 and then she moved to Mumbai; that after divorce, he or his family didn't have any contact with Ms. Nafisa.

6.4 Visit Note in respect of visit at the residential premises of Shri Gauravkumar Parihar and Ms. Nikita Gauravkumar Parihar:

6.4.1 As evident from the Panchnama dated 11.08.2024 drawn at premises of Hotel Kanchan Palace, Ahmedabad, Shri Dilmeer Alim Sayyed Pirjade, impersonating as "Gauravkumar Parihar" was staying in Room No. 305 of

the Hotel Kanchan Palace along with Ms. Nikita Gauravkumar Parihar. During the said panchnama proceedings, Aadhar card copy been collected at their end, while booking the hotel room No. 305 was provided by the receptionist of Hotel Kanchan Palace. Further, it is observed that the residential addresses of both Shri Gauravkumar Parihar and Ms. Nikita Gauravkumar Parihar, as reflecting in the Aadhar Card (copy of which was provided by the receptionist at Hotel Kanchan Palace) were same i.e. 402, 4th Floor, Jyoti Appartment C Wing, Nr. Angel Paradise School, Narayan Nagar, Thane, Maharashtra – 400612. Accordingly, summons dated 30.09.2024, were issued to Shri Gauravkumar Parihar and Ms. Nikita Gauravkumar Parihar, however same were received back undelivered with postal remark “Left Address”.

6.4.2 Further, officers of DRI, Mumbai Zonal Unit were requested to conduct a search at the above said address. As per the visit note dated 08.11.2024, officers of DRI, Mumbai Zonal Unit visited the aforesaid residential address of Shri Gauravkumar Parihar and Ms. Nikita Gauravkumar Parihar and during the visit it was found that a person namely Smt. Rukhsana Mohd. Hanif Shaikh alongwith her four children were residing at the said address. In nutshell, Ms. Nikita Gauravkumar Parihar and Shri Gauravkumar Parihar could not be located at the said address.

6.5 Original identity of the lady named as Ms. Nikita Gauravkumar Parihar working alongwith Shri Dilmeer Alim Sayyed Pirjade as a receiver in the gold smuggling syndicate, revealed during the investigation:

6.5.1 In the instant case, following facts are emerged during the investigation:

- As evident from the Panchnama dated 11.08.2024 drawn at premises of Hotel Kanchan Palace, Ahmedabad, Shri Dilmeer Alim Sayyed Pirjade, impersonating as “Gauravkumar Parihar” was staying in Room No. 305 of the Hotel Kanchan Palace along with Ms. Nikita Gauravkumar Parihar.
- Shri Dilmeer in his statement dated 20.12.2024 recorded under Section 108 of the Customs Act, 1962 deposed that he had booked a room in hotel Kanchan Palace to stay for 3-4 days from 09.08.2024 and for which he had impersonated himself as Shri Gauravkumar

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Parihar and given forged Aadhar Card of Shri Gauravkumar Parihar having his photo on the same which was sent to him by Aziz Bhai@Abudhabi.

- The residential addresses of both Shri Gauravkumar Parihar and Ms. Nikita Gauravkumar Parihar, as reflecting in the Aadhar Card (copy of which was provided by the receptionist at Hotel Kanchan Palace) were same i.e. 402, 4th Floor, Jyoti Appartment C Wing, Nr. Angel Paradise School, Narayan Nagar, Thane, Maharashtra – 400612 and it appears that Ms. Nikita Gauravkumar Parihar is wife of Shri Gauravkumar Parihar.
- As per the Subscriber Data Record, the mobile number +91 7987445349 of Ms. Nikita was registered in the name of Ms. Nafisa Husain Burhanpurwala.
- On being shown the print outs of the picture sent to Shri Dilmeer by one Shri Gaurav Bhai through whatsapp chat and a picture retrieved from Shri Dilmeer's phone (both the pictures are reproduced as below), Shri Dilmeer identified that person and deposed that both the pictures were of the same lady person namely Ms Nafisa Husain Burhanpurwala and also confirmed that said lady used to stay with him at hotel kanchan palace in Ahmedabad to receive passengers/carriers from SVPI Airport, Ahmedabad, that he didn't know that the real name of Ms Nikita was Ms Nafisa.



(Image 7 – Picture sent to Shri Dilmeer by Shri Gaurav Bhai through whatsapp chat)



(Image 8 - Photo retrieved from Shri Dilmeer's phone i.e. Apple I phone 12 voluntaries submitted by him during statement dated 12.08.2024 for forensic data extraction)

- Shri Dilmeer in his statement dated 12.08.2024 has *inter-alia* stated that he used to receive his commission and miscellaneous expenses borne by him and Ms. Nikita and they both further used to send said expense details to Shri Aziz. Further, from the chat between Shri Dilmeer Alim Sayyed Pirjade (Mobile No. +919579079625) and Ms. Nikita (Mobile No. +917987445349), whose mobile number was saved in the mobile of Shri Dilmeer as 'Gaurav wife whstp No', emailed at driazu@nic.in by Shri Dilmeer during the course of recording of his statement on dated 12.08.2024, it is observed that the name of Ms Nafisa was appearing multiple times in the said chat and Shri Dilmeer also confirmed that print out taken from said exported chats were the same what he had shared with Shri Aziz and Ms. Nikita about the expense borne by them upon each carrying instances.

6.5.2 From the above, it transpires that original identity of Ms. Nikita is Ms Nafisa Husain Burhanpurwala and the forged aadhar card of Ms. Nikita Gauravkumar Parihar appears to be used at the time of hotel room booking and she was accompanying Shri Dilmeer at the time of carrying Ms. Fatema (carrier passanger) from the SVPI Airport to Hotel Kanchan Palace on 11.08.2024. Ms. Nafisa Husain Burhanpurwala is the actual person who is involved in this gold smuggling syndicate as a receiver of the carrier passenger from the airport.

6.6 Analysis of forensic data extracted from the Mobile Phone pertaining to Shri Dilmeer Alim Sayyed Pirjade:

6.6.1 Shri Dilmeer Alim Sayyed Pirjade had voluntarily submitted his phone i.e. Apple I phone 12 voluntary during statement dated 12.08.2024 for further investigation and the same was sent to the National Forensic Science University, Gandhinagar for data retrieval. NFSU vide letter Ref No. NFSU/CoEDF/DFL/286/24 dated 22.10.2024 has submitted forensic retrieval of the data and during analysis of the data extracted from the Mobile Phone pertaining to Shri Dilmeer Alim Sayyed Pirjade following facts emerged:

I. Analysis of Whatsapp Chats between Shri Dilmeer (Mobile No. 9579079625) and suspected persons:

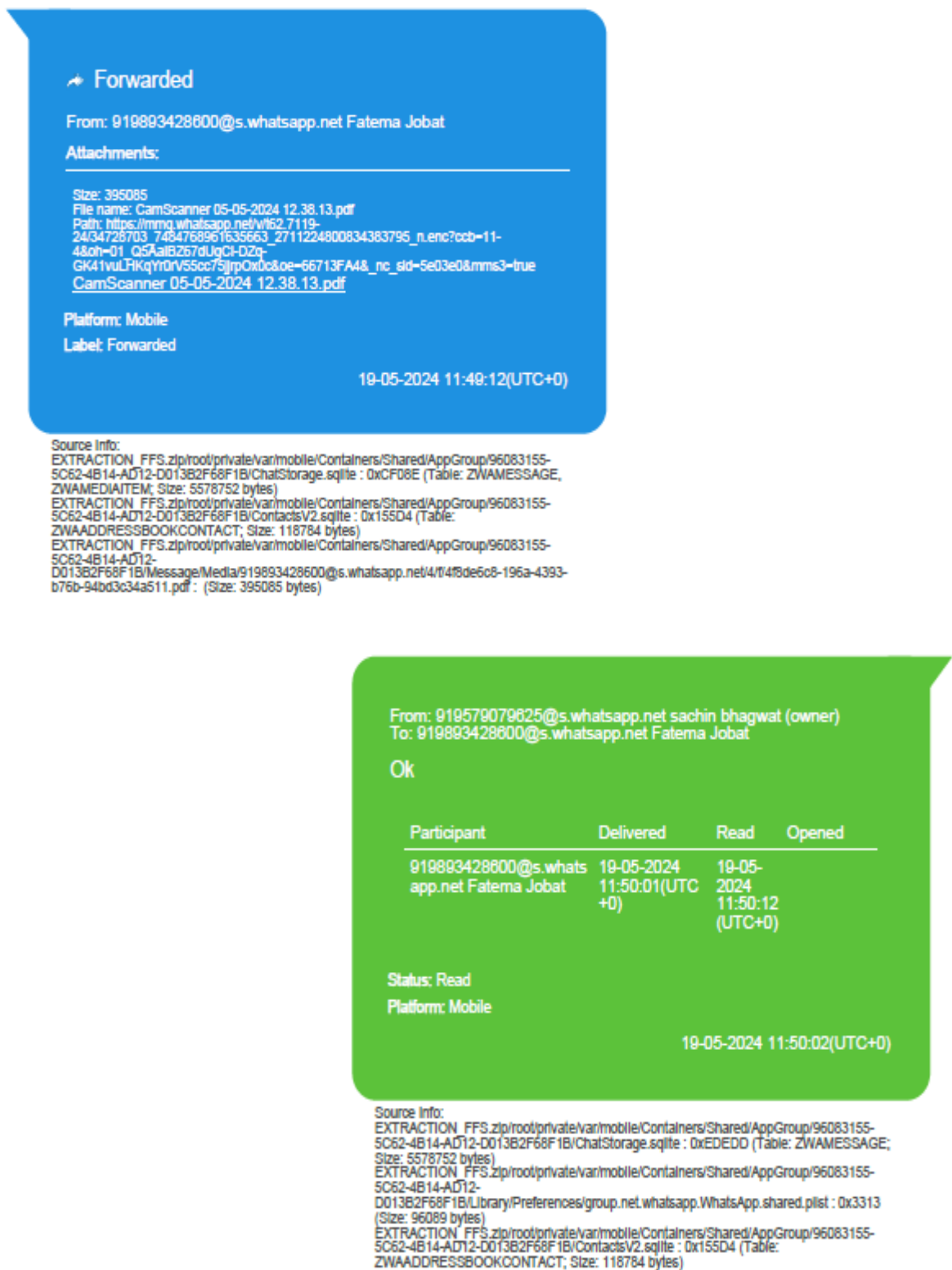
a) Whatsapp Chat between Mobile No. 9579079625 (Shri Dilmeer) and Mobile No. 919893428600 (Ms Fatema Jobat):

It is pertinent to mention that Ms Fatema Jobat is the lady passenger who carried 3 capsules containing 960.31 Grams of Gold in Paste form by way of concealment of the same in her body (rectum) and same were recovered/seized under panchnama proceedings of dated 11.08.2024.

During analysis of the chat between Shri Dilmeer and Fatema Jobat (Mobile No. 919893428600), it is observed that Ms. Fatema was in continuous touch with Shri Dilmeer over whatsapp since 17.05.2024 and she had sent details of some persons i.e. copy of passport, photos etc. to Shri Dilmeer. Screenshot of some of the chat are shown below:



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(Image 9 – Image depicting screenshots of some of whatsapp chat where pdf files sent to Shri Dilmeer (Mobile No. 9579079625) by Mobile No. 919893428600 (Ms Fatema Jobat)

During the course of recording of his statement, upon perusal of excerpts of the Whatsapp chat in between him and Mobile No. 919893428600 (contact no. saved in his phone as Fatema Jobat), Shri Dilmeer stated that on the instruction of Aziz Bhai, he went to Ahmedabad Airport to receive Fatema on 11.08.2024 and received her and they came to Hotel Kanchan Palace where she handed over him the 3 capsules having smuggled gold in

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paste form; that he had also received Fatema from Ahmedabad Airport earlier once in February-24 or March-24 and she were carrying 02 capsules of smuggled gold in paste; she didn't remember the exact date; she also used to send him details of new passengers who were willing to go to Dubai for smuggling to gold into India for monetary benefits; the passengers/carriers who were going from India to Dubai for smuggling of gold were used to stay at one place and Ms. Fatema was working as a cook at that place.

From the above, it transpires that she has played an active role in the gold smuggling syndicate and was providing details of the persons to the member of the syndicate and she appears to be a habitual offender as apart from this present case, she was also involved in the smuggling of gold into India earlier.

b) Whatsapp Chat between Shri Dilmeer (Mobile No. 9579079625) and B (Mobile No. 918719925989):

During the course of statement dated 20.12.2024, on being shown the chat between Shri Dilmeer and B (Mobile No. 918719925989), he stated that the said chat was with him and Murtaza Ali Bhopalwala whom he had to receive at Ahmedabad Airport on 11.08.2024 along with his wife Farida Bhopalwala; Murtaza Ali Bhopalwala and his wife Ms. Farida Bhopalwala didn't came out of the airport; he wanted to know their status so accordingly tried to make contact with Murtaza Ali Bhopalwala through whatsapp calling. The whatsapp chat between them also solidifies the above testimony. Screenshot of some of the whatsapp chat is reproduced below:

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WhatsApp (1)

919579079625@s.whatsapp.net (1)

#		Deleted
1	<div><div>Start Time: 11-08-2024 00:39:39(UTC+0)</div><div>Last Activity: 11-08-2024 01:48:08(UTC+0)</div><div>Number of attachments: 0</div><div>Source: WhatsApp</div><div>Account: 919579079625@s.whatsapp.net</div><div>Chat Type: One On One</div><div>Source file: EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ChatStorage.sqlite : 0x5389BF (Table: ZWAMESSAGE, ZWACHATSESSION; Size: 5578752 bytes)</div><div>EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ContactsV2.sqlite : 0x1C980 (Table: ZWAADDRESSBOOKCONTACT; Size: 118784 bytes)</div><div>EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/Library/Preferences/group.net.whatsapp.WhatsApp.shared.plist : 0x3313 (Size: 96089 bytes)</div><div>Body file: chat-1.txt</div></div> <div>Participants:</div> <div><div></div><div>918719925989@s.whatsapp.net B</div></div> <div><div></div><div>919579079625@s.whatsapp.net sachin bhagwat (owner)</div></div> <div>Identifier: 918719925989@s.whatsapp.net</div>	

From: 919579079625@s.whatsapp.net sachin bhagwat (owner)

To: 918719925989@s.whatsapp.net B

Hi

Participant	Delivered	Read	Opened
918719925989@s.whatsapp.net B	11-08-2024 00:39:40(UTC+0)	11-08-2024 00:48:54(UTC+0)	

Status: Read

Platform: Mobile

11-08-2024 00:39:39(UTC+0)

Source Info:
EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ChatStorage.sqlite : 0x538913 (Table: ZWAMESSAGE; Size: 5578752 bytes)
EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/Library/Preferences/group.net.whatsapp.WhatsApp.shared.plist : 0x3313 (Size: 96089 bytes)
EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ContactsV2.sqlite : 0x1C980 (Table: ZWAADDRESSBOOKCONTACT; Size: 118784 bytes)

From: System Message System Message

Messages and calls are end-to-end encrypted. No one outside of this chat, not even WhatsApp, can read or listen to them. Tap to learn more

Platform: Mobile

Label: System

11-08-2024 00:39:39(UTC+0)

Source Info:
EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ChatStorage.sqlite : 0x5389BF (Table: ZWAMESSAGE; Size: 5578752 bytes)

From: System Message System Message

sachin bhagwat (919579079625@s.whatsapp.net owner) started a call.

status: Answered

type: audio call

duration: 00:00:07

2 joined:

sachin bhagwat (919579079625@s.whatsapp.net owner)

B (918719925989@s.whatsapp.net)

Platform: Mobile

Label: System

11-08-2024 00:48:19(UTC+0)

Source Info:
EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ChatStorage.sqlite : 0x538EFF (Table: ZWAMESSAGE; Size: 5578752 bytes)

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(Image 10 – Image depicting screenshot of some of whatsapp chat between Shri Dilmeer (Mobile No. 9579079625) and Mobile No. 918719925989 (contact no. saved in mobile phone as B) on 11.08.2024

c) Whatsapp Chat between Shri Dilmeer (Mobile No. 9579079625) and Mobile No. 919714656786 (contact no. saved in mobile phone as Gaurav Bhai):

Shri Dilmeer in his statement dated 20.12.2024 has deposed that mobile number 9579079625 belong to him and he had saved the said mobile number in his mobile as Sachin Bhagwat, as Aziz bhai had instructed him to save his number as a fake/code name “Sachin Bhagwat” for the smuggling racket; upon perusal of excerpts of the Whatsapp chat in between him and Mobile No. 919714656786 (contact no. saved in mobile phone as Gaurav Bhai), he stated that he didn’t know him; that Mobile No. 919714656786 was forwarded to him by Aziz Bhai and he was instructed to save the said mobile number in his phone as “Gaurav Bhai” and on the instruction of Aziz Bhai, he used to call/chat on the said number.

Further, it is gathered that the said mobile number is linked with a UPI id 9714656786@kotak and on the basis of said UPI id, bank account statement and KYC details was called for from the Kotak Mahindra bank and it is found that the said mobile number 9714656786 is linked with the account number 4648196873 in Kotak Mahindra Bank, Thane-Tembhi Naka and the name and address of the account holder provided as Parihar Gaurakumar Himatlal, 402, 4th Floor, Jyoti Apartment, C Wing, Narayan Nagar, Thane, Maharashtra – 400612.

From the above, it transpires that the mobile no. 9714656786 which was saved in the mobile phone of Shri Dilmeer as ‘Gaurav Bhai’ in fact belongs to Shri Gauravkumar Himatlal Parihar.

Further scrutiny of the chat between Shri Dilmeer (Mobile No. 9579079625) and Mobile No. 919714656786 (contact no. saved in mobile phone as Gaurav Bhai), it is observed that Shri Gauravkumar Himatlal Parihar on 05.06.2024 sent copy of his Aadhar Card No. 3073 2935 3933 to Shri Dilmeer. In this context, it is pertinent to mention here that above Aadhar Card No. 3073 2935 3933 matches with copy of Aadhar card recovered during the panchnama proceedings carried out at the premises


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of Hotel Kanchan Palace, Ahmedabad and it is found that the photo on the said aadhar card of Shri Gaurav Parihar had been replaced with the photo of Shri Dilmeer while other particulars were found to be same. Copy of said chat as well as both the copy of Aadhar card are reproduced here-in-below:

2

Details:

Group photos:



Start Time: 05-06-2024 04:55:45(UTC+0)

Last Activity: 06-08-2024 02:33:06(UTC+0)

Number of attachments: 17

Source: WhatsApp

Account: 919579079625@s.whatsapp.net

Chat Type: One On One

Source file: EXTRACTION_FFS.zip\root\private\var\mobile\Containers\Shared\AppGroup\96083155-5C62-4B14-AD12-D013B2F68F1B\ChatStorage.sqlite : 0x11DD48 (Table: ZWAMESSAGE, ZWACHATSESSION; Size: 5578752 bytes)


EXTRACTION_FFS.zip\root\private\var\mobile\Containers\Shared\AppGroup\96083155-5C62-4B14-AD12-D013B2F68F1B\library\Preferences\group.net.whatsapp.WhatsApp.shared.plist : 0x3313 (Size: 96089 bytes)

EXTRACTION_FFS.zip\root\private\var\mobile\Containers\Shared\AppGroup\96083155-5C62-4B14-AD12-D013B2F68F1B\ContactsV2.sqlite : 0x16B8C (Table: ZWAADDRESSBOOKCONTACT; Size: 118784 bytes)

EXTRACTION_FFS.zip\root\private\var\mobile\Containers\Shared\AppGroup\96083155-5C62-4B14-AD12-D013B2F68F1B\Media\Profile\919714656786-1709578341.jpg : 0x0 (Size: 63070 bytes)


Body file: chat-2.txt

Participants:



919579079625@s.whatsapp.net

sachin bhagwat (owner)



919714656786@s.whatsapp.net

Gaurav Bhai

Identifier: 919714656786@s.whatsapp.net

From: 919714656786@s.whatsapp.net Gaurav Bhai

Attachments:

Size: 247322

File name: Kaagaz_20231124_134331656218.pdf

Path: https://msg.whatsapp.net/v1/82.711B-2431800545_47022005514687_847000210025274874_n.enc?ccb=11-4&oh=01_Q5kAIAXQved378Xst-YWipQpWIRMR0i0IC8YKAY0iCs&oe=0075C854_nc_sid=5e03e0&mms3=true

[Kaagaz_20231124_134331656218.pdf](#)

Platform: Mobile


05-06-2024 04:55:45(UTC+0)

Source Info:

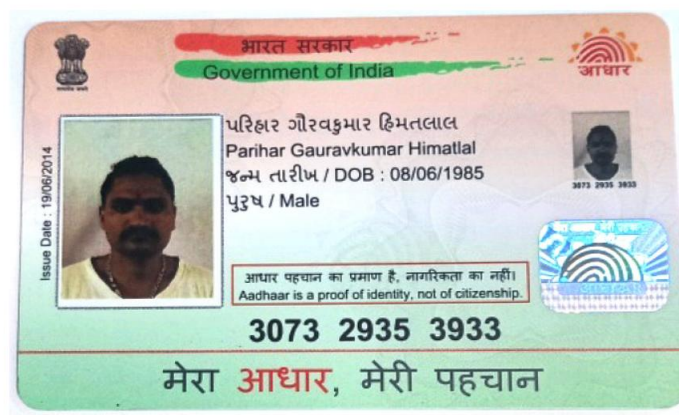
EXTRACTION_FFS.zip\root\private\var\mobile\Containers\Shared\AppGroup\96083155-5C62-4B14-AD12-D013B2F68F1B\ChatStorage.sqlite : 0x11DDC5 (Table: ZWAMESSAGE, ZWAMEDIAMITEM; Size: 5578752 bytes)

EXTRACTION_FFS.zip\root\private\var\mobile\Containers\Shared\AppGroup\96083155-5C62-4B14-AD12-D013B2F68F1B\ContactsV2.sqlite : 0x16B8C (Table: ZWAADDRESSBOOKCONTACT; Size: 118784 bytes)

EXTRACTION_FFS.zip\root\private\var\mobile\Containers\Shared\AppGroup\96083155-5C62-4B14-AD12-D013B2F68F1B\Message\Media\919714656786@s.whatsapp.net\3x30a89d-c2a1-403f-9378-eab4f7f5c23.pdf : (Size: 247322 bytes)



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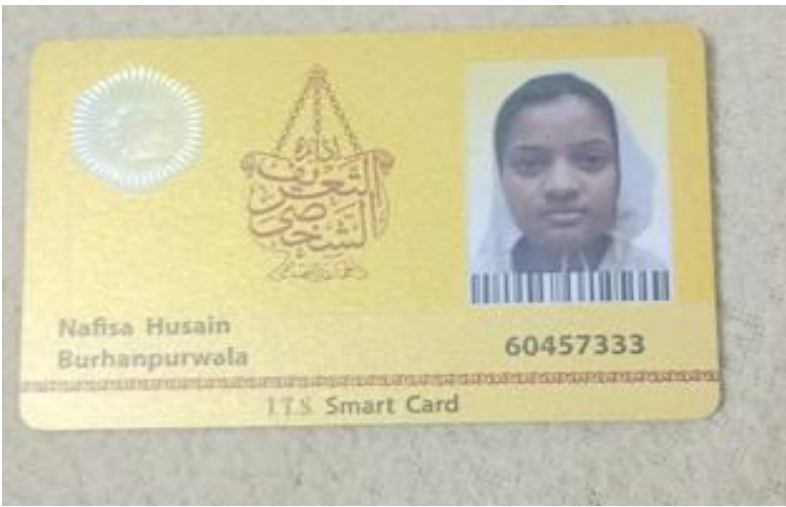
(Image 11 - Screenshot of pdf file named as Kaagaz_20231124_134331656218.pdf, alongwith source info, sent to Shri Dilmeer (Mobile No. 9579079625) by Mobile No. 919714656786 (contact no. saved in mobile phone as Gaurav Bhai) through Whatsapp Chat



(Image 12 – Image depicting forged aadhar card of Shri Gauravkumar Parihar submitted by Shri Dilmeer at Hotel Kanchan Palace for hotel room booking)

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Further, on 07.07.2024, Shri Gauravkumar Parihar had sent Shri Dilmeer a photo of I. T. S. Smart Card showing name on the card as ‘Nafisa Husain Burhanpurwala’ and image of a lady on the card. The same is reproduced here-in-below:



(Image 13 – Image of I.T.S. Smart Card, alongwith source info, sent to Shri Dilmeer (Mobile No. 9579079625) by Mobile No. 919714656786 (contact no. saved in mobile phone as Gaurav Bhai) through WhatsApp Chat

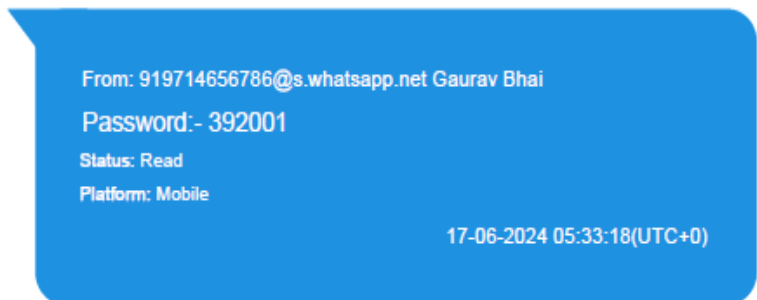
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It is pertinent to mention that upon perusal of the above photographs/image Shri Dilmeer confirmed that the said picture pertains to the same lady with whom he used to stay at Hotel Kanchan Palace; who also parallelly worked alongwith him to receive/carry passenger, who smuggled gold; and confirmed her identity as Ms Nafisa.

On further scrutiny, it is observed that on 17.06.2024, Shri Gaurav Parihar has sent a pdf file named as 'LALIT EAadhaar_1293775060018220140512161851_06012017112003_569755.pdf' to Shri Dilmeer and Shri Dilmeer sent back pdf file on 17.06.2024 named as 'kk.pdf' of forged copy of the same Aadhar card having picture of a different person on the Aadhar card . The details of the same are shown below:



Source Info:
EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ChatStorage.sqlite : 0x1F8AB3 (Table: ZWAMESSAGE, ZWAMEDIAITEM; Size: 5578752 bytes)
EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ContactsV2.sqlite : 0x16B8C (Table: ZWAADDRESSBOOKCONTACT; Size: 118784 bytes)
EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/Message/Media/919714656786@s.whatsapp.net/t/t62.7119-24/23425384_1141490793559463_2570222586220043626_n.enc?ccb=11-4&oh=01_Q5AaIDOPaH48Fv3co12lvECEpg1baS5k727GfQjEWG3DtWT8&oe=669730E8&_nc_sid=5e03e0&mms3=true : (Size: 143220 bytes)



Source Info:
EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ChatStorage.sqlite : 0x1F8C51 (Table: ZWAMESSAGE; Size: 5578752 bytes)
EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ContactsV2.sqlite : 0x16B8C (Table: ZWAADDRESSBOOKCONTACT; Size: 118784 bytes)




```
Source Info:
EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-
5C62-4B14-AD12-D013B2F68F1B/ChatStorage.sqlite : 0x21BCF6 (Table: ZWAMESSAGE,
ZWAMEDIAITEM; Size: 5578752 bytes)
EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-
5C62-4B14-AD12-
D013B2F68F1B/Library/Preferences/group.net.whatsapp.WhatsApp.shared.plist : 0x3313
(Size: 96089 bytes)
EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-
5C62-4B14-AD12-D013B2F68F1B/ContactsV2.sqlite : 0x16B8C (Table:
ZWADDRESSBOOKCONTACT; Size: 118784 bytes)
EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-
5C62-4B14-AD12-
D013B2F68F1B/Message/Media/919714656786@s.whatsapp.net/d/1/d18f013d-0df7-4ae0-
bf66-3e42b62645e6.pdf : (Size: 2372551 bytes)
```

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ભારત સરકાર
Unique Identification Authority of India
Government of India

નંદામોક્ત ક્રમ સંખ્યા/Enrolment No.: 1293/77506/00182

Soni Lalitkumar Himmatlal (સોની લલિતકુમાર હિમતલલ)

S/O: Himmatlal Soni, C-920, Kesurmama No Chaklo, Bharuch, Bharuch, Gujarat - 392001

તમારી આધાર સંખ્યા/ Your Aadhaar No.: **9913 9110 6671**

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9913 9110 6671
મારો આધાર, મારી ઓળખ

9913 9110 6671
MERA AADHAAR, MERI PEHACHAN

Image-15

(Image 14 & 15 – Images depicting screenshots of pdf file LALIT EAadhaar_1293775060018220140512161851_06012017112003_569755.pdf and kk.pdf, alongwith source info, sent to Shri Dilmeer (Mobile No. 9579079625) by Mobile No. 919714656786 (pertains to Shri Gauravkumar Parihar and contact no. saved in mobile phone of Shri Dilmeer as Gaurav Bhai) and vice-cersa, through WhatsApp Chat

From the above, it transpires that Shri Gauravkumar Himatlal Parihar also appears to be involved in the said gold smuggling syndicate and was instrumental in helping the syndicate members masquerade their real identity during gold smuggling activities and thereby concerned himself in the illegal activity of gold smuggling through SVPI airport, Ahmedabad.

d) Whatsapp Chat between Shri Dilmeer (Mobile No. 9579079625) and Mobile No. 917987445349 (contact no. saved in mobile phone as Gaurav Wife Whstp No):

Shri Dilmeer in his statement dated 12.08.2024 has stated that he used to share expenses borne by him on each carrying instances, with Shri Aziz and Ms. Nikita (saved in his mobile as Gaurav wife whatsapp number +91 7987445349), by whatsapp chat, using his mobile phone and most of

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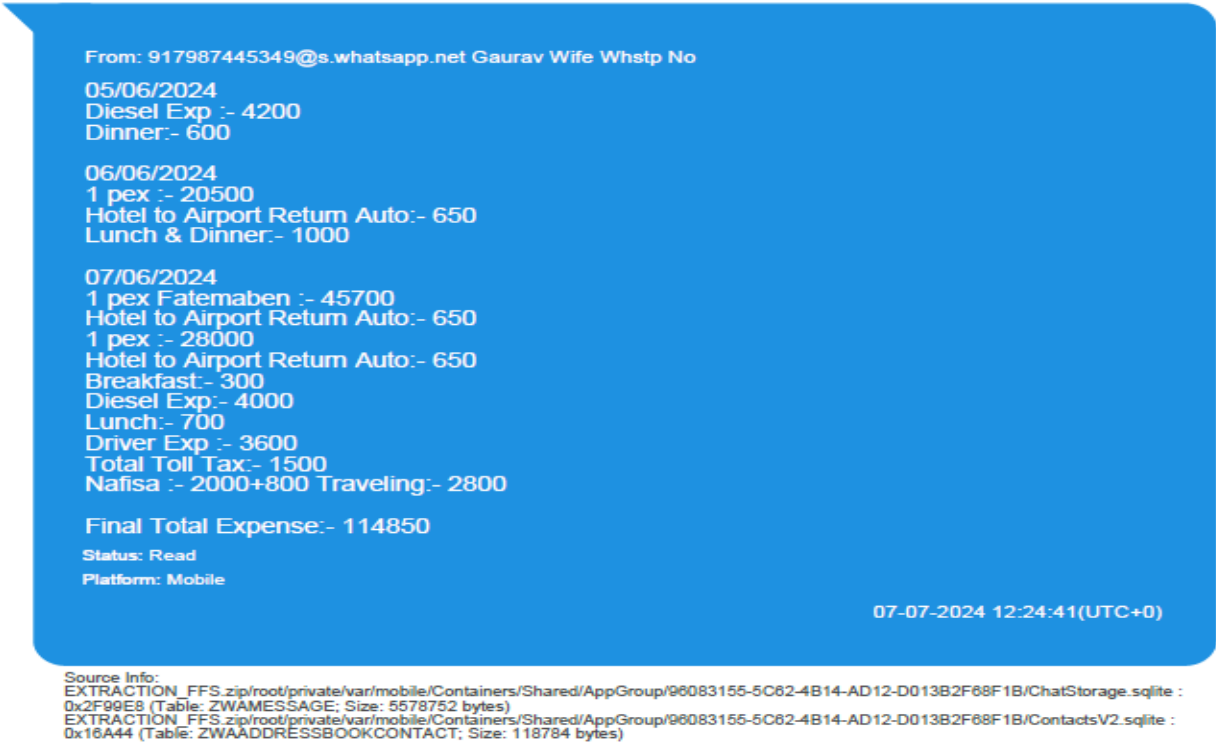
those chats had been deleted by him. However, during the recording of statement on dated. 12.8.2024, the chats which were found available in his phone was shared by him voluntarily. Further, as discussed supra, investigation revealed that the original identity of Ms. Nikita is Ms. Nafisa Husain Burhanpurwala and Dilmeer in his statement dated 20.12.2024 has also confirmed the same.

During the course of recording of statement dated 20.12.2024, upon seeing the whatsapp chat between him and Gaurav Wife Whstp no (Mobile No. 917987445349), Shri Dilmeer stated the said chat was between him and Ms. Nafisa whose number he had saved in his mobile phone as Gaurav Wife Whstp No.; that Nafisa was used to receive carriers/passengers with him from Ahmedabad Airport on the instructions of Aziz Bhai; that she used to send him the details of their day to day expenses such as Hotel Expenses, Travel Expenses, Food Expenses, Petrol/Diesel expenses, amount given to the carriers for their commission as per the direction of Aziz Bhai etc. and he further used to send such details to Aziz Bhai.

During analysis of the whatsapp chat between Shri Dilmeer (Mobile No. 9579079625) and Mobile No. 917987445349 (contact saved in mobile phone as 'Gaurav Wife Whstp No' and actual identity is Ms. Nafisa Husain Burhanpurwala), it is observed that the chat belongs to the period 05.07.2024 to 11.08.2024 and during the said period Shri Dilmeer was in continuous touch with Ms. Nafisa. From the aforesaid chat, it appears that they have received carrier/passenger from Ahmedabad Airport multiple times before the instant case. Some of the excerpts of the said chat are being reproduced here in below:

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(Image 16 – Image depicting screenshot of whatsapp chat where expenses details pertaining to date 05/06/2024 to 07/06/2024 were shared with Shri Dilmeer (Mobile No. 9579079625) by Mobile No. 917987445349 (contact saved in Shri Dilmeer’s phone as Gaurav Wife Whstp No.)

Upon seeing the above one entry pertaining to date 07/06/2024, 1 pex Fatemaben :- 45700, Shri Dilmeer in his statement dated 20.12.2024 stated that the said entry pertained to the amount Rs. 45,700/- given to Fatema as her commission for carrying smuggled gold; further stated that she was the same Fatema, who was carrying 3 capsules having smuggled gold in paste form and whom he received on 11.08.2024 from Ahmedabad Airport and said 3 capsules having smuggled gold in paste form was later on seized by the DRI officers.

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(Image 17 – Image depicting screenshots of some whatsapp chat between Shri Dilmeer (Mobile No. 9579079625) and Mobile No. 917987445349 (contact saved in Shri Dilmeer’s phone as Gaurav Wife Whstp No.)

From the above Image from which it transpires that Shri Dilmeer was asking Ms. Nafisa whether she has received the passenger. This chat also corroborates the fact that Ms. Nafisa was working as a receiver of the carrier/passengers in this gold smuggling syndicate.

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➔ Forwarded

From: 919579079625@s.whatsapp.net sachin bhagwat (owner)

To: 917987445349@s.whatsapp.net Gaurav Wife Whstp No

KK

Attachments:

Size: 9953434

File name: KK.pdf

Path: https://mmg.whatsapp.net/vt652-7119-24/30575865_487201826183578_376781871974552597_ju.enc?ccb=11-4&oh=01_L_C9A5D4VHF11TPNpKQa00x0-HP84NlQITp72HdLoseIbac8oe=66D5E87C&nc_skt=5e03e0&mms3=true

KK.pdf

Participant	Delivered	Read	Opened
917987445349@s.whatsapp.net Gaurav Wife Whstp No	06-08-2024 20:18:25(UTC+0)	06-08-2024 20:18:29(UTC+0)	

Status: Read

Platform: Mobile

Label: Forwarded

06-08-2024 20:18:22(UTC+0)

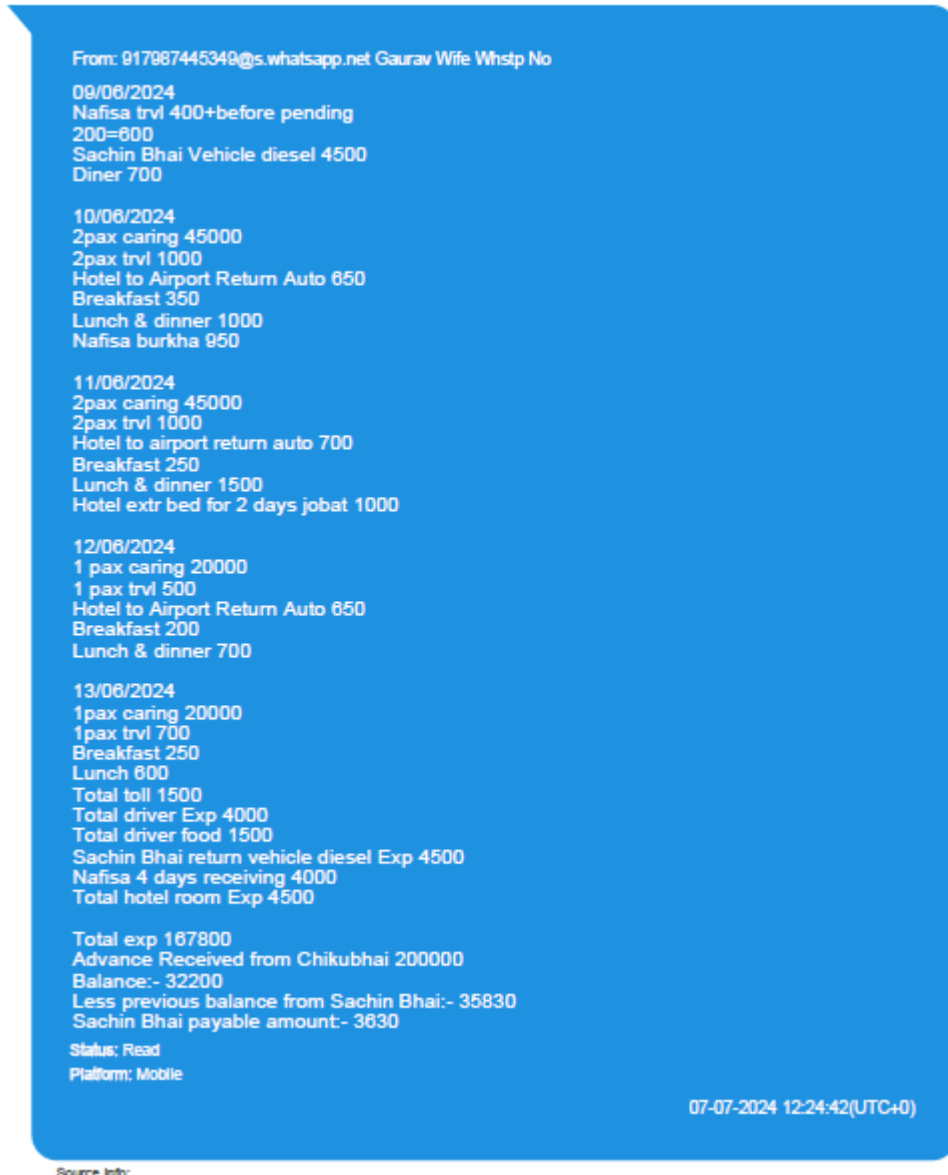
Source Info:
EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ChatStorage.sqlite : 0x4157A3 (Table: ZWAMESSAGE, ZWAMEDIAITEM; Size: 5578752 bytes)
EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/Library/Preferences/group.net.whatsapp.WhatsApp.shared.plist : 0x3313 (Size: 96089 bytes)
EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ContactsV2.sqlite : 0x15A44 (Table: ZWAAADDRESSBOOKCONTACT; Size: 118784 bytes)
EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/Message/Media/917987445349@s.whatsapp.net/0a/0a839071-84bc-4d60-95a2-e0b95a532da7.pdf : (Size: 9953434 bytes)



(Image 18 - Screenshot of pdf file named as KK.pdf, alongwith source info, sent by Shri Dilmeer (Mobile No. 9579079625) to Mobile No. 917987445349 (contact saved in mobile phone as Gaurav Wife Whstp No., through whatsapp chat)

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On 06.08.2024, Shri Dilmeer sent Ms. Nafisa a photo of Aadhar Card No. 3073 2935 3933 issued in the name of Shri Gauravkumar Himatlal Parihar. It can be observed from the said image that said aadhar card contains photograph of Shri Dilmeer.



(Image 19 – Image depicting screenshots of whatsapp chat where expenses details were shared with Shri Dilmeer (Mobile No. 9579079625) by Mobile No. 917987445349 (contact saved in Shri Dilmeer’s phone as Gaurav Wife Whstp No)

Shri Dilmeer in his statement dated 20.12.2024, stated that on delivery of the gold to the person on the instruction of the Aziz Bhai, the person used to give him cash; he never saw him in person; one person used to come at different locations on bike and wearing helmet to receive the smuggled gold; Aziz bhai used to tell him that he had sent message to Chikubhai and he would get the money and the person whom he used to

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handed over the smuggled gold used to give him amount in cash; as Ms. Nafisa and he used to stay in Hotel together, she used to send him the daily expenses including commission given to the passengers, she used to enter the cash received from the person to whom gold was handed over as ‘Advance received from Chikubhai’. The name of the Chikubhai is also reflecting in the above chat between Shri Dilmeer and Ms. Nafisa and it appears that Chikubhai is the person who manage the cash inflow in this gold smuggling syndicate and arrange/give cash to Shri Dilmeer for commission amount his commission amount alongwith commission of the carrier/passengers and the expenses borne by the members of the gold smuggling syndicate. However, no further details could be revealed during the investigation. Hence, investigation could not be further extended in respect to Shri Chikubhai.

Further during analysis of the chat between Shri Dilmeer and Ms. Nafisa it is observed that Ms. Nafisa was in continuous touch with Shri Dilmeer on 11.08.2024 and also as deposed by Shri Dilmeer, he alongwith Ms. Nafisa (impersonated as Ms. Nikita) went to Ahmedabad airport on that day and they carried one passenger Ms. Fatema from Ahmedabad airport to Hotel Kanchan palace. Some excerpts of the chat between them on 11.08.2024 are reproduced below:

From: 919579079625@s.whatsapp.net sachin bhagwat (owner)
To: 917987445349@s.whatsapp.net Gaurav Wife Whstp No

Kya re

Participant	Delivered	Read	Opened
917987445349@s.whatsapp.net Gaurav Wife Whstp No	11-08-2024 02:05:52(UTC+0)	11-08-2024 02:06:14 (UTC+0)	

Status: Read
Platform: Mobile

11-08-2024 02:05:51(UTC+0)

Source Info:
EXTRACTION_FF5.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ChatStorage.sqlite : 0x5322E9 (Table: ZWAMESSAGE; Size: 5578752 bytes)
EXTRACTION_FF5.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/Library/Preferences/group.net.whatsapp.WhatsApp.shared.plist : 0x3313 (Size: 96089 bytes)
EXTRACTION_FF5.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ContactsV2.sqlite : 0x16A44 (Table: ZWADDRESSBOOKCONTACT; Size: 118784 bytes)

From: 919579079625@s.whatsapp.net sachin bhagwat (owner)
To: 917987445349@s.whatsapp.net Gaurav Wife Whstp No

Hai kya wo

Participant	Delivered	Read	Opened
917987445349@s.whatsapp.net Gaurav Wife Whstp No	11-08-2024 02:06:47(UTC+0)	11-08-2024 02:07:03 (UTC+0)	

Status: Read
Platform: Mobile

11-08-2024 02:06:45(UTC+0)

Source Info:
EXTRACTION_FF5.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ChatStorage.sqlite : 0x5314AE (Table: ZWAMESSAGE; Size: 5578752 bytes)
EXTRACTION_FF5.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/Library/Preferences/group.net.whatsapp.WhatsApp.shared.plist : 0x3313 (Size: 96089 bytes)
EXTRACTION_FF5.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ContactsV2.sqlite : 0x16A44 (Table: ZWADDRESSBOOKCONTACT; Size: 118784 bytes)

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(Image 20 – Image depicting screenshot of some of whatsapp chat between Shri Dilmeer (Mobile No. 9579079625) and Mobile No. 917987445349 (contact saved in mobile phone as Gaurav Wife Whstp No) on 11.08.2024

e) Whatsapp Chat between Shri Dilmeer (Mobile No. 9579079625) and Mobile No. 971542637009 (contact no. saved in mobile phone as Babu Bhai Dubai):

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During analysis of the chat between Shri Dilmeer (Mobile No. 9579079625) and Babu Bhai Dubai (Mobile No. 971542637009), it is observed that Shri Dilmeer was in continuous contact with Shri Babu Bhai during the period from 16.05.2024 to 11.08.2024 (whatsapp chat available for the period from 16.05.2024 to 11.08.2024 only).

WhatsApp (1)

919579079625@s.whatsapp.net (1)

#		Deleted
1	<div><div><div>Start Time: 16-05-2024 12:48:37(UTC+0) Last Activity: 11-08-2024 02:17:45(UTC+0) Number of attachments: 200 Source: WhatsApp Account: 919579079625@s.whatsapp.net Chat Type: One On One Source file: EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ChatStorage.sqlite : 0x730DC (Table: ZWAMESSAGE, ZWCHATSESSION; Size: 5578752 bytes) EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ContactsV2.sqlite : 0x16D49 (Table: ZWAADDRESSBOOKCONTACT; Size: 118784 bytes) EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/Library/Preferences/group.net.whatsapp.WhatsApp.shared.plist : 0x3313 (Size: 96089 bytes) Body file: chat-1.txt</div><div>Participants:</div><div><div><div><div></div><div>971542637009@s.whatsapp.net Babu Bhai Dubai</div></div><div><div><div></div><div>919579079625@s.whatsapp.net sachin bhagwat (owner)</div></div></div></div><div>Identifier: 971542637009@s.whatsapp.net</div></div></div></div>	

From: System Message System Message

Messages and calls are end-to-end encrypted. No one outside of this chat, not even WhatsApp, can read or listen to them. Tap to learn more

Platform: Mobile

Label: System

16-05-2024 12:48:37(UTC+0)

Source Info:
EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ChatStorage.sqlite : 0x730DC (Table: ZWAMESSAGE; Size: 5578752 bytes)

From: 919579079625@s.whatsapp.net sachin bhagwat (owner)
To: 971542637009@s.whatsapp.net Babu Bhai Dubai

Bhai ticket sent Karru

Participant	Delivered	Read	Opened
971542637009@s.whatsapp.net Babu Bhai Dubai	16-05-2024 13:00:15(UTC+0)	16-05-2024 13:44:29(UTC+0)	

Status: Read

Platform: Mobile

16-05-2024 13:00:13(UTC+0)

Source Info:
EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ChatStorage.sqlite : 0x5AA92 (Table: ZWAMESSAGE; Size: 5578752 bytes)
EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/Library/Preferences/group.net.whatsapp.WhatsApp.shared.plist : 0x3313 (Size: 96089 bytes)
EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ContactsV2.sqlite : 0x16D49 (Table: ZWAADDRESSBOOKCONTACT; Size: 118784 bytes)

Forwarded

From: 971542637009@s.whatsapp.net Babu Bhai Dubai

Attachments:

Size: 382383
File name: SPICEJET BOM-DXB SG-59 .pdf
Path: https://mmp.whatsapp.net/vh62.7119-24/27371290_467798655623189_408735976955344693_n.enc?ccb=11-4&oh=01_Q5AaIAkOek3-enUu2957Uycj0ZrNj0z4Xg-m668P2NPpntM5oe=5650777d0fL_nLjId=5e03e0&mms3=true
SPICEJET BOM-DXB SG-59 .pdf

Platform: Mobile

Label: Forwarded

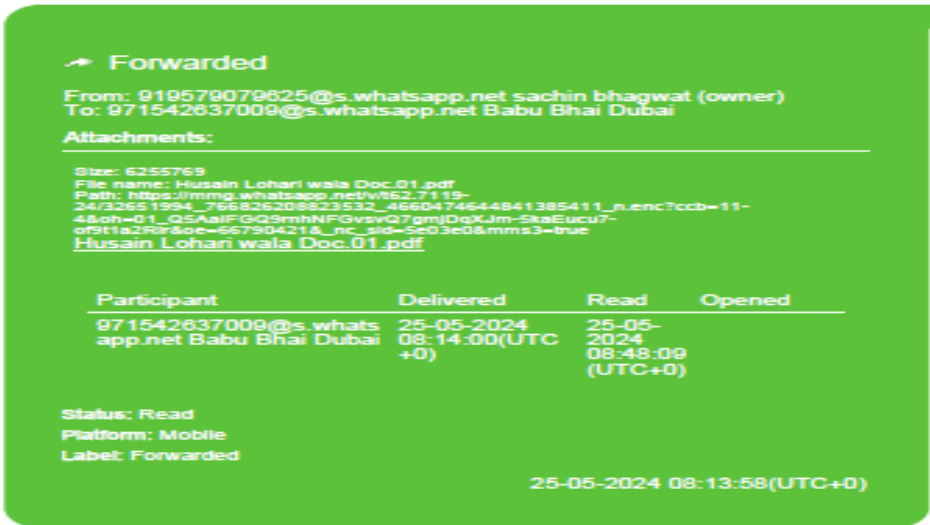
16-05-2024 13:44:28(UTC+0)

Source Info:
EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ChatStorage.sqlite : 0x5ADD6 (Table: ZWAMESSAGE, ZWAMEDIAITEM; Size: 5578752 bytes)
EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ContactsV2.sqlite : 0x16D49 (Table: ZWAADDRESSBOOKCONTACT; Size: 118784 bytes)
EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/MessageMedia/971542637009@s.whatsapp.net/9/3/93d8c601-94c-4fa5-86c2-b6801cd38e3e.pdf : (Size: 382383 bytes)

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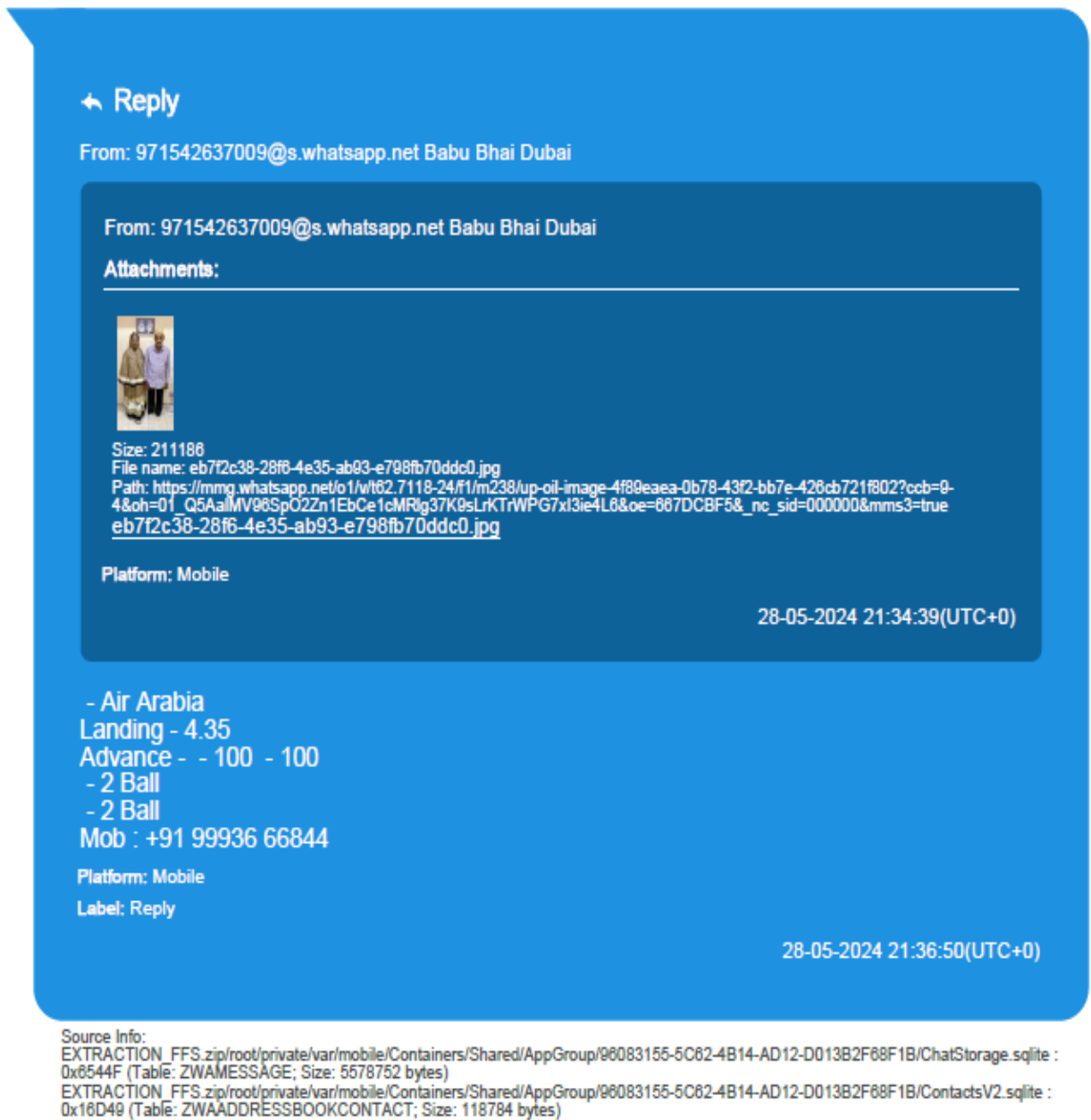
(Image 21 – Image depicting screenshot of some of whatsapp chat where e-visa details of carriers/passengers were shared with Shri Dilmeer (Mobile No. 9579079625) by Mobile No. 971542637009 (contact no. saved in mobile phone as Babu Bhai Dubai)



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(Image 22 – Image depicting screenshot of whatsapp chat where documents were shared by Shri Dilmeer (Mobile No. 9579079625) with Mobile No. 971542637009 (contact no. saved in mobile phone as Babu Bhai Dubai)

From the above, it is observed that through whatsapp chat, Shri Babu bhai used to share Air Tickets, e-visa details, photos etc. of the carrier/passengers with Shri Dilmeer and Shri Dilmeer used to share details of new carriers/passengers viz. copies of Passport, Aadhar Card, PAN Card etc. with Shri Babu Bhai for visa purpose.



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From: 971542637009@s.whatsapp.net Babu Bhai Dubai

Any updates Bhai

Platform: Mobile

28-05-2024 23:10:44(UTC+0)

Source Info:

EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ChatStorage.sqlite : 0x6B7F3 (Table: ZWAMESSAGE; Size: 5578752 bytes)

EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ContactsV2.sqlite : 0x16D49 (Table: ZWAADDRESSBOOKCONTACT; Size: 118784 bytes)

From: 919579079625@s.whatsapp.net sachin bhagwat (owner)

To: 971542637009@s.whatsapp.net Babu Bhai Dubai

Airport par hu

Participant	Delivered	Read	Opened
971542637009@s.whatsapp.net Babu Bhai Dubai	28-05-2024 23:13:49(UTC+0)	28-05-2024 23:20:54(UTC+0)	

Status: Read

Platform: Mobile

28-05-2024 23:13:44(UTC+0)

Source Info:

EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ChatStorage.sqlite : 0x7380F (Table: ZWAMESSAGE; Size: 5578752 bytes)

EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/Library/Preferences/group.net.whatsapp.WhatsApp.shared.plist : 0x3313 (Size: 96089 bytes)

EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ContactsV2.sqlite : 0x16D49 (Table: ZWAADDRESSBOOKCONTACT; Size: 118784 bytes)

From: 971542637009@s.whatsapp.net Babu Bhai Dubai

Ok

Platform: Mobile

28-05-2024 23:21:03(UTC+0)

Source Info:

EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ChatStorage.sqlite : 0x565B5 (Table: ZWAMESSAGE; Size: 5578752 bytes)

EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ContactsV2.sqlite : 0x16D49 (Table: ZWAADDRESSBOOKCONTACT; Size: 118784 bytes)

From: 971542637009@s.whatsapp.net Babu Bhai Dubai

Update

Platform: Mobile

28-05-2024 23:24:26(UTC+0)

Source Info:

EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ChatStorage.sqlite : 0x60199 (Table: ZWAMESSAGE; Size: 5578752 bytes)

EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ContactsV2.sqlite : 0x16D49 (Table: ZWAADDRESSBOOKCONTACT; Size: 118784 bytes)

From: 919579079625@s.whatsapp.net sachin bhagwat (owner)

To: 971542637009@s.whatsapp.net Babu Bhai Dubai

Abhi nhai

Participant	Delivered	Read	Opened
971542637009@s.whatsapp.net Babu Bhai Dubai	28-05-2024 23:24:41(UTC+0)	28-05-2024 23:24:58(UTC+0)	

Status: Read

Platform: Mobile

28-05-2024 23:24:39(UTC+0)

Source Info:

EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ChatStorage.sqlite : 0x55868 (Table: ZWAMESSAGE; Size: 5578752 bytes)

EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/Library/Preferences/group.net.whatsapp.WhatsApp.shared.plist : 0x3313 (Size: 96089 bytes)

EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ContactsV2.sqlite : 0x16D49 (Table: ZWAADDRESSBOOKCONTACT; Size: 118784 bytes)

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(Image 23 – Image depicting screenshot of some of whatsapp chat between Shri Dilmeer (Mobile No. 9579079625) and Mobile No. 971542637009 (contact no. saved in Shri Dilmeer’s phone as Babu Bhai Dubai) regarding arrival of carriers/passengers

From the above it appears that apart from receiving of the carrier/passenger from the airport, the role of Shri Dilmeer was also to arrange new persons who were willing to concern themselves in the gold smuggling activity for monetary consideration and he was sending details of such person viz. copy of passport, aadhar card, Pan card etc. to Babu bhai for visa purpose. They both were sharing details of the carrier/passenger among themselves. During the course of recording of statement dated 20.12.2024, on being shown the excerpts of whatsapp chat between him and Babu Bhai Dubai (Mobile No. 971542637009), Shri Dilmeer stated that he didn’t know the person and never met him; the mobile number 971542637009 was sent to him by Aziz Bhai and he had instructed him to save the said number as ‘Babu Bhai’; that Babu bhai used to contact him to know the status of the arrival of the carriers/passengers through whatsapp; on the day of arrival of Ms. Fatema, Murtaza Ali Bhopalwala and Ms. Farida, the carriers/passengers who were carrying capsules having smuggled gold in paste form, at the Ahmedabad Airport, he was in contact with him over

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phone. No further details/lead about Shri Babubhai could be revealed during the investigation. Hence, investigation could not further extended.

II. Call log analysis of Shri Dilmeer (Mobile No. 9579079625) retrieved from his phone voluntarily submitted by him during the course of statement dated 12.08.2024:

a) Contact with Shri Aziz (Mobile No. +971552393552):

Investigation revealed that Shri Aziz@Abudhabi appears to be the mastermind of this gold smuggling syndicate and on the direction of Aziz@Abudhabi, Shri Dilmeer and other involved persons were working. Shri Dilmeer in his statement has provided contact number of Shri Aziz i.e. +971552393552. During analysis of the call log data of Shri Dilmeer retrieved from his phone, it is observed that he was in continuous contact with mobile no. +971552393552 and the said mobile number was saved in his mobile as 'Aziz dubai'. The screenshot of the call log of Shri Dilmeer is shown below:

Space left blank intentionally



Call Log (28)								
#	Parties	Timestamp	Duration	Status	Country code	Additional Info	Source Info	Deleted
1	From: +971552393552 Aziz Dubai Direction: Incoming	11-08-2024 16:22:25(UTC+0)	00:00:00	Missed		Video call:	Source: Unspecified App Call Source file: EXTRACTION_FFS.zip/root/private/var/mobile/Library/CallHistoryDB/CallHistory.storedata-wal : 0x1D362F (Table: ZCALLRECORD; Size: 1915832 bytes)	
2	From: +971552393552 Aziz Dubai Direction: Incoming	11-08-2024 15:55:53(UTC+0)	00:00:00	Missed		Video call:	Source: Unspecified App Call Source file: EXTRACTION_FFS.zip/root/private/var/mobile/Library/CallHistoryDB/CallHistory.storedata-wal : 0x1D34A2 (Table: ZCALLRECORD; Size: 1915832 bytes)	
3	From: +971552393552 Aziz Dubai Direction: Incoming	11-08-2024 11:57:09(UTC+0)	00:00:00	Missed		Video call:	Source: Unspecified App Call Source file: EXTRACTION_FFS.zip/root/private/var/mobile/Library/CallHistoryDB/CallHistory.storedata-wal : 0x1D3758 (Table: ZCALLRECORD; Size: 1915832 bytes)	
4	From: +971552393552 Aziz Dubai Direction: Incoming	11-08-2024 04:04:50(UTC+0)	00:00:00	Not answered		Video call:	Source: Unspecified App Call Source file: EXTRACTION_FFS.zip/root/private/var/mobile/Library/CallHistoryDB/CallHistory.storedata-wal : 0x113206 (Table: ZCALLRECORD; Size: 1915832 bytes)	
5	From: +971552393552 Aziz Dubai Direction: Incoming	09-08-2024 15:58:31(UTC+0)	00:02:08	Answered		Video call: Disconnection Reason: Owner Hung Up	Source: Unspecified App Call Source file: EXTRACTION_FFS.zip/root/private/var/mobile/Library/CallHistoryDB/CallHistory.storedata : 0x58E69 (Table: ZCALLRECORD; Size: 446464 bytes)	
6	To: +971552393552 Aziz Dubai Direction: Outgoing	07-08-2024 17:52:39(UTC+0)	00:02:39	Unknown		Video call:	Source: Unspecified App Call Source file: EXTRACTION_FFS.zip/root/private/var/mobile/Library/CallHistoryDB/CallHistory.storedata : 0x513BF (Table: ZCALLRECORD; Size: 446464 bytes)	
7	To: +971552393552 Aziz Dubai Direction: Outgoing	07-08-2024 07:32:12(UTC+0)	00:01:24	Unknown		Video call:	Source: Unspecified App Call Source file: EXTRACTION_FFS.zip/root/private/var/mobile/Library/CallHistoryDB/CallHistory.storedata : 0x38649 (Table: ZCALLRECORD; Size: 446464 bytes)	
8	From: +971552393552 Aziz Dubai Direction: Incoming	07-08-2024 07:31:57(UTC+0)	00:00:00	Missed		Video call:	Source: Unspecified App Call Source file: EXTRACTION_FFS.zip/root/private/var/mobile/Library/CallHistoryDB/CallHistory.storedata : 0x386CE (Table: ZCALLRECORD; Size: 446464 bytes)	
9	From: +971552393552 Aziz Dubai Direction: Incoming	07-08-2024 06:15:07(UTC+0)	00:01:49	Answered		Video call: Disconnection Reason: Owner Hung Up	Source: Unspecified App Call Source file: EXTRACTION_FFS.zip/root/private/var/mobile/Library/CallHistoryDB/CallHistory.storedata : 0x38907 (Table: ZCALLRECORD; Size: 446464 bytes)	
10	From: +971552393552 Aziz Dubai Direction: Incoming	06-08-2024 17:24:05(UTC+0)	00:00:24	Answered		Video call: Disconnection Reason: Other Party Hung Up	Source: Unspecified App Call Source file: EXTRACTION_FFS.zip/root/private/var/mobile/Library/CallHistoryDB/CallHistory.storedata : 0x48D1D (Table: ZCALLRECORD; Size: 446464 bytes)	
11	From: +971552393552 Aziz Dubai Direction: Incoming	06-08-2024 16:52:49(UTC+0)	00:00:00	Missed		Video call:	Source: Unspecified App Call Source file: EXTRACTION_FFS.zip/root/private/var/mobile/Library/CallHistoryDB/CallHistory.storedata : 0x48E3F (Table: ZCALLRECORD; Size: 446464 bytes)	
12	To: +971552393552 Aziz Dubai Direction: Outgoing	06-08-2024 16:46:28(UTC+0)	00:00:00	Not answered		Video call:	Source: Unspecified App Call Source file: EXTRACTION_FFS.zip/root/private/var/mobile/Library/CallHistoryDB/CallHistory.storedata : 0x48F2F (Table: ZCALLRECORD; Size: 446464 bytes)	
13	To: +971552393552 Aziz Dubai Direction: Outgoing	06-08-2024 16:45:22(UTC+0)	00:00:00	Not answered		Video call:	Source: Unspecified App Call Source file: EXTRACTION_FFS.zip/root/private/var/mobile/Library/CallHistoryDB/CallHistory.storedata : 0x48FA9 (Table: ZCALLRECORD; Size: 446464 bytes)	

Image 24 – Image depicting screenshot of some of Call log of Shri Dilmeer (Mobile No. 9579079625) with Mobile No. +971552393552 (contact no. saved in Shri Dilmeer’s mobile phone as Aziz Dubai)

It is pertinent to mention that the above call log data of Shri Dilmeer indicates that Shri Aziz had contacted Shri Dilmeer on 11.08.2024 just

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before the arrival of the carriers/passengers viz. Shri Murtaza Ali Bhopalwala, Ms. Farida Bhopalwala and Ms. Fatema from Abu Dhabi.

b) Contact with Shri Murtaza Ali Bhopalwala (Mobile No. +918719925989):

It is evident from the Boarding passes recovered during the panchnama proceedings of dated. 11.8.2024, it can be observed that Shri Murtaza Ali Bhopalwala and his wife Ms Farida Bhopalwala were issued boarding pass at around 00.20 Hrs of 11.8.2024 and schedule departure of their flight was at 1.20 Hrs. of 11.8.2024. Image of the boarding pass are shown below:



Image 25 – Image depicting boarding passes in respect of Shri Murtaza Ali Bhopalwala and Ms. Farida Bhopalwala recovered during the panchnama proceedings on 11.8.2024

The call log details extracted from the mobile phone of Shri Dilmeer indicated that he had contacted Shri Murtaza Ali Bhopalwala on 11.08.2024 just before the departure of the said flight. It further confirms that Shri

Dilmeer was coordinating directly with Shri Murtaza Ali Bhopalwala, demonstrating his active role in managing the arrival of carriers of gold for smuggling. The screenshot of the call log details are being reproduced here in below:



<div><div></div><div>Extraction Report - Apple iPhone</div><div>Cellebrite www.cellebrite.com</div></div>								
Call Log (4)								
#	Parties	Timestamp	Duration	Status	Country code	Additional info	Source Info	Deleted
1	From: 919579079625@s.whatsapp.net sachin bhagwat To: 918719925989@s.whatsapp.net B Direction: Outgoing	11-08-2024 01:48:08(UTC+0)	00:00:00	Not answered		Video call:	Source: WhatsApp Account: 919579079625@s.whatsapp.net Source file: EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ChatStorage.sqlite : 0x532587 (Table: ZWAMESSAGE; Size: 5578752 bytes) EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ContactsV2.sqlite : 0x1C980 (Table: ZWAADDRESSBOOKCONTACT; Size: 118784 bytes) EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/Library/Preferences/group.net.whatsapp.WhatsApp.shared.plist : 0x3313 (Size: 96089 bytes)	
2	From: 919579079625@s.whatsapp.net sachin bhagwat To: 918719925989@s.whatsapp.net B Direction: Outgoing	11-08-2024 01:07:13(UTC+0)	00:00:00	Not answered		Video call:	Source: WhatsApp Account: 919579079625@s.whatsapp.net Source file: EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ChatStorage.sqlite : 0x532CD0 (Table: ZWAMESSAGE; Size: 5578752 bytes) EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ContactsV2.sqlite : 0x1C980 (Table: ZWAADDRESSBOOKCONTACT; Size: 118784 bytes) EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/Library/Preferences/group.net.whatsapp.WhatsApp.shared.plist : 0x3313 (Size: 96089 bytes)	
3	From: 919579079625@s.whatsapp.net sachin bhagwat To: 918719925989@s.whatsapp.net B Direction: Outgoing	11-08-2024 01:00:16(UTC+0)	00:00:00	Not answered		Video call:	Source: WhatsApp Account: 919579079625@s.whatsapp.net Source file: EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ChatStorage.sqlite : 0x532ED0 (Table: ZWAMESSAGE; Size: 5578752 bytes) EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ContactsV2.sqlite : 0x1C980 (Table: ZWAADDRESSBOOKCONTACT; Size: 118784 bytes) EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/Library/Preferences/group.net.whatsapp.WhatsApp.shared.plist : 0x3313 (Size: 96089 bytes)	
4	From: 919579079625@s.whatsapp.net sachin bhagwat To: 918719925989@s.whatsapp.net B Direction: Outgoing	11-08-2024 00:46:19(UTC+0)	00:00:07	Answered		Video call:	Source: WhatsApp Account: 919579079625@s.whatsapp.net Source file: EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ChatStorage.sqlite : 0x538EFF (Table: ZWAMESSAGE; Size: 5578752 bytes) EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ContactsV2.sqlite : 0x1C980 (Table: ZWAADDRESSBOOKCONTACT; Size: 118784 bytes) EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/Library/Preferences/group.net.whatsapp.WhatsApp.shared.plist : 0x3313 (Size: 96089 bytes)	

Image 26 - Image depicting Call log of Shri Dilmeer (Mobile No. 9579079625) with Mobile No. +918719925989 (mobile no. belongs to Shri Murtaza Ali Bhopalwala and said contact no. saved in Shri Dilmeer’s phone as B)

c) Contact with Ms. Fatema (Mobile No. +919893428600):

It is evident from the Boarding passes recovered during the panchnama proceedings of dated. 11.8.2024, it can be observed that Ms Fatema was issued boarding pass at around 22.55 Hrs of 10.8.2024 (Etihad Airways flight no. EY 284) and schedule departure of her flight was at 23.40 Hrs. of 10.8.2024. Image of the boarding pass is shown below:

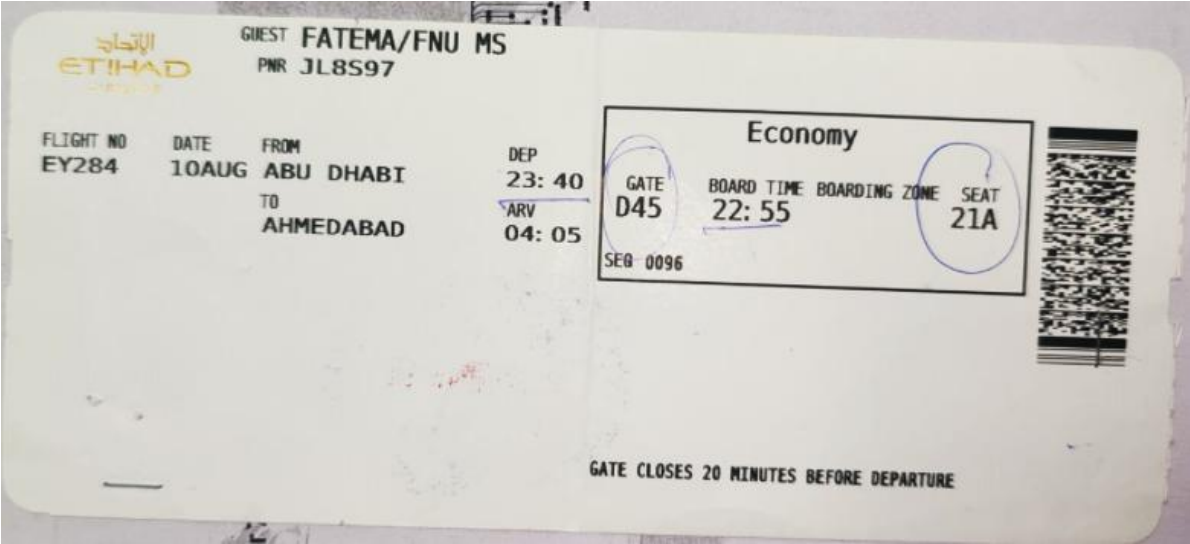


Image 27 – Image depicting boarding pass in respect of Ms. Fatema recovered during the panchnama proceedings on 11.8.2024

The call log details extracted from the mobile phone of Shri Dilmeer indicated that he made call to Ms Fatema at around 23.11.46 just before the departure of the flight. The screenshot of the call log details are being reproduced here in below:

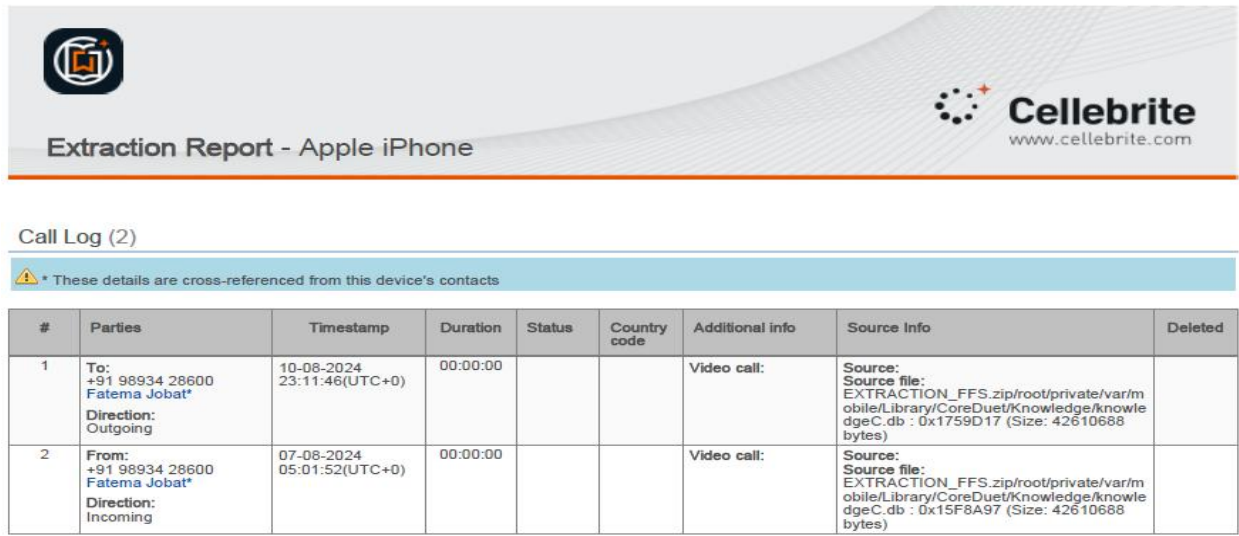




Image 28 - Image depicting Call log of Shri Dilmeer (Mobile No. 9579079625) with Mobile No. +918719925989 (contact no. saved in Shri Dilmeer’s phone as Fatema Jobat)

d) Contact with Ms. Nafisa Husain Burhanpurwala (Mobile No. +917987445349):

As discussed supra, investigation revealed that Nafisa Husain Burhanpurwala (impersonating herself as Ms. Nikita) was working alongwith Shri Dilmeer as a receiver of carrier/passengers who were carrying smuggled gold. Shri Dilmeer in his statement dated 12.08.2024 has deposed that he alongwith Ms. Nikita carried one passenger namely Ms. Fatema from SVPI airport to Hotel Kanchan and around 4.30 am; the other two passengers were expected to arrive and come out of SVPI airport by 6.45 to 7.00 am that day morning, however, they did not came out of the airport. The call log details of Shri Dilmeer indicated that he was in continuous touch with Ms. Nafisa over phone on 11.08.2024. Some of the screenshots of the call log details are being reproduced hereinbelow:



Extraction Report - Apple iPhone



Cellebrite
www.cellebrite.com

Call Log (566)

* These details are cross-referenced from this device's contacts

#	Parties	Timestamp	Duration	Status	Country code	Additional Info	Source Info	Deleted
1	To: +917987445349 Gaurav Wife Whstp No* Direction: Outgoing	11-08-2024 04:34:51(UTC+0)	00:00:00	Not answered		Video call:	Source: WhatsApp Account: 919579079625@s.whatsapp.net Source file: EXTRACTION_FFS.zip/root/private/var/mobile/Library/CallHistoryDB/CallHistory.storedata-wal : 0x112D9F (Table: ZCALLRECORD; Size: 1915832 bytes)	
2	To: +917987445349 Gaurav Wife Whstp No* Direction: Outgoing	11-08-2024 04:34:51(UTC+0)	00:00:00			Video call:	Source: WhatsApp Account: 919579079625@s.whatsapp.net Source file: EXTRACTION_FFS.zip/root/private/var/mobile/Library/CallHistoryDB/CallHistory.storedata-wal : 0x112D9F (Table: ZCALLRECORD; Size: 1915832 bytes)	
3	From: 919579079625@s.whatsapp.net sachin bhagwat To: +917987445349@s.whatsapp.net Gaurav Wife Whstp No Direction: Outgoing	11-08-2024 04:34:50(UTC+0)	00:00:00	Not answered		Video call:	Source: WhatsApp Account: 919579079625@s.whatsapp.net Source file: EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/Library/Preferences/group.net.whatsapp.WhatsApp.shared.plist : 0x53B4E3 (Table: ZWAMESSAGE; Size: 5578752 bytes) EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/Library/Preferences/group.net.whatsapp.WhatsApp.shared.plist : 0x16A44 (Table: ZWAADDRESSBOOKCONTACT; Size: 118764 bytes) EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/Library/Preferences/group.net.whatsapp.WhatsApp.shared.plist : 0x3313 (Size: 96089 bytes)	
4	To: +917987445349 Gaurav Wife Whstp No* Direction: Outgoing	11-08-2024 04:33:02(UTC+0)	00:01:40	Unknown		Video call:	Source: WhatsApp Account: 919579079625@s.whatsapp.net Source file: EXTRACTION_FFS.zip/root/private/var/mobile/Library/CallHistoryDB/CallHistory.storedata-wal : 0x112E1E (Table: ZCALLRECORD; Size: 1915832 bytes)	
5	To: +917987445349 Gaurav Wife Whstp No* Direction: Outgoing	11-08-2024 04:32:59(UTC+0)	00:00:00			Video call:	Source: WhatsApp Account: 919579079625@s.whatsapp.net Source file: EXTRACTION_FFS.zip/root/private/var/mobile/Library/CallHistoryDB/CallHistory.storedata-wal : 0x204AD17 (Size: 42610688 bytes)	
6	From: 919579079625@s.whatsapp.net sachin bhagwat To: +917987445349@s.whatsapp.net Gaurav Wife Whstp No Direction: Outgoing	11-08-2024 04:32:59(UTC+0)	00:01:40	Answered		Video call:	Source: WhatsApp Account: 919579079625@s.whatsapp.net Source file: EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/Library/Preferences/group.net.whatsapp.WhatsApp.shared.plist : 0x53B593 (Table: ZWAMESSAGE; Size: 5578752 bytes) EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/Library/Preferences/group.net.whatsapp.WhatsApp.shared.plist : 0x16A44 (Table: ZWAADDRESSBOOKCONTACT; Size: 118764 bytes) EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/Library/Preferences/group.net.whatsapp.WhatsApp.shared.plist : 0x3313 (Size: 96089 bytes)	
7	From: +917987445349 Gaurav Wife Whstp No Direction: Incoming	11-08-2024 04:31:20(UTC+0)	00:00:00	Missed		Video call:	Source: WhatsApp Account: 919579079625@s.whatsapp.net Source file: EXTRACTION_FFS.zip/root/private/var/mobile/Library/CallHistoryDB/CallHistory.storedata-wal : 0x112E1E (Table: ZCALLRECORD; Size: 1915832 bytes)	

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8	From: +917987445349 Gaurav Wife Whstp No* Direction: Incoming	11-08-2024 04:31:20(UTC+0)	00:00:00			Video call:	Source: Source file: EXTRACTION_FFS.zip/root/private/var/m obile/Library/C�reDuet/Knowledge/knowle dgeC.db : 0x1E44D37 (Size: 42610688 bytes)	
9	From: 917987445349@s.whats app.net Gaurav Wife Whstp No To: Direction: Incoming	11-08-2024 04:30:44(UTC+0)	00:00:00	Missed		Video call:	Source: WhatsApp Account: 919579079625@s.whatsapp.net Source file: EXTRACTION_FFS.zip/root/private/var/m obile/Containers/Shared/AppGroup/96083 155-5C62-4B14-AD12- D013B2F68F1B/ChatStorage.sqlite : 0x53B29E (Table: ZWAMESSAGE; Size: 5578752 bytes) EXTRACTION_FFS.zip/root/private/var/m obile/Containers/Shared/AppGroup/96083 155-5C62-4B14-AD12- D013B2F68F1B/ContactsV2.sqlite : 0x16A44 (Table: ZWAADDRESSBOOKCONTACT; Size: 118784 bytes)	
10	From: +917987445349 Gaurav Wife Whstp No Direction: Incoming	11-08-2024 04:29:14(UTC+0)	00:00:00	Rejected		Video call:	Source: WhatsApp Source file: EXTRACTION_FFS.zip/root/private/var/m obile/Library/CallHistoryDB/CallHistory.sto redata-wal : 0x112F39 (Table: ZCALLRECORD; Size: 1915832 bytes)	
11	From: 917987445349@s.whats app.net Gaurav Wife Whstp No To: Direction: Incoming	11-08-2024 04:28:45(UTC+0)	00:00:00	Rejected		Video call:	Source: WhatsApp Account: 919579079625@s.whatsapp.net Source file: EXTRACTION_FFS.zip/root/private/var/m obile/Containers/Shared/AppGroup/96083 155-5C62-4B14-AD12- D013B2F68F1B/ChatStorage.sqlite : 0x53B644 (Table: ZWAMESSAGE; Size: 5578752 bytes) EXTRACTION_FFS.zip/root/private/var/m obile/Containers/Shared/AppGroup/96083 155-5C62-4B14-AD12- D013B2F68F1B/ContactsV2.sqlite : 0x16A44 (Table: ZWAADDRESSBOOKCONTACT; Size: 118784 bytes)	
12	To: +917987445349 Gaurav Wife Whstp No* Direction: Outgoing	11-08-2024 04:28:30(UTC+0)	00:00:00	Not answered		Video call:	Source: WhatsApp Source file: EXTRACTION_FFS.zip/root/private/var/m obile/Library/CallHistoryDB/CallHistory.sto redata-wal : 0x112FCB (Table: ZCALLRECORD; Size: 1915832 bytes)	
13	To: +917987445349 Gaurav Wife Whstp No* Direction: Outgoing	11-08-2024 04:28:29(UTC+0)	00:00:00			Video call:	Source: Source file: EXTRACTION_FFS.zip/root/private/var/m obile/Library/C�reDuet/Knowledge/knowle dgeC.db : 0x2039BDC (Size: 42610688 bytes)	
14	From: 919579079625@s.whats app.net sachin bhagwat To: 917987445349@s.whats app.net Gaurav Wife Whstp No Direction: Outgoing	11-08-2024 04:28:29(UTC+0)	00:00:00	Not answered		Video call:	Source: WhatsApp Account: 919579079625@s.whatsapp.net Source file: EXTRACTION_FFS.zip/root/private/var/m obile/Containers/Shared/AppGroup/96083 155-5C62-4B14-AD12- D013B2F68F1B/ChatStorage.sqlite : 0x53B6D0 (Table: ZWAMESSAGE; Size: 5578752 bytes) EXTRACTION_FFS.zip/root/private/var/m obile/Containers/Shared/AppGroup/96083 155-5C62-4B14-AD12- D013B2F68F1B/ContactsV2.sqlite : 0x16A44 (Table: ZWAADDRESSBOOKCONTACT; Size: 118784 bytes) EXTRACTION_FFS.zip/root/private/var/m obile/Containers/Shared/AppGroup/96083 155-5C62-4B14-AD12- D013B2F68F1B/Library/Preferences/grou p.net.whatsapp.WhatsApp.shared.plist : 0x3313 (Size: 96089 bytes)	
15	From: +917987445349 Gaurav Wife Whstp No* Direction: Incoming	11-08-2024 04:09:06(UTC+0)	00:00:00			Video call:	Source: Source file: EXTRACTION_FFS.zip/root/private/var/m obile/Library/C�reDuet/Knowledge/knowle dgeC.db : 0x1004D37 (Size: 42610688 bytes)	
16	From: +917987445349 Gaurav Wife Whstp No Direction: Incoming	11-08-2024 04:09:06(UTC+0)	00:00:00	Missed		Video call:	Source: WhatsApp Source file: EXTRACTION_FFS.zip/root/private/var/m obile/Library/CallHistoryDB/CallHistory.sto redata-wal : 0x1130E1 (Table: ZCALLRECORD; Size: 1915832 bytes)	

Image 29 - Image depicting Call log of Shri Dilmeer (Mobile No. 9579079625) with Mobile No. +917987445349 belonging to Ms. Nafisa Husain Burhanpurwala (contact no. saved in Shri Dilmeer’s phone as Gaurav Wife Whstp No) on 11.08.2024

e) **Contact with Shri Gauravkumar Himatlal Parihar (Mobile No. +919714656786)**

Investigation revealed that Shri Gaurav Himatlal Parihar is involved in the gold smuggling syndicate. The Call log data analysis of Shri Dilmeer with Mobile No. 919714656786 (pertains to Shri Gauravkumar Parihar and contact no saved in mobile phone of Shri Dilmeer as ‘Gaurav Bhai’), it is found that Shri Gaurav Himatlal Parihar was in continuous contact with Shri Dilmeer and he had contacted Shri Dilmeer on 11.08.2024 just before the arrivals of the carriers/passengers which reinforced his active role in the smuggling syndicate. Screenshot of the call log details is being reproduced hereinbelow:

Call Log (62)

 * These details are cross-referenced from this device's contacts

#	Parties	Timestamp	Duration	Status	Country code	Additional Info	Source Info	Deleted
1	From: +919714656786 Gaurav Bhai* Direction: Incoming	11-08-2024 14:09:57(UTC+0)	00:00:00	Missed	In	Network Name: Unknown network (India)* Video call:	Source: EXTRACTION_FFS.zip/root/private/var/mobile/Library/CallHistoryDB/CallHistory.storedata-wal : 0x1D386D (Table: ZCALLRECORD; Size: 1915832 bytes)	
2	From: +919714656786 Gaurav Bhai Direction: Incoming	11-08-2024 14:09:26(UTC+0)	00:00:30			Video call:	Source: EXTRACTION_FFS.zip/root/private/var/mobile/Library/CoreDuet/Knowledge/knowledgeC.db : 0xC7ECFD (Size: 42610688 bytes)	
3	From: +919714656786 Gaurav Bhai* Direction: Incoming	11-08-2024 13:54:58(UTC+0)	00:00:00	Missed	In	Network Name: Unknown network (India)* Video call:	Source: EXTRACTION_FFS.zip/root/private/var/mobile/Library/CallHistoryDB/CallHistory.storedata-wal : 0x1D3989 (Table: ZCALLRECORD; Size: 1915832 bytes)	
4	From: +919714656786 Gaurav Bhai Direction: Incoming	11-08-2024 13:54:28(UTC+0)	00:00:30			Video call:	Source: EXTRACTION_FFS.zip/root/private/var/mobile/Library/CoreDuet/Knowledge/knowledgeC.db : 0x3A9A65 (Size: 42610688 bytes)	
5	From: +919714656786 Gaurav Bhai* Direction: Incoming	06-08-2024 02:33:40(UTC+0)	00:00:00			Video call:	Source: EXTRACTION_FFS.zip/root/private/var/mobile/Library/CoreDuet/Knowledge/knowledgeC.db : 0x333D37 (Size: 42610688 bytes)	
6	From: +919714656786 Gaurav Bhai* Direction: Incoming	04-08-2024 19:00:09(UTC+0)	00:00:00			Video call:	Source: EXTRACTION_FFS.zip/root/private/var/mobile/Library/CoreDuet/Knowledge/knowledgeC.db : 0x1C51D37 (Size: 42610688 bytes)	
7	From: +919714656786 Gaurav Bhai* Direction: Incoming	04-08-2024 16:27:27(UTC+0)	00:00:34	Answered	In	Network Name: Unknown network (India)* Video call; Disconnection Reason: Owner Hung Up	Source: EXTRACTION_FFS.zip/root/private/var/mobile/Library/CallHistoryDB/CallHistory.storedata : 0x36A1B (Table: ZCALLRECORD; Size: 446464 bytes)	
8	From: +919714656786 Gaurav Bhai Direction: Incoming	04-08-2024 16:27:19(UTC+0)	00:00:41			Video call:	Source: EXTRACTION_FFS.zip/root/private/var/mobile/Library/CoreDuet/Knowledge/knowledgeC.db-wal : 0x2410FD (Size: 2886152 bytes)	
9	From: +919714656786 Gaurav Bhai* Direction: Incoming	04-08-2024 16:01:44(UTC+0)	00:00:00			Video call:	Source: EXTRACTION_FFS.zip/root/private/var/mobile/Library/CoreDuet/Knowledge/knowledgeC.db : 0x843BE7 (Size: 42610688 bytes)	
10	To: +919714656786 Gaurav Bhai* Direction: Outgoing	04-08-2024 08:03:10(UTC+0)	00:00:00			Video call:	Source: EXTRACTION_FFS.zip/root/private/var/mobile/Library/CoreDuet/Knowledge/knowledgeC.db : 0xF53D17 (Size: 42610688 bytes)	
11	To: +919714656786 Gaurav Bhai* Direction: Outgoing	04-08-2024 05:05:08(UTC+0)	00:00:00	Not answered	In	Network Name: Unknown network (India)* Video call:	Source: EXTRACTION_FFS.zip/root/private/var/mobile/Library/CallHistoryDB/CallHistory.storedata : 0x2D730 (Table: ZCALLRECORD; Size: 446464 bytes)	
12	To: +919714656786 Gaurav Bhai Direction: Outgoing	04-08-2024 05:03:43(UTC+0)	00:01:25			Video call:	Source: EXTRACTION_FFS.zip/root/private/var/mobile/Library/CoreDuet/Knowledge/knowledgeC.db : 0xCCEA4F (Size: 42610688 bytes)	

Image 30 - Image depicting Call log of Shri Dilmeer (Mobile No. 9579079625) with Mobile No. +919714656786 belonging to Shri Gauravkumar Himatlal Parihar (contact no. saved in Shri Dilmeer's phone as Gaurav Bhai) on 11.08.2024

6.7 Statement of Ms. Fatema dated 16.12.2024 recorded under Section 108 of the Customs Act, 1962

For revelation of the further details in relation to the various details/chats, extracted from the phone of Ms. Fatema, her further statement was recorded under Section 108 of the Customs Act, 1962 dated 16.12.2024, wherein she *interalia* stated that:

- On being shown the excerpts of the chat between her and Aziz Bhai 2 (Mobile No. 971542637009), she stated that she didn't know full name and address of Shri Aziz Bhai; she got mobile number of Aziz Bhai from one lady of their social group at a local Masjid in Al Nada (Sarjah); she remained in touch with Aziz Bhai telephonically only; she further stated that when she came to know that Aziz Bhai used to give money on gold smuggling from Sarjah to India, she contacted to Aziz Bhai as she was in need of money due to some family issues; Shri Aziz Bhai had handover her the gold in paste form in 3 capsules to smuggle the same into India and also sent her the tickets for her journey from Abu Dhabi to Ahmedabad;
- On being shown the excerpts of the chat between her and Sachin Bhayya Dibr (Mobile No. 919579079625), she stated that real name of Shri Sachin was Dilmeer Alim Saiyed Pirjade and she knew him for 3-4 months; Shri Aziz had instructed her to handover the smuggled 3 gold capsules to the person who would come at the Ahmedabad Airport; she further stated that Shri Dilmeer Alim Saiyed Pirjade had come at Ahmedabad Airport on 11.08.2024 on her arrival from Abu Dhabi and brought her to Hotel Kanchan Palace where she had handed over the smuggled 3 gold capsules to him;
- On being shown the excerpts of the chat between her and Mustafa (Mustu Bhai) (Mobile No. 919617899952), she stated that she was working as a cook in Mustafa's house which he run as a Paying Guest; he said that he was working on some hardware shop in Deira, Dubai,

Sarjah, as they both were residing at same place, they used to talk with one another on phone and the same was reflecting in the chat.

6.8 Statement of Shri Dilmeer Alim Sayyed Pirjade dated 20.12.2024 recorded under Section 108 of the Customs Act, 1962:

For revelation of the further details in relation to the various details/chats, extracted from the phone of Shri Dilmeer Alim Sayyed Pirjade, his further statement was recorded on 20.12.2024 under Section 108 of the Customs Act, 1962, wherein he *interalia* stated that:

- he had booked a room in hotel Kanchan Palace for stay for 3-4 days from 09.08.2024 and for which he had impersonated himself as Shri Gauravkumar Parihar and given forged Aadhar Card of Shri Gauravkumar Parihar having his picture/photo on the same which was sent to him by Aziz Bhai and Ms. Nikita was staying with him in the hotel room; he didn't have the physical/hard copy of the said forged aadhar card as he used to give soft copy of the aadhar for hotel booking;
- 9579079625 is his mobile number, however, he had saved the said mobile number in his mobile i.e. Apple iphone as Sachin Bhagwat as Aziz bhai had instructed him to save his number as a fake/code name "Sachin Bhagwat" for that smuggling racket;
- On being shown chat between him and Gaurav Bhai (Mobile No. 919714656786), he stated that he didn't know him; Mobile No. 919714656786 was sent to him by Aziz Bhai and he was instructed to save the said mobile number in his phone as "Gaurav Bhai" and on the instruction of Aziz Bhai, he used to call him;
- On the instruction of Aziz bhai, he used to call Shri Gaurav Bhai and he didn't know whether Shri Gaurav Bhai was involved in the syndicate or not;
- On being shown printouts of the picture sent to him by Gaurav Bhai through whatsapp chat and a picture retrieved from his phone, he stated that both the pictures were of Nafisa Husain Burhanpurwala and he didn't know her whereabouts; she used to stay with him at hotel in Ahmedabad to receive passengers/carriers from Ahmedabad Airport;

- that at that time, he didn't know that the real name of Nikita was Nafisa but on being shown the pictures, he stated that both the pictures were of same person and that was Nafisa Husain Burhanpurwala;
- On being shown chat between him and Fatema Jobat (Mobile No. 919893428600), he stated that on the instruction of Aziz Bhai, he went to Ahmedabad Airport to receive Fatema on 11.08.2024 and received her and they came to Hotel Kanchan Palace where she handed over him the 3 capsules having smuggled gold in paste form. he further stated that he had also received Fatema from Ahmedabad Airport earlier once in February-24 or March-24 and she were carrying 02 capsules of smuggled gold in paste; she didn't remember the exact date; she also used to send him details of new passengers who were willing to go to Dubai for smuggling to gold into India for monetary benefits; the passengers/carriers who were going from India to Dubai for smuggling of gold were used to stay at one place and Ms. Fatema was working as a cook at that place;
- On being shown chat between him and Gaurav Wife Whstp No (Mobile No. 917987445349), he stated that that chat was between him and Ms. Nafisa whose number he had saved in his mobile phone as 'Gaurav Wife Whstp No'; Nafisa was used to receive carriers/passengers with him from Ahmedabad Airport on the instructions of Aziz Bhai; he used to send him the details of their day to day expenses such as Hotel Expenses, Travel Expenses, Food Expenses, Petrol/Diesel expenses, amount given to the carriers for their commission as per the direction of Aziz Bhai etc. and he further used to send such details to Aziz Bhai;
- that on the instruction of the Aziz Bhai, he used to handover the smuggled gold the person on the location as given by Aziz Bhai and the receiver used to give him amount in cash for expenses borne by him including the commission of the carriers/passengers;
- as he stated earlier, on delivery of the gold to the person on the instruction of the Aziz Bhai, the person used to give him cash; he never saw him in person; one person used to come at different locations on bike and wearing helmet to receive the smuggled gold; Aziz bhai used to tell him that he had sent message to Chikubhai and he would get the money and the person whom he used to handed over the smuggled gold used to give him amount in cash; as Ms. Nafisa and he used to stay in

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Hotel together, she used to send him the daily expenses including commission given to the passengers, she used to enter the cash received from the person to whom gold was handed over as 'Advance received from Chikubhai';

- he didn't know any Mustafa Bhai and he never met him;
- On being shown one entry shown as 07/06/2024, 1 pex Fatemaben :- 45700, in the Chat between him and Gaurav Wife Whstp No (Mobile No. 917987445349), he stated that the said entry pertained to the amount Rs. 45700/- given to Fatema as her commission for carrying smuggled gold; that was the same Fatema whom he received on 11.08.2024 from Ahmedabad Airport and she was carrying 3 capsules having smuggled gold in paste form which was later on seized by the DRI officers;
- On being shown chat between him and Babu Bhai Dubai (Mobile No. 971542637009), he stated that he didn't know the person and never met him; the mobile number 971542637009 was sent to him by Aziz Bhai and he had instructed him to save the said number as 'Babu Bhai'; Babu bhai used to contact him to know the status of the arrival of the carriers/passengers through whatsapp; on the day of arrival of Ms. Fatema, Murtaza Ali Bhopalwala and Ms. Farida, the carriers/passengers who were carrying capsules having smuggled gold in paste form, at the Ahmedabad Airport, he was in contact with him over phone.
- On being shown chat between him and B (Mobile No. 918719925989), he stated that the said chat was with him and Murtaza Ali Bhopalwala whom he had to receive at Ahmedabad Airport on 11.08.2024 alongwith his wife Farida Bhopalwala and Ms. Fatema; he alongwith Nafisa (impersonated as Ms. Nikita) went to Ahmedabad airport on that day and they carried one passenger Ms. Fatema from Ahmedabad airport to Hotel Kanchan palace, but Murtaza Ali Bhopalwala and his wife Ms. Farida Bhopalwala didn't came out of the airport; he want to know their status so he wanted to make contact with Murtaza Ali Bhopalwala through whatsapp.
- that he went to Dubai approx. 1.5 years ago where he meet Aziz bhai (age approx. 45 Yrs) at Metro station, Bud Dubai as they both were Indian and just had a talk regarding native place in India and business, purpose of his visit to Dubai for looking for job and he requested Aziz

bhai to call him if he had any job offer; then in February, 2024 Aziz bhai contacted him via whatsapp call and told him to come to Mumbai and meet him as he has a job opportunity for him; then he met Aziz bhai in February, 2024 (he didn't remember the exact date) in Mumbai near Craft market where Aziz bhai told him that he had a job opportunity for him in which he would have to work as a receiver of carriers of smuggled gold at Ahmedabad airport and to took the smuggled gold from the passenger and in return Aziz bhai would give him 2000/- per passenger; after receiving the goods he would have to hand over the good to the person on his instructions; he accepted his offer; in around April or May (he didn't remember the exact date) he received call from Aziz Bhai and he gave him first task and instructed him to reach Ahmedabad Airport to receive a carrier passenger and sent him the picture of the carrier passenger; he identified the passenger and the passenger gave him the smuggled gold capsule and after that on further instructions from Aziz Bhai he handed over the gold near riverfront to a person; he had to submit his expenditure to Aziz bhai through whatsapp message; then, Aziz bhai used to call him for assignment for receiving the carriers/passengers and on his direction he used to receive the smuggled gold from the carriers/passenger and further handed over the smuggled gold to the person on his direction and he used to receive his expenditure plus his commission; Aziz bhai met him only twice i.e. once in Dubai and thereafter in Mumbai, he hadn't met him after that; he didn't know his full/real name and his whereabouts, his mobile no. is 971552393552, he used to have conversation with Aziz Bhai on whatsapp but Aziz bhai used to delete chat after each and every conversation and he had also instructed him to delete chat with him and on his instruction, he used to delete chat with him.

7. Relevant Legal Provisions:

7.1 According to the Customs Baggage Declaration (Amendment) Regulations, 2016 issued vide Notification 31/2016 (NT) dated 01.03.2016, all passengers who come to India and have anything to declare or are carrying dutiable or prohibited goods shall declare their accompanied baggage under Section 77 of the Customs Act, 1962.

7.2 All the dutiable articles imported into India by a passenger in his baggage are classified under CTH 9803. As per Section 77 of the Customs Act, 1962, the owner of any baggage shall for the purpose of clearing it,

make a declaration of its contents to the proper officer. As per Section 11(1) of the Foreign Trade (Development and Regulation) Act,1992, no export or import shall be made by any person except in accordance with the provisions of Foreign Trade (Development and Regulation) Act, 1992, the Rules and Orders made there under and the Foreign Trade Policy for the time being in force.

7.3 In terms. of Para 2.27 (a) of the Foreign Trade Policy 2023, only bona fide household goods and personal effects are allowed to be imported as part of passenger baggage as per limits, terms and conditions thereof in Baggage Rules notified by the Ministry of Finance. The gold can be imported by the banks (authorized by RBI) and the agencies nominated for the said purpose under Para 4.40 of Chapter-4 of Foreign Trade Policy or by “Eligible Passenger” as per the provision of Notification No. 50/2017- Customs dated 30.06.2017 (Sr. No. 356). As per Notification No. 50/2017- Customs dated 30.06.2017, the ‘eligible passenger’ means passenger of Indian origin or a passenger holding valid passport issued under the Passport Act, 1967 who is coming to India after a period of not less than 6 months of stay abroad.

The above said legal provisions are reproduced below:

Para 2.27 (a) of the Foreign Trade Policy 2023:

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 the Ministry of Finance.

Para 4.40 of the Foreign Trade Policy 2023:

- (i) Exporters may obtain gold / silver / platinum from Nominated Agency. Exporter in EOU and units in SEZ would be governed by the respective provisions of Chapter-6 of FTP / SEZ Rules, respectively.
- (ii) Nominated Agencies are The Handicraft and Handlooms Exports Corporation of India Ltd, MSTC Ltd., and Diamond India Limited.
- (iii) Reserve Bank of India can authorize any bank as Nominated Agency.
- (iv) Procedure for import of precious metal by Nominated Agencies shall be as per the provisions laid down in HBP. The procedure for import of precious metals by the Gems & Jewellery units operating under EOU & SEZ schemes will be as per the applicable schemes.

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(v) The monitoring mechanism for the Nominated Agencies (other than banks authorised by RBI) shall be as per para 4.93 of HBP.

(vi) A bank authorised by Reserve Bank of India is allowed export of gold scrap for refining and import standard gold bars as per Reserve Bank of India guidelines.

7.4 CBIC Customs Notification No. 50/2017 dated 30.06.2017 where the condition regarding import of gold by passenger in the following manner:

If,

1. (a) the duty is paid in convertible foreign currency;
- (b) the quantity of import does not exceed ten kilograms of gold and one hundred kilograms of silver per eligible passenger; and
2. the gold or silver is,-
 - (a) carried by the eligible passenger at the time of his arrival in India, or
 - (b) the total quantity of gold under items. (i) and (ii) of Sr. No. 356 does not exceed one kilogram and the quantity of silver under Sr. No. 357 does not exceed ten kilograms per eligible passenger; and
 - (c) is taken delivery of from a Customs bonded warehouse of the State Bank of India or the Minerals and Metals Trading Corporation Ltd., subject to the conditions 1 ;

Provided that such eligible passenger files a declaration in the prescribed form before the proper officer of Customs at the time of his arrival in India declaring his intention to take delivery of the gold or silver from such a Customs bonded warehouse and pays the duty leviable thereon before his clearance from Customs.

Explanation.- For the purposes of this notification, "eligible passenger" means a passenger of Indian origin or a passenger holding a valid passport, issued under the Passports Act, 1967 (15 of 1967), who is coming to India after a period of not less than six months of stay abroad; and short visits, if any, made by the eligible passenger during the aforesaid period of six months shall be ignored if the total duration of stay on such visits does not exceed thirty days and such passenger has not availed of the exemption under this notification or under the notification being superseded at any time of such short visits.

Baggage Rule, 2016 –

7.5 As per Rule 5 of the Baggage Rules, 2016, “a passenger residing abroad for more than one year, on return to India, shall be allowed clearance free of duty in his bona fide baggage of jewelry up to a weight, of twenty Grams with a value cap of fifty thousand rupees if brought by a gentleman passenger, or forty Grams with a value cap of one lakh rupees, if brought by a lady passenger”.

7.6 A combined reading of the above-mentioned legal provisions under Foreign Trade Regulations, the Customs Act, 1962 and the notifications issued therein - clearly indicate that import of gold including gold jewellery through Baggage is Restricted and conditions have been imposed on the said imports by a passenger such as he/she should be of Indian origin or an Indian passport holder with minimum six months stay abroad etc. Only passengers who satisfy those mandatory conditions can import gold as a part of their bona fide personal baggage and the same has to be declared to the Customs at the time of their arrival and applicable duty paid. These conditions are nothing but restrictions imposed on the import of gold through passenger baggage. Further, from the foregoing legal provisions of Foreign Trade Policy, 2023 read with Reserve Bank of India circulars issued under Foreign Exchange Management Act (FEMA), Notifications issued by the Government of India and Circular issued by CBIC, it is evident that no one can import gold in any other manner as not explicitly stated/permitted above. The impugned gold bars of 999/24K purity extracted from the semi-solid substance in paste form concealed in their body (rectum) of the above 3 passengers smuggled into India in the instant case are not covered by any of the above circulars/notifications.

7.7 Further, as per Section 2(33) of the Customs Act, 1962, ‘prohibited goods’ means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with, implying that any goods imported in violation of the conditions subject to which the goods are permitted to be imported are nothing but prohibited goods. Hence, the smuggling of gold in the paste/semi-solid form in capsules, in contravention of the Foreign Trade Policy 2023 read with the relevant notification issued under the Customs Act, 1962, shall have to be treated as prohibited, by virtue of not being in

conformity with the conditions imposed in the said Regulations. It is pertinent to note that any prohibition applies to every type of prohibition which may be complete or partial and even a restriction on import or export is to an extent a prohibition. Hence the restrictions imposed on the said imports are to an extent a prohibition and any violation of the said conditions/restrictions would make the impugned goods liable for confiscation under Section 111 of Customs Act, 1962.

7.8 Therefore, it appears that import of gold in contravention of the Foreign Trade Policy 2023 read with the Customs Act, 1962 and RBI circulars, as well as the Rules and regulations mentioned supra, shall have to be treated as prohibited, by virtue of not being in conformity with the conditions imposed in said Regulations.

Section 2(33) of the Customs Act, 1962 - "Prohibited Goods" means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force 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(39) of the Customs Act, 1962 - "Smuggling", in relation to any goods, means any act or omission which will render such goods liable to confiscation under section 111 or section 113.

7.9 Further, in terms of provisions under Section 123 of the Customs Act, 1962, it is the responsibility of the person who is in possession of the said gold / silver or the person claiming ownership of the same, to prove that the same were not smuggled gold. Relevant provisions of Section 123 of the Customs Act, 1962 are as under:

Section 123: Burden of proof in certain cases. –

- (1) Where any goods to which this section applies are seized under this act in the reasonable belief that they are smuggled goods, the burden of proving that they are not smuggled goods shall be –
 - (a) In a case where such seizure is made from the possession of any person, –
 - (i) on the person from whose possession the goods were seized; and

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- (ii) if any person, other than the person from whose possession the goods were seized, claims to be the owner thereof, also on such other person.
- (b) In any other case, on the person, if any, who claims to be the owner of the goods so seized.
- (2) This section shall apply to gold and manufactures thereof, watches, and any other class of goods which the Central Government may by notification in the Official Gazette specify.

7.10 Further, Section 111 of the Customs Act, 1962 provides for the confiscation of the goods which are imported improperly.

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;

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

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

7.11 Further, Section 112 of the Customs Act, 1962 provides the penalty on the persons for the improper import of the goods.

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 other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111,

7.12 Section 117. Penalties for contravention, etc., not expressly mentioned.

Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding 1[four lakh rupees].

7.13 Section 119: Confiscation of goods used for concealing smuggled goods:

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

8. Summary of investigation:

- Shri Aziz@AbuDhabi offered Shri Dilmeer a job of carrying/receiving passengers at the SVPI airport; collect the smuggled gold/gold paste from the passengers and then to handover/deliver to the Aziz's person for which he would get commission per passenger. Shri Dilmeer agreed to the said offer made by Shri Aziz to act as a receiver in lieu of the monetary benefit. Shri Aziz further informed about his devised plan/about the steps to be followed by Shri Dilmeer and Nafisa to execute the conspiracy of gold smuggling.
- As per their devised plan, Shri Aziz had handed over gold in paste to Shri Murtaza Ali Bhopalwala, Ms. Farida Bhopalwala and Ms. Fatema with an intention to smuggle the same into India.
- Shri Dilmeer was given task to receive above said three carriers/passengers arriving at SVPI Airport on 11.08.2024 morning, who were carrying gold in paste form concealed in their body (rectum).

Shri Dilmeer made a contact with the above carriers just before their departure from Abu Dhabi. On 11.08.2024, Shri Dilmeer alongwith Ms. Nafisa Husain Burhanpurwala had carried Ms. Fatema from SVPI airport to Hotel Kanchan Palace at around 04.30 AM and the other two passengers were expected to arrive and come out of SVPI airport by 06.45 to 7.00 AM, however, they did not come out of the airport. Upon reaching at the hotel, Ms. Fatema removed 3 gold capsules containing gold in paste form and put them in her bag on the direction of Shri Dilmeer. On the arrival of Shri Murtaza Ali Bhopalwala alongwith his wife Ms. Farida Bhopalwala, they both were intercepted by the officers of DRI and Customs while they both attempted to exit through green channel and further 695.68 and 694.76 Grams respectively of gold in semi-solid substance in paste form were recovered from their body (rectum concealment) and subsequently upon extraction 620.03 and 612.64 Grams of Pure gold with purity 999.0/24 KT was recovered and the same was seized by the officers.

- Further search was carried out at the premises of Hotel Kanchan Palace. During the said search, Shri Dilmeer and Ms. Fatema were found in the hotel and further 3 capsules containing gold in paste form were recovered by the officers from the hand bag of Ms. Fatema. Subsequently, total 2 gold bars of 24Kt. with purity 999.0 having total weight of 861.480 Grams and having total market value of Rs. 61,90,595/- were retrieved from the aforesaid 960.31 Grams of Gold in Paste form and the same was seized by the officers.
- Shri Murtaza Ali Bhopalwala, Ms. Farida Bhopalwala, Shri Dilmeer Alim Sayyed Pirjade and Ms. Fatema were arrested on 12.08.2024 in terms of the provisions of Section 104 of the Customs Act, 1962.
- It further appears that for their current visit Shri Murtaza Ali Bhopalwala, Ms. Farida Bhopalwala had left India on dated 26.07.2024 and returned on 11.8.2024. Further Ms Fatema had left India on dated 12.06.2024 and returned on 11.8.2024.
- It further appears that Shri Aziz@AbuDhabi was orchestrating the entire gold smuggling syndicate. Shri Dilmeer had impersonated himself as Gauravkumar Parihar for hotel booking to facilitate the carriers/passengers. Shri Gauravkumar Parihar, himself, has

provided his aadhar card to Shri Dilmeer which was further used by Shri Dilmeer to evade his real identity. Ms. Nafisa Husain Burhanpurwala appears to have used a fake identity of Ms. Nikita Gauravkumar Parihar (who also appears to be wife of Shri Gauravkumar Parihar); was staying with Shri Dilmeer and working as a receiver of the carriers from airport. Shri Dilmeer and Ms. Nafisa both received Ms. Fatema from the SVPI airport.

- It further appears from the call logs/call data/ whatsapp chats, Shri Dilmeer was in contact with Shri Murtaza Ali Bhopalwala, Ms. Farida Bhopalwala, and Ms. Fatema, prior to their departure for SVPI Airport, Ahmedabad.

9. Contraventions and Charges:

9.1 From the investigation conducted so far, it evidently appears that said act of smuggling of gold had been undertaken by a syndicate consisting of Shri Aziz@Abu Dhabi, Shri Dilmeer Alim Sayyed Pirjade, Ms. Nafisa Hussain Burhanpurwala, Shri Murtaza Ali Bhopalwala, Ms. Farida Bhopalwala, Ms. Fatema and Shri Gaurav Bhai. They deliberately involved themselves in the smuggling of 2350.75 Grams of Gold in paste form, from which pure gold of net weight 2094.15 Grams having total market value of Rs. 1,50,48,562/- were extracted, for their personal monetary consideration/benefit.

9.2 As evident from the panchnama dated. 11.8.2024 drawn at SVPI airport, Ahmedabad and Hotel Kachan Palace, Ahmedabad, it appears that Shri Murtaza Ali Bhopalwala, Ms. Farida Bhopalwala and Ms. Fatema agreed to carry gold with a clear intention to smuggle gold for personal monetary consideration/benefit. Shri Murtaza Ali Bhopalwala, Ms. Farida Bhopalwala and Ms. Fatema smuggled foreign origin gold in paste form by way of concealment in their body (rectum) before their departure from Abu Dhabi to India. They all had chosen to move through Green Channel and did not declare having the said gold before the Customs Authorities at SVPI Airport which was concealed in their body. Further, it appears that they were not inclined to declare the said gold paste which they were carrying before the Customs Authorities. Thus, they contravened the provisions of Section 77 of the Customs Act, 1962 in as much as they failed to declare the said smuggled seized gold before the Customs. Further, they also do not

fall under the category of eligible passenger in terms of Notification No. 50/2017- Customs dated 30.06.2017.

9.3 It appears that on directions of Shri Aziz@AbuDhabi, Shri Dilmeer Alim Sayyed Pirjade and Ms. Nafisa Hussain Burhanpurwala have received one passenger Ms. Fatema who smuggled Gold into India from SVPI Airport and escorted her to the Hotel Kanchan Palace where she was to hand over the said smuggled gold to Shri Dilmeer. Further, Shri Dilmeer was to handover the said smuggled gold to the person on direction to be received from Shri Aziz. For the above said execution, Shri Dilmeer and Shri Nafisa were to receive the amount of expenses borne by them including the commission of the carriers/passengers. The said act of smuggling of gold was also corroborated and confronted by the statements recorded by the various persons involved in the case.

9.4 Further, all the three above said carrier passenger did not produce documents evidencing legitimate import and even purchase documents of the said Gold seized from the possession of different passengers. In terms of the provisions of Section 123 of the Customs Act, 1962 burden of proving that these are not smuggled goods is on the person from whose possession the goods were seized. Whereas it further appears that they were aware that bringing gold in the above manner was contrary to the provisions of the Customs Act, 1962 with an intention to carry gold without the knowledge of the Customs Authorities, without declaration and payment of appropriate Customs duties which rendered the above said quantity of 2094.15 Grams of pure gold liable to confiscation under the provisions of Section 111(d), (l) and (m) of the Customs Act, 1962.

9.5 Therefore, they all have concerned themselves in the act of smuggling of foreign origin Gold and have knowingly violated the various provisions of Foreign Trade Policy 2023, Baggage Rules 2016, Customs Notifications, etc. Thus, the said gold is to be treated as Prohibited goods in terms of Section 2(33) of the Customs Act, 1962. The restrictions imposed on the said import are to an extent a prohibition and any violation of the said conditions/restrictions would make the impugned goods liable to confiscation under Section 111 of the Customs Act, 1962 and rendered themselves liable for penalty under Section 112(a) & (b) and 117 of Customs Act, 1962 and the said activity is smuggling in terms of Section 2(39) of the Customs Act, 1962.

9.6 Further, Shri Aziz, appears to be the mastermind/beneficial owner of the said smuggling syndicate and Shri Gaurav Bhai appears to be an extended arm of said smuggling syndicate and thereby had concerned themselves in the act of smuggling of 2350.75 Grams foreign origin gold in paste form, from which pure gold of net weight 2094.15 Grams having total market value of Rs. 1,50,48,562/- were extracted, and have knowingly violated the various provisions of Foreign Trade Policy 2023, Baggage Rules, 2016, Customs Notifications, etc., which rendered the above goods liable to confiscation under Section 111(d), (l) and (m) of the Customs Act, 1962 and rendered themselves liable for penalty under Section 112 (a) & (b) and Section 117 of the Customs Act, 1962.

10. ROLE OF PERSONS.

From the investigation conducted, role of following persons was emerged.

10.1 Role of Shri Fatema, who arrived at SVPI Airport on 11.08.2024 by Etihad Flight No. EY 284 from Abu Dhabi to Ahmedabad:

10.1.1 As evident from the evidences available on record in the form of Panchnama dated 11.08.2024, her own deposition made during recording of Statements on dated 11-12.08.2024 and 16.12.2024 as well as deposition made by other involved persons during recording of statement under Section 108 of the Customs Act, 1962 as well as forensic data, it appears that Ms Fatema has engaged herself in a syndicate indulged in the act of smuggling through SVPI Airport in lure of monetary consideration. It is evident from depositions of Ms. Fatema during recording of her statement on dated 11-12.08.2024 and 16.12.2024 u/s 108 of the Customs Act, 1962 that she engaged herself in the gold smuggling through SVPI airport for monetary benefit of 25000/- and smuggled 960.31 Grams of gold in semi-solid substance in paste form concealed in her body (rectum); it was concealed in such a manner that the said gold paste could be fully covered/concealed and the same could be cleared from the airport without the knowledge of Customs Authority at SVPI Airport, Ahmedabad; Shri Aziz had provided her flight tickets from Abu Dhabi to Ahmedabad and 3 capsules containing gold paste with an instruction to conceal the said capsules in her body (rectum); she had chosen green channel for her exit and she did not declared anything before the Customs Authority at SVPI Airport, Ahmedabad. Shri Dilmeer Alim Sayyed Pirjade & Ms Nafisa brought her from SVPI Airport to Hotel Kanchan Palace, where she was instructed

by Shri Dilmeer to remove the 3 capsules containing gold paste and to place the same in her bag. It is important to mention that total 2 gold bars of 24Kt. with purity 999.0 having total weight of 861.480 Grams and having total market value of Rs. 61,90,595/- (Rupees Sixty One Lakh Ninety Thousand Five Hundred Ninety Five only) were retrieved from the aforesaid 960.31 Grams of Gold in Paste form.

10.1.2 As deposed by Shri Dilmeer during recording of statement on dated 20.12.2024. he had received Ms. Fatema from airport earlier also wherein she was carrying 2 capsule of smuggled gold in paste form and she also used to send him details of new passengers who were willing to go to Dubai for smuggling to gold into India for monetary benefits; the passengers/carriers who were going from India to Dubai for smuggling of gold were used to stay at one place and Ms. Fatema was working as a cook at that place. From the above, it appears that she was a habitual offender to engaged herself in gold smuggling earlier also for monetary consideration and apart from being a carrier/passenger, Ms. Fatema was an extended arm of the syndicate and was playing crucial role in facilitating this gold smuggling syndicate by arranging new carriers/passengers.

10.1.3 By the above act and omission, Ms. Fatema became instrumental in facilitating the syndicate indulged in gold smuggling and thereby concerned herself in the illegal activity of gold smuggling through SVPI airport, Ahmedabad and had knowingly violated the various provisions of Foreign Trade Policy 2023, Baggage Rules, 2016, Customs Notifications, etc. which rendered the subject seized smuggled gold liable to confiscation under the provision of Section 111 of the Custom Act, 1962 and rendered herself liable for penalty under Section 112(a) & (b) and 117 of Customs Act, 1962.

10.2 Role of Shri Murtaza Ali Bhopalwala and Ms. Farida Bhopalwala, who both arrived at SVPI Airport on 11.08.2024 by Air Arabia Flight No. 3L 111 from Abu Dhabi to Ahmedabad:

10.2.1 As evident from the evidences available on record in the form of Panchnama dated 11.08.2024, their own deposition made during recording of Statements on dated 11-12.08.2024 as well as deposition made by other involved persons during recording of statement under Section 108 of the Customs Act, 1962 as well as forensic data, it appears that Shri Murtaza

Ali Bhopalwala and Ms. Farida Bhopalwala have engaged themselves in syndicate indulged in the act of smuggling of gold through SVPI Airport for monetary consideration. A total of 695.68 and 694.76 Grams of gold in semi-solid substance in paste form were recovered from their body (rectum concealment) and subsequently upon extraction 620.03 and 612.64 Grams of Pure gold with purity 999.0/24 KT was recovered respectively. It is evident from depositions of Shri Murtaza Ali Bhopalwala and Ms. Farida Bhopalwala made during recording of their statement dated 11-12.08.2024 u/s 108 of the Customs Act, 1962 that they both have engaged themselves in the gold smuggling through SVPI airport for monetary benefit of 25,000/- per person; that Shri Aziz offered them the sponsored tour to Abu Dhabi; as he offered them 25,000/- in cash per person per trip and they were in need of money they accepted his offer; that Shri Aziz had handed over the Gold in paste form in capsules ; they denied to had anything to be declared to the Customs authority at SVPI Airport, Ahmedabad and even on being asked by the DRI officer after interception.

10.2.2 By the above act and omission, Shri Murtaza Ali Bhopalwala and Ms. Farida Bhopalwala both became instrumental in facilitating the syndicate indulged in gold smuggling and there by concerned themselves in the illegal activity of gold smuggling through SVPI airport, Ahmedabad and had knowingly violated the various provisions of Foreign Trade Policy 2023, Baggage Rules, 2016, Customs Notifications, etc. which rendered the subject seized smuggled gold liable to confiscation under the provision of Section 111 of the Custom Act, 1962 and rendered themselves liable for penalty under Section 112(a) & (b) and 117 of Customs Act, 1962.

10.3 Role of Shri Dilmeer Alim Sayyed Pirjade (receiver at SVPI Airport):

10.3.1 As evident from the evidences available on record in the form of Panchnama dated 11.08.2024, his own deposition made during recording of Statements on Statements dated 11.08.2024, 12.08.2024 and 20.12.2024 of Shri Dilmeer Alim Sayyed Pirjade as well as deposition made by other involved persons during recording of statement under Section 108 of the Customs Act, 1962 as well as forensic data, it appears that Shri Dilmeer Alim Sayyed Pirjade, for monetary consideration, has engaged himself in the act of smuggling through SVPI Airport by the syndicate formed by Shri Aziz@AbuDhabi. His indulgence in the conspiracy of gold

smuggling is evident from his own depositions made during recording of statement wherein he deposed that Shri Azij offered him a job of carrying gold/gold paste from passengers arriving at SVPI Airport and offered him commission per passenger; he agreed to the offer made by Shri Azij@AbuDhabi to be receiver of smuggled gold in lieu of consideration/commission; Shri Aziz@AbuDhabi used to guided him through all the process of receiving such gold to the effect that he would send him photographs and flight ticket details of the passengers arriving at SVPI Airport, Ahmedabad from Abu Dhabi in advance; Shri Dilmeer Alim Sayyed Pirjade would facilitate the carrier passengers and receive such smuggled gold from those passengers for further delivery of the same in lieu of monetary benefits; who used to come from Dubai/Abu Dhabi to Ahmedabad, one day before their/his arrival at SVPI Airport and after receiving the passengers, he would be instructed to take them to any hotel, where, he would be staying and subsequently he would receive such smuggled gold from those passengers; on delivery of the said smuggled gold to the intended person as directed by Shri Aziz he would receive his commission amount and expenditure borne by him; As evident from the evidences, Shri Aziz had called him on 10.08.2024 and informed him that total three passengers were coming to Ahmedabad with capsules containing foreign origin gold and asked him to receive such gold from all three passengers and after getting his instruction, he received Ms. Fatema from SVPI Airport, Ahmedabad around 04:30 AM on 11.08.2024 and took her to Hotel Kanchan Palace; the other two passengers were expected to arrive and come out of SVPI airport by 6.45 to 7.00 am that day morning, however, they did not came out of the airport. The deposition by Ms. Fatema further corroborated the above said event. Investigation revealed that Shri Dilmeer was in contact with the said carriers/passengers before their departure from Abu Dhabi.

10.3.2 His mens-rea is also evident from his own deposition wherein he stated that he had been involved in smuggling activity 14-15 times employing similar modus operandi, facilitating 19-20 passengers carrying foreign origin gold during the last 2-3 months. He also deposed that Ms. Fatema used to send him details of new passengers who were willing to go to Dubai for smuggling gold into India for monetary benefits. Further, investigation revealed that he had sent details of persons who were willing to work as carriers for gold smuggling activity viz. copy of passport, aadhar

card, Pan card etc. to Shri Babu bhai for tickets/visa purpose. Further, while booking at hotel, he tried to hide his identity by using the manipulated aadhar card of other persons.

10.3.3 It appears that apart from the role of receiver of carrier/passenger at airport, Shri Dilmeer was also a key figure and deeply involved member who manages to arrange for documents of new persons who were willing to work as a carrier for gold smuggling into India for monetary consideration.

10.3.4 It appears that the said person namely, Shri Dilmeer had aided, abetted and facilitated syndicate formed by Shri Aziz and their carrier passengers in their nefarious act to smuggle gold out of the airport premises without being declared before the officers of Customs and hence have conspired to smuggle the gold in paste form. The offence committed by him has also been admitted in his statement recorded under Section 108 of the Customs Act, 1962, which evidently establishes his key role in such attempt of smuggling. The market value of above gold is more than one crore.

10.3.5 By the above act and omission, Shri Dilmeer Alim Sayyed Pirjade became instrumental in facilitating the syndicate indulged in gold smuggling and there by concerned himself in the illegal activity of gold smuggling through SVPI airport, Ahmedabad and had knowingly violated the various provisions of Foreign Trade Policy 2023, Baggage Rules, 2016, Customs Notifications, etc. which rendered the subject seized smuggled gold liable for confiscation under the provision of Section 111 of the Custom Act, 1962 and rendered himself liable for penalty under Section 112(a) & (b) and 117 of Customs Act, 1962.

10.4 Role of Ms. Nafisa Husain Burhanpurwala (receiver at SVPI airport, Ahmedabad):

10.4.1 As evident from the evidences available on record in the form of whatsapp chat, call log data retrieved from the mobile phone of Shri Dilmeer Alim Sayyed Pirjade, provided by NFSU, Gandhinagar alongwith Shri statements of Shri Dilmeer recorded on 11-12.08.2024 and 20.12.2024 under Section 108 of the Customs Act, 1962, it appears that Ms. Nafisa Husain Burhanpurwala has engaged herself in syndicate indulged in the act of smuggling of gold through SVPI Airport for monetary consideration. The role of Ms. Nafisa Husain Burhanpurwala was to carry passengers from

Ahmedabad international airport to Hotel and then receive smuggled gold from passengers at the hotel. She came to receive the pax Ms. Fatema at SVPI airport, Ahmedabad along with Shri Dilmeer Alim Sayyed Pirjade as per the instructions received by Shri Aziz and they escorted her to hotel Kanchan Palace. Later on, 3 capsules containing foreign origin gold in paste form were recovered during the search at the premises of the said hotel and 861.480 Grams Gold of 24Kt. with purity 999.0, having total market value of Rs. 61,90,595/- were extracted from the 960.31 Grams of Gold in Paste form recovered from Ms. Fatema. Further, investigation revealed that to evade her real identity, Ms. Nafisa Husain Burhanpurwala used fake identity of Ms. Nikita (full name Ms. Nikita Gauravkumar Parihar as per the forged aadhar card submitted at the time of hotel booking).

10.4.2 The said act of smuggling of gold has been undertaken by a syndicate. She deliberately involved herself in the smuggling activities of Gold in violation of the provisions of the Customs Act, 1962 as she had aided and abetted the said passengers in their nefarious act to smuggle gold out of the airport premises without being declared before the officers of Customs. She acts as a facilitator in the whole smuggling process and to be a part of gold smuggling syndicate and evade the applicable custom duty and receive the commissions along with expenses borne by her after facilitating the smuggled gold to gold syndicate members.

10.4.3 It is pertinent to mention that in spite of issuance of summons on dated 30.09.2024, 14.10.2024 and 11.11.2024 and message of her requirement in investigation was floated through Shri Dilmeer and carrier passengers and also through her in laws@Indore, she has not come forward before the investigating agency till now.

10.4.4 By the above act and omission, Ms. Nafisa Husain Burhanpurwala became instrumental in facilitating the syndicate indulged in gold smuggling and thereby concerned herself in the illegal activity of gold smuggling through SVPI airport, Ahmedabad and had knowingly violated the various provisions of Foreign Trade Policy 2023, Baggage Rules, 2016, Customs Notifications, etc. which rendered the subject seized smuggled gold liable for confiscation under the provision of Section 111 of the Custom Act, 1962 and rendered herself liable for penalty under Section 112(a) & (b) and 117 of Customs Act, 1962.

10.5 Role of Shri Aziz@AbuDhabi:

10.5.1 On carefully going through the evidences available on record in the form of statements of concerned persons recorded under Section 108 of the Customs Act, 1962 and forensic data, it appears that Shri Aziz@AbuDhabi appears to be mastermind/beneficiary owner and has concerned himself in the illegal activity of gold smuggling through SVPI airport, who have conspired and formed a syndicate and managed to smuggle gold to the tune of 2350.75 Grams in paste form from Abu Dhabi to SVPI Airport, Ahmedabad on 11.08.2024. He appears to be the beneficiary to the whole smuggling racket and beneficial owner of the said quantity of smuggled gold. Shri Aziz orchestrated the modus right from recruitment of willing passenger, receiving passengers, their identification, escorting them to hotel and handing over the smuggled gold to other person for delivery. It is evident from the submission of Shri Dilmeer during recording of his statement on 11.08.2024 that Shri Aziz had offered him a job of carrying gold/gold paste from passengers arriving at SVPI Airport and offered him commission per passenger; he agreed to the offer made by Shri Aziz@AbuDhabi to be receiver of smuggled gold in lieu of consideration/commission; Shri Aziz@AbuDhabi further guided him all the process of receiving such gold to the effect that he would send him photograph & Flight ticket details of the passengers, who used to come from Dubai/Abu Dhabi to Ahmedabad, one day before their/his arrival at SVPI Airport and after receiving the passengers, he would be instructed to take them to any hotel, where, he would be staying and subsequently he would receive such smuggled gold from those passengers; Shri Aziz had called him on 10.08.2024 and informed him that total three passengers were coming to Ahmedabad with capsules containing foreign origin gold and asked him to receive such gold from all three passengers; he used to handover the smuggled gold to the person as per the directions of Shri Aziz and the receiver used to give him amount in cash for expenses borne by him including the commission of the carriers/passengers; he used to share expense details with Shri Aziz, who manages for reimbursement.

10.5.2 It also appears that Shri Aziz has orchestrated the whole gold smuggling syndicate and, on his instructions, only the whole syndicate have acted in the act of smuggling and the same is evident from the depositions of Shri Murtaza Ali Bhopalwala, Ms. Farida Bhopalwala, Ms. Fatema, Shri Dilmeer Alim Sayyed Pirjade. As per the set devised plan, Shri Aziz had

handed over gold in paste to Shri Murtaza Ali Bhopalwala, Ms. Farida Bhopalwala and Ms. Fatema with an instruction to conceal in their body (rectum) with an intention to smuggle the same into India.

10.5.3 By the above act and omission, Shri Aziz@AbuDhabi, mastermind/beneficial owner, have concerned himself in the act of smuggling of foreign origin gold 2350.75 Grams in paste form and have knowingly violated the various provisions of Foreign Trade Policy 2023, Baggage Rules, 2016, Customs Notifications, etc., which rendered the above goods liable to confiscation under Section 111(d), (l) and (m) of the Customs Act, 1962 and rendered himself liable for penalty under Section 112 (a) & (b) and 117 of the Customs Act, 1962.

10.6 Role of Shri Gauravkumar Himatlal Parihar:

10.6.1 From the evidences gathered, oral and documentary, available on record, it appears that Shri Gauravkumar Himatlal Parihar has engaged himself in syndicate indulged in the act of smuggling of gold through SVPI Airport. Investigation revealed that he had provided his aadhar card to Shri Dilmeer and the said aadhar card was forged having photo of Shri Dilmeer Alim Sayyed Pirjade on it, thus helping him to evade his real identity. The said forged Aadhar Card was used by Shri Dilmeer Alim Sayyed Pirjade for hotel booking to facilitate the stay of the members of the syndicate viz. himself, Ms. Nafisa and carriers/passengers. Further, investigation revealed that Ms. Nafisa Husain Burhanpurwala was using fake identity of 'Nikita Gauravkumar Parihar' who appears to be wife of Shri Gauravkumar Parihar. Further, it is also observed that he has also provided aadhar card of another person to Shri Dilmeer and the same was also forged by the syndicate members to further use in the connection with gold smuggling into India. Shri Dilmeer in his statement dated 20.12.2024 has deposed that a Mobile No. 919714656786 (pertaining to Shri Gauravkumar Himatlal Parihar) was sent to him by Aziz Bhai and he was instructed to save the said mobile number in his phone as "Gaurav Bhai" and on the instruction of Aziz Bhai, he used to call him. The whatsapp chat between Shri Gaurav Parihar and Shri Dilmeer, and call log data of Shri Dilmeer, revealed that Shri Gaurav Parihar was in continuous contact with Shri Dilmeer and he had contacted Shri Dilmeer on 11.08.2024, just before arrival of the carriers/passengers at SVPI Airport.

10.6.2 The said act of smuggling of gold has been undertaken by a syndicate. Shri Gauravkumar Himatlal Parihar deliberately involved himself in the smuggling activities of Gold in violation of the provisions of the Customs Act, 1962 as he had aided and abetted the said passengers/receivers in their nefarious act to smuggle gold. He acts as a Facilitator in the whole smuggling process and to be a part of gold smuggling syndicate.

10.6.3 By the above act and omission, Shri Gauravkumar Himatlal Parihar became instrumental in facilitating the syndicate indulged in gold smuggling and there by concerned himself in the illegal activity of gold smuggling through SVPI airport, Ahmedabad and had knowingly violated the various provisions of Foreign Trade Policy 2015-20, Baggage Rules, 2016, Customs Notifications, etc. which rendered the subject seized smuggled gold liable for confiscation under the provision of Section 111 of the Custom Act, 1962 and rendered himself liable for penalty under Section 112(a) & (b) and 117 of Customs Act, 1962.

11. Accordingly, a Show Cause Notice was issued to **(i)** Shri Murtaza Ali Bhopalwala, **(ii)** Ms. Farida Bhopalwala, **(iii)** Ms. Fatema Shabbir Presswala, **(iv)** 4. Shri Aziz@AbuDhabi as to why:-

- i. 1 Gold bar having net weight of **620.03** Grams, having a market value of Rs. **44,55,536/-**, extracted from the gold paste recovered from the possession of Shri Murtaza Ali Bhopalwala should not be confiscated under Section 111 (d), (l) and (m) of the Customs Act, 1962;
- ii. 1 Gold bar having net weight of **612.64** Grams, having a market value of Rs. **44,02,431/-**, extracted from the gold paste recovered from the possession of Ms. Farida Bhopalwala should not be confiscated under Section 111 (d), (l) and (m) of the Customs Act, 1962;
- iii. 2 Gold bars having net weight of **861.48** Grams, having a market value of Rs. **61,90,595/-**, extracted from the gold paste recovered from the possession of Ms. Fatema should not be confiscated under Section 111 (d), (l) and (m) of the Customs Act, 1962;
- iv. Penalties should not be imposed upon them under Section 112(a) and (b) of the Customs Act, 1962;
- v. Penalty should not be imposed upon them under Section 117 of the Customs Act, 1962.

11.1 Further, Show Cause Notice was issued to (i) **Shri Dilmeer Alim Sayyed Pirjade**, (ii) **Ms. Nafisa Husain Burhanpurwala**, (iii) **Shri Gauravkumar Himatlal Parihar** as to why

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- i) Penalties should not be imposed upon them for their involvement in the Gold Smuggling to the quantity referred to Para 11.1 (i) + 11.1(ii) + 11.1(iii) under Section 112(a) and (b) of the Customs Act, 1962;
- ii) Penalty should not be imposed upon them for their involvement in the Gold Smuggling to the quantity referred to Para 11.1 (i) + 11.1(ii) + 11.1(iii) under Section 117 of the Customs Act, 1962.

12. Defense reply and record of personal hearing:

19.1 Defense Reply of Noticee No. 1 i.e Shri Murtaza Ali Bhopalwala, residing at 102, Rehmat Manzil, 148-149, Mohammedi Gali Noori Colony, Manik Bagh Road, Indore, MP-452014- The noticee has not submitted any written defense reply against the allegation made against him in SCN.

19.2 Defense Reply of Noticee No. 2 i.e Ms. Farida Bhopalwala, residing at Flat No. 102, Rehmat Manzil, 148-149, Noori Colony, Mohammedi Gali, Indore, Madhya Pradesh – 452014:- The noticee has not submitted any written defense reply against the allegation made against her in SCN.

10.3 Defense Reply of Noticee No. 3 i.e Ms. Fatema Shabbir Presswala, residing at 6, Bohara Bakhal Marg Nan3 Alirajpur, Tehsil Alirajpur, District Alirajpur, Madhya Pradesh, 457887:- The noticee vide letter dated 05.03.2025 has submitted her written submission wherein she submitted that Hon'ble Supreme Court in case of Narendra Kumar Maheshwari v. Union of India (1989) held that the confiscation of gold under the Customs Act, 1962, does not necessarily imply that the accused is guilty of smuggling. She Submitted that she was found in the possession of the gold but it does not necessarily imply that she is guilty of smuggling.

She further submitted that in case of K. Bhaskaran v. Union of India (1995), the Hon'ble Kerala High Court held that the mere possession of gold without a valid bill of entry or other documents is not sufficient to prove smuggling. In the present case, gold was found in her possession and without any bill but the allegations are subject to the judicial trial therefore it she can't be confirmed that the act of her is smuggling.

She further submitted that in case of Union of India v. R. Rajendran (2004), the Hon'ble Madras High Court that the accused cannot be convicted of gold smuggling solely based on the testimony of a co-accused. In present case it was believed that she has smuggled the gold only on the testimony of Dilmeer Alim Sayyed who is also a co-accused in the said offence, the said case is squarely covered by the above-mentioned case law.

She submitted that the co-accused Shri Aziz @ Abu Dhabi was the mastermind behind the gold smuggling operation, and she was merely an unwitting participant. The Co-accused played a dominant role in the smuggling operation, while she had a minor or peripheral role. The co-accused had control over the gold and the means of smuggling it, while she did not. The co-accused had knowledge of the gold's illegal origin and the smuggling operation, while She did not. The co-accused had a motive to smuggle gold, while she did not. The co-accused took actions to facilitate the smuggling operation, while the accused did not. The co-accused made statements that implicated themselves in the smuggling operation, while she did not. Physical evidence, such as documents or records & Financial records that links the co-accused to the smuggling operation. communications, such as emails or text messages, that implicate the co-accused in the smuggling operation.

She submitted that She did not know that the gold was smuggled or illegally imported. She did not intend to smuggle or illegally import the gold. The evidences on record are insufficient to prove her involvement in gold smuggling. The search and seizure of the gold was invalid, and therefore, the evidence obtained should be excluded.

She further submitted that she did not play a dominant role in smuggling operation and she did not have control over the gold or the means of smuggling it. She submitted that the investigation was incomplete, and key evidence was not collected or analyzed and the authorities failed to verify the authenticity of the gold or the circumstances of its seizure. She was in innocent possession of the gold, unaware of its illegal origin. The gold was received as a gift or inheritance, and She had no knowledge of its illegal importation. She submitted that the search and seizure of the gold was unlawful, violating the accused's rights. **She was subjected to coercive interrogation, resulting in an involuntary confession.** She further submitted that she had no financial motive to smuggle gold, as they had a legitimate source of income. She further submitted that the investigation was not properly authorized, and the officers involved did not have the necessary powers to conduct the investigation.

She submitted that as far as the this show cause notice is concerned, authority has already considered role of each and every person involved in entire thing and Show Cause Notice about clearly mentioned each person's role and in show cause notice it has been specifically stated that Fatema

Presswala was just found with possession of the gold. she has nothing to do with import of gold and selling of gold. Thus, her case to be considered with limited extent related to, the possession holder of gold only.

12.4 Defense Reply of Noticee No. 4 i.e Shri Aziz@AbuDhabi:- The noticee has not submitted any defense reply.

12.5 Defense Reply of Noticee No. 5 i.e Shri Dilmeer Alim Sayyed Pirjade, residing at Idgah Road, Stedium Mage, At/Post – Sangmner, Sangamner, Ahmadnagar, Maharastra – 422605:- The noticee through his advocate submitted his written submission dated 18.06.2025 submitted on 30.06.2025 wherein he denies all the allegation made against him in the SCN. He submitted that it was true that the Shri Murtaza Ali Bhopalwala and Ms. Farida Bhopalwala, were intercepted by DRI officers, while exiting the arrival hall of Terminal 2 of SVPI Airport. The said passengers were coming from Abu Dhabi as international passengers. Personal search and examination of the baggage of the passengers were carried out. During the Search and thorough examination, both passengers confessed that they concealed 2 black coloured capsules each consisting of gold in paste form mixed with chemical in their body. Total 02 Goal Bar of 24 Kt weighing 1232.67 grams and having value of Rs.79,90,993/- (tariff value) were recovered. While recording their statements under Section 108 on 16.10.2022, both were threatened to put in the jail and forced by officers to admit that co-noticee Shri Dilmeer Alim Sayed Pirjade was come to receive them outside of airport. As per SCN, he was arrested at hotel@ Shahpur Ahmedabad which is 8 km far away from Airport.

He submitted that he was illegally detained/arrested from Shahpur and not from the Airport and the allegation made against him are false. He submitted that his statement u/s 108 were typed by officer of DRI, by their own will and narrated by them. They had only asked the general questions about his family and the officers forced him to sign the statement by threatening to send him to jail. He further submitted that he was not allowed to read and not allowed to write in his own handwriting and in language which knows very well.

He submitted that the statement was recorded under duress and threat and the statement recorded is not sustainable under provisions of section 138B of the Customs Act,1962 and his support he relied on judgment of Hon'ble Supreme Court of India in case of Noor Aga Vs State of Punjab. He further submitted that he was not involved anywhere in the said

case as there was no call recording /messages from mobile phones of co-accused retrieved. He was made co-accused in the case only on the basis of forcefully signed confession statements. He submitted that each and every incriminating circumstances must be clearly established by reliable and clinching evidences and the circumstances so proved must from a chain of events from which the only irresistible conclusion about the guilt of an accused can be safely drawn and no other hypothesis against the guilt is possible.

He submitted that there is long mental distance between "may be true" and "must be true" and the same divides conjectures from sure conclusion. The statement u/s 108 of Customs Act 1962 which can be termed as confession which was given to the Customs Officer while the co-accused/Noticee both the passengers were in custody would be hit by section 26 of the Indian Evidence Act (Confession by accused while in custody of not to be proved against the him). Hence in the absence of any other material evidence against the accused, he/she could not be convicted solely on the basis of statement of co-accused.

He further submitted that, confession of co-accused/Noticee cannot be relied upon against other accused/ Noticee. The statement of co-noticee was relied upon as a proof for establishing the allegations against him. As per SCN it was alleged that "the fact of involvement of Dilmeer Alim was narrated by the accused Muftaza Ali and Ms. Farida in their statements under section 108 of Customs Act 1962 when they were in the Custody of officers. The confession of the co-accused can be used only in support of other evidence and cannot be made the foundation of a conviction. If the statement amounts to confession, it can be used against the co-accused under Section 30 of the Evidence Act.

It is well settled that a confession statement recorded u/s 108 of C A Act 1962 is substantive evidence as against the maker of the statement. But in respect of the co-accused the said statement can never be treated as substantive evidence. At the most it can be considered as relevant evidence u/s 30 of Evidence Act. In absence of any substantive evidence, no judgement of conviction can be recorded only on the basis of confession of the co-accused, be it extra judicial confession or a judicial confession. [Amir Hussain Hawlader and others Vs, State. 37 DLR(AD) 139. 4 BLD (AD) 1931 In the same case it was held that it is the established rule of evidence as well as rule of prudence that confessional statement of co-accused shall not

be used as the sole basis of conviction in the absence of independent corroborative evidence. He has not acted in any manner to smuggle gold or not taken part in any way and it can be seen from statement. His name was roped into the case by the officer who recorded the statement of accused.

The show cause notice dated 07.02.2025 prejudged the entire issue and thus prejudiced to the noticee. In SCN, the allegations and charges have to be made in a tentative manner (e.g. it appears that...). However, in the present case the noticee avers that impugned SCN is bad in law on the ground that the SCN has pre-judged and pre-determined the entire issue and left nothing for Adjudicating Authority to enquire into. In present case the opportunity of submitting defense reply to SCN, and hearing has become an idle formality and farce. The Show Cause Notice dated 07.02.2025 is therefore liable to be set aside.

He submitted that he does not have any claim over the gold under seizure. The penalty should not be imposed upon him under section 112 of the Customs Act,1962. He has not acquired possession of or in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111(d),(i),(l),(m). Also, proposed penalty under section 112(a) & (b) of the Customs Act,1962 on him may be set aside. He further humbly prays that further proceedings against him may be dropped. He requested for personal hearing in the matter.

12.6 Defense Reply of Noticee No. 6 i.e Ms. Nafisa Husain Burhanpurwala:- The noticee has not submitted any defense reply.

12.7 Defense Reply of Noticee No. 7 i.e Shri Gauravkumar Himatlal Parihar residing at 402, 4th Floor, Jyoti Apartment, C Wing, Narayan Nagar, Thane, Maharashtra – 400612:- The noticee has not submitted any defense reply.

Personal Hearing: -

13. Adequate opportunities of personal hearing were given to all noticees in the Show Cause, which is summarized as under: -

Noticee No. 1: i.e 1 & 2. Shri Murtaza Ali Bhopalwala & Ms. Farida Bhopalwala, both residing at 102, Rehmat Manzil, 148-149, Mohammedi Gali Noori Colony, Manik Bagh Road, Indore, MP-452014

The noticee was given opportunity for personal hearing on 15.04.2025, 13.06.2025 & 27.06.2025 (later postpone to 30.06.2025). The noticee Shri Murtaza Ali Bhopalwala & Ms. Farida Bhopalwala were attended the personal hearing themselves through video conferencing on 30.06.2025 wherein Shri Murtaza Ali Bhopalwala submitted that he alongwith his wife went to Abu Dhabi for job purpose. He submitted that their flight tickets were arranged by Mr. Aziz Bhai. Mr. Aziz Bhai had given him gold which was in the form of paste and in capsules. They have admitted that smuggling of gold was their mistake. In need of money the have accepted the offer and agreed to carry the gold with them. They have admitted that the gold was neither belong to them nor purchased by them. They have no purchase bill or any bank transaction regarding purchase of gold. They have further submitted that they have not claimed any ownership on said gold now and not claimed in the future. They have nothing more to submit and this is their final submission and requested for not imposing any penalty on them.

Noticee No. 3: Ms. Fatema Shabbir Presswala: The noticee was given opportunity for personal hearing on 15.04.2025. The noticee herself appeared for personal hearing on 15.04.2025. She requested to attend the personal hearing in person instead of video conferencing. She submitted that she was working as caterer in a PG at Dubai since last year. She submitted that the gold in form of capsules neither purchased by her nor belong to her and same was given by a person named Ajij at Dubai. She submitted that she has no purchase bill/copy of invoice, bank Statement with her for the said gold paste. She submitted that she is ready to pay the fine and penalty. She requested to take lenient view in the matter. She submitted that she was in need of money for her daughter marriage, therefore, she agreed to carry the gold in paste form. This is her final submission and nothing more to add.

Noticee No. 4: Shri Aziz@AbuDhabi:

The noticee was given opportunity for personal hearing on 15.04.2025, 13.06.2025 & 27.06.2025 (later postpone to 30.06.2025). The letter for intimation for personal hearing were served to the noticee by affixing the same on notice board in terms of Section 153 of Customs Act, 1962, but he failed to appear and represent his case. In the instant case, the noticee has been granted sufficient opportunity of being heard in person for three times but he neither appeared for personal nor asked for any adjournment. In view of above, it is obvious that the Noticee is not bothered about the

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ongoing adjudication proceedings and he do not have anything to say in his defense.

Noticee No. 5: Shri Dilmeer Alim Sayyed Pirjade: The noticee was given opportunity for personal hearing on 15.04.2025, 13.06.2025 & 27.06.2025 (later postpone to 30.06.2025). The Advocate and authorized representative of noticee appeared for personal hearing on 30.06.2025. He submitted his vakalatnama to represent the case. He requested to attend the personal hearing in person instead of video conferencing. He submitted his written submission and re-iterated the same. He submitted that his client has not involved in any kind smuggling activity and the case booked against his client is based on the assumption and presumption only. He was arrested from Hotel room @ Shahpur, Ahmedabad which is approx. 8 km away from the Airport and there was no gold found in his possession and only charged on the basis of statements of co-noticees. He submitted that a lenient view may be taken in matter and drop the charges against his client.

Noticee No. 6: Ms. Nafisa Husain Burhanpurwala:

The noticee was given opportunity for personal hearing on 15.04.2025, 13.06.2025 & 27.06.2025 (later postpone to 30.06.2025). The letter for intimation for personal hearing were served to the noticee by affixing the same on notice board in terms of Section 153 of Customs Act, 1962, but he failed to appear and represent his case. In the instant case, the noticee has been granted sufficient opportunity of being heard in person for three times but he failed to appear. In view of above, it is obvious that the Noticee is not bothered about the ongoing adjudication proceedings and he do not have anything to say in his defense.

Noticee No. 7: Shri Gauravkumar Himatlal Parihar:

The noticee was given opportunity for personal hearing on 15.04.2025, 13.06.2025 & 27.06.2025 (later postpone to 30.06.2025) and letters dispatched on the given address through speed post. But he failed to appear and represent his case. In the instant case, the noticee has been granted sufficient opportunity of being heard in person for three times but he failed to appear. In view of above, it is obvious that the Noticee is not bothered about the ongoing adjudication proceedings and he do not have anything to say in his defense.

Discussion and Findings:

14. I have carefully gone through the case records, Show Cause Notice, relied upon documents to Show Cause Notice and Statements of the Noticees alongwith any submission made by the noticees at the time of personal hearing scheduled on various dates. Further, sufficient opportunities to be heard were extended to all the noticees of the SCN following the Principles of Natural Justice.

14.1. I find that as per Section 122A of the Customs Act, 1962, the Adjudicating Authority shall give an opportunity of being heard to the Noticee in a proceeding, if the Noticee so desires. Accordingly, in the present case ample opportunities were granted to Shri Aziz@AbuDhabi, Ms. Nafisa Husain Burhanpurwala & Shri Gauravkumar Himatlal Parihar but they did not participate in the adjudication proceedings in spite of the fact that service of letters for personal hearings was done in terms of Section 153 of Customs Act, 1962.

Section 153 of the Customs Act reads as under -

(1) An order, decision, summons, notice or any other communication under this Act or the rules made thereunder may be served in any of the following modes, namely:—

- a) *by giving or tendering it directly to the addressee or importer or exporter or his customs broker or his authorized representative including employee, advocate or any other person or to any adult member of his family residing with him;*
- b) *by a registered post or speed post or courier with acknowledgement due, delivered to the person for whom it is issued or to his authorized representative, if any, at his last known place of business or residence;*
- c) *by sending it to the e-mail address as provided by the person to whom it is issued, or to the e-mail address available in any official correspondence of such person;*
- d) *by making it available on the common portal;*
- e) *by publishing it in a newspaper widely circulated in the locality in which the person to whom it is issued is last known to have resided or carried on business; or;*
- f) *by affixing it in some conspicuous place at the last known place of business or residence of the person to whom it is issued and if such mode is not practicable for any reason, then, by affixing a copy thereof*

on the notice board of the office or uploading on the official website, if any.

(2) Every order, decision, summons, notice or any communication shall be deemed to have been served on the date on which it is tendered or published or a copy thereof is affixed or uploaded in the manner provided in sub-section (1).

(3) When such order, decision, summons, notice or any communication is sent by registered post or speed post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by such post in transit unless the contrary is proved.]

Therefore, in terms of Section 153 of the Customs Act, 1962, it is observed that Personal Hearing letters were duly served to the Noticee through post as well as through notice board, but they did not respond as if they did not have anything to submit in their defense.

14.2. I find that Shri Aziz@AbuDhabi, Ms. Nafisa Husain Burhanpurwala & Shri Gauravkumar Himatlal Parihar have failed to appear for Personal Hearing, in spite of being given opportunity to appear in person several times as detailed in foregoing para for defending their case. Under such circumstance, there is no option left for me but to proceed with the adjudication proceedings ex-parte in terms of merit of the case.

14.3. With regard to proceeding to decide the case ex-parte, support is drawn from the following case laws:

14.3.1. Hon'ble High Court of Kerala in the case of United Oil Mills Vs. Collector of Customs & C.Ex. Cochin reported in 2000 (124) ELT 53 (Ker.) has held that:

19. No doubt hearing includes written submissions and personal hearing as well but the principle of Audi Alteram Partem does not make it imperative for the authorities to compel physical presence of the party concerned for hearing and go on adjourning the proceeding so long the party concerned does not appear before them. What is imperative for the authorities is to afford the opportunity. It is for the party concerned to avail the opportunity or not. If the opportunity afforded is not availed of by the party concerned, there is no violation of the principles of natural justice. The fundamental principles of natural justice and fair play are

safeguards for the flow of justice and not the instruments for delaying the proceedings and thereby obstructing the flow of justice. In the instant case as stated in detail in preceding paragraphs, repeated adjournments were granted to the petitioners, dates after dates were fixed for personal hearing, petitioners filed written submissions, the administrative officer of the factory appeared for personal hearing and filed written submissions, therefore, in the opinion of this Court there is sufficient compliance of the principles of natural justice as adequate opportunity of hearing was afforded to the petitioners.

*21. It may be recalled here that the requirement of natural justice varies from cases to cases and situations to situations. Courts cannot insist that under all circumstances personal hearing has to be afforded. Quasi-judicial authorities are expected to apply their judicial mind over the grievances made by the persons concerned but it cannot be held that before dismissing such applications in all events the quasi-judicial authorities must hear the applicants personally. When principles of natural justice require an opportunity before an adverse order is passed, it does not in all circumstances mean a personal hearing. The requirement is complied with if the person concerned is afforded an opportunity to present his case before the authority. Any order passed after taking into consideration the points raised in such applications shall not be held to be invalid merely on the ground that no personal hearing had been afforded. This is all the more important in the context of taxation and revenue matters. See *Union of India and Another v. M/s. Jesus Sales Corporation* [[1996 \(83\) E.L.T. 486 \(S.C.\)](#) = J.T. 1996 (3) SC 597].*

14.3.2. Hon'ble Tribunal of Mumbai in the case of *Sumit Wool Processors v. CC, Nhava Sheva* reported in 2014 (312) E.L.T. 401 (Tri. - Mumbai) has observed as under:

"8.3 We do not accept the plea of Mr. Sanjay Kumar Agarwal and Mr. Parmanand Joshi that they were not heard before passing of the impugned orders and principles of natural justice has been violated. The records show that notices were sent to the addresses given and sufficient opportunities were given. If they failed in not availing of the opportunity, the mistake lies on them. When all others who were party to the notices were heard, there is no reason why these two appellants would not have been heard by the adjudicating authority. Thus the argument taken is only an alibi to escape the consequences of law. Accordingly, we reject the plea made by them in this regard."

14.3.3. Hon'ble High Court of Delhi in the case of *Saketh India Ltd Vs. Union of India* reported in 2002 (143) ELT 274 (Del), has observed that:

“Natural justice - Ex parte order by DGFT - EXIM Policy - Proper opportunity given to appellant to reply to show cause notice issued by Addl. DGFT and to make oral submissions, if any, but opportunity not availed by appellant - Principles of natural justice not violated by Additional DGFT in passing ex parte order - Para 2.8(c) of Export-Import Policy 1992-97 - Section 5 of Foreign Trade (Development and Regulation) Act, 1992. - Admittedly, the appellant herein did not respond to the show cause notice. Thereafter, the appellant was called for personal hearing on six subsequent dates. According to the Additional DGFT nobody appeared on behalf of the appellant inspite of various dates fixed for personal appearance of the appellant and in these circumstances, the Additional DGFT proceeded with the matter ex parte and passed the impugned order. The appellant had the knowledge of the proceedings but neither any reply to the show cause notice was given nor it chose to appear before the Additional DGFT to make oral submissions. Thus, it is a clear case where proper opportunity was given to the appellant to reply to show cause notice and to make oral submissions, if any. However, fault lies with the appellant in not availing of these opportunities. The appellant cannot now turn around and blame the respondents by alleging that the Additional DGFT violated principles of natural justice or did not give sufficient opportunity to the appellant to present its case.”

14.3.4. The Hon’ble CESTAT, Mumbai in the case of Gopinath Chem Tech. Ltd Vs. Commissioner of Central Excise, Ahmedabad-II reported in 2004 (171) ELT 412 (Tri. Mumbai) has held that:

“Personal hearing fixed by lower authorities but not attended by appellant and reasons for not attending also not explained - Appellant cannot now demand another hearing - Principles of natural justice not violated.”

14.3.5. The Hon’ble Supreme Court in the case of Jethmal Vs. Union of India reported in 1999 (110) ELT 379 (S.C.) has held as under:

7. Our attention was also drawn to a recent decision of this Court in A.K. Kripak v. Union of India - 1969 (2) SCC 340, where some of the rules of natural justice were formulated in Paragraph 20 of the judgment. One of these is the well-known principle of audi alteram partem and it was argued that an ex parte hearing without notice violated this rule. In our opinion this rule can have no application to the facts of this case where the appellant was asked not only to send a written reply but to inform the Collector whether he wished to be heard in person or through a representative. If no reply was given or no intimation was sent to the Collector that a personal hearing was desired, the Collector would be justified in thinking that the persons notified did not desire to appear before him when the case was to be considered and could not be blamed if he were to proceed on the material before him on the basis of the

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allegations in the show cause notice. Clearly he could not compel appearance before him and giving a further notice in a case like this that the matter would be dealt with on a certain day would be an ideal formality.

14.3.6. Hon'ble Delhi Tribunal in the case of Commissioner of C.Ex. Vs. Pee Iron & Steel Co. (P) Ltd. reported in as 2012 (286) E.L.T. 79 (Tri. – Del) [upheld by Hon'ble Punjab & Haryana High Court reported in **2015 (316) E.L.T. A118 (P&H.)**] has observed that:

“9. Notice to the respondent has been received back undelivered with the report that address is not correct. No other address of the respondent is available on record, therefore, the respondent cannot be served with the notice without undue delay and expense. Accordingly, we are constrained to proceed ex parte order against the respondent.”

In view of the discussion held in Para 14.1 to 14.3.6. above, in case of Noticees i.e. Shri Aziz@AbuDhabi, Ms. Nafisa Husain Burhanpurwala & Shri Gauravkumar Himatlal Parihar, I proceed to adjudicate the Show Cause Notice No. DRI/AZU/GI-02/ENQ-33/2024 dated 07.02.2025 ex parte.

14.4. Before discussing the allegations levelled in the impugned SCN in light of submissions made by noticees, it is imperative to mention that the noticee Ms. Fatema Shabbir Presswala have mentioned in her written submission that she was subjected to coercive interrogation and accordingly confession/statement was involuntary. Further, the noticee Shri Dilmeer Alim Sayyed Pirjade also in his written submission mentioned that the statement was recorded under duress. He was forced to signed the statement which was typed by the officer at his will. He was not allowed to read or understand the statement and was also not allowed to write in his own handwriting.

In this regard, I find from the tendered statements of both the noticees wherein they have admitted that the statements were given voluntarily and without any inducement, threat, coercion or by any improper means. I find it important to note that in each of his statements, Shri Dilmeer Alim Sayyed Pirjade affirmed that his statements were given voluntarily, without any inducement, threat, pressure, or undue influence. Furthermore, I note that Shri Dilmeer Alim Sayyed Pirjade's statements were recorded on 03 different occasions i.e. 11.08.2024, 12.08.2024 & 20.12.2024 and in each instance, the statements were made under Section

108 of the Customs Act, 1962 and voluntary after having in agreement with his previous statement. On each occasion, he affirmed that the statements were given voluntarily, without any threat, pressure, or inducement, and he signed them after verifying the correctness of the facts, in full presence of mind. ***I note that a latin maxim “Verba volant, scripta manent” is rightly applicable here, which means “spoken words may fly away, but written words remain”.*** I find that Shri Dilmeer Alim Sayyed Pirjade has failed to furnish any credible documentary evidence to substantiate his claim that the statements were obtained under duress, coercion, or threat. A retraction of a statement recorded under Section 108 of the Customs Act, 1962, on the grounds of coercion or pressure, must be supported by credible evidence. The law presumes that a statement made under Section 108 is voluntary unless cogent evidence to the contrary is presented, and the person giving it is not obligated to endorse any typed statement if it was indeed obtained under coercion, as now alleged. Therefore, the claim that he signed the documents under the threat or pressure of arrest appears implausible. The statements made by Shri Dilmeer Alim Sayyed Pirjade have been confirmed and substantiated by the statements of other co-noticees, which are consistent in material particulars. Moreover, these are further supported by digital and documentary records seized during the course of investigation. Even otherwise there is nothing on record that might cast slightest doubt on the voluntary statements in question

Also, I find that the statement of Ms. Fatema were recorded on 03 different occasion and on all occasions, she affirmed that the statements were given voluntarily, without any threat, pressure, or inducement, and she signed them after verifying the correctness of the facts, in full presence of mind. I find that the noticee Ms. Fatema has failed to submit any documentary evidence to substantiate her claim that the statements were obtained under duress or coercion. I find no retraction on record, filed by her at any stage of investigation till the written submission, which imply that the contention of noticee that the statement was involuntary, is a calculated step just to mislead the proceedings. The law presumes that a statement made under Section 108 is voluntary and the person giving it is not obligated to endorse any typed statement if it was indeed obtained under duress, as now alleged. Furthermore, I find that her first and second statement was recorded in 11/12.08.2024 and third statement was recorded on 16.12.2024 and If a noticee alleges that such statements were

obtained under coercion, threat, or undue influence, it is expected that the retraction be made immediately, or at least within a reasonable time, along with supporting documentary evidence. Even during the statement recorded on 16.12.2024, she did not express any grievance or objection regarding the voluntariness of her earlier statements. This conduct strongly suggests that the statements were made without duress.

The consistent furnishing of specific and incriminating details by Shri Dilmeer Alim Sayyed Pirjade & Ms. Fatema Shabbir Presswala during their respective statements recorded on different dates, both before and after arrest, lends further weight to their voluntary nature. It is a well-established legal principle that retraction of a statement should be made promptly, preferably before the same authority that recorded the statement, or at the earliest opportunity.

I find that in these statements, they had disclosed detailed information about their current and permanent address, their family details, aadhar card and their work and profession. I find that the statements of noticees contain specific and intricate details, which could only have been furnished based on their personal knowledge and could not have been invented by the officers who recorded the said statements. Even otherwise there is nothing on record that might cast slightest doubt on the voluntary statements in question. It is on the record that the noticees have tendered their statement(s) voluntarily under Section 108 of the Customs Act, 1962. In view of the above, I find that the statements given by noticees Shri Dilmeer Alim Sayyed Pirajade and Ms. Fatema under Section 108 of the Customs Act, 1962, were made voluntarily and carry evidentiary value under the law. I further note that the mere claiming that statement was recorded under duress and was involuntary, without any documentary evidences does not imply that the statement loses its evidentiary value. In support of my view, I relied on the following judgements:

- (i) Hon'ble Supreme Court in case of Surjeet Singh Chhabra Vs. U.O.I [reported in 1997 (89) E.L.T 646 (S.C)] held that ***evidence-confession statement made before Customs officer, though retracted within six days, in admission and binding, since Customs Officers are not police officers under Section 108 of the Customs Act and FERA.***
- (ii) Assistant Collector of Central Excise, Rajamundry Vs. Duncan Agro India Ltd reported in 2000 (120) E.L.T 280 (SC) wherein it was held

that ***“Statement recorded by a Customs Officer under Section 108 is valid evidence”***

- (iii) In 1996 (83) E.L.T 258 (SC) in case of Shri Naresh J Sukhwani V. Union of India wherein it was held that ***“It must be remembered that the statement before the Customs official is not a statement recorded under Section 161 of the Criminal Procedure Code 1973. Therefore, it is material piece of evidence collected by Customs Official under Section 108 of the Customs Act, 1962”***
- (iv) ***There is no law which forbids acceptance of voluntary and true admissible statement if the same is later retracted on bald assertion of threat and coercion*** as held by Hon’ble Supreme Court in case of K.I Pavunny Vs. Assistant Collector (HQ), Central Excise Cochin (1997) 3 SSC 721.
- (v) Hon’ble High Court of Mumbai in FERA Appeal No. 44 of 2007 in case of Kantilal M Jhala Vs. Union of India, held that ***“Confessional Statement corroborated by the Seized documents admissible even if retracted.”***
- (vi) In the case of Rajesh Kumar Vs CESTAT reported at 2016 (333) ELT 256 (Del), the Hon’ble High Court of Delhi has observed as under:

Learned counsel for the appellant strenuously argued that a substantial question of law regarding the admissibility of the confessions allegedly made by the Sh. Kishori Lal and Sh. Rajesh Kumar arises for our consideration. We regret our inability to accept that submission. The statements made before the Customs Officers constitute a piece of evidence available to the adjudicating authority for passing an appropriate order of confiscation and for levy of penalty. Any such confessional statement even if retracted or diluted by any subsequent statement had to be appreciated in the light of other circumstances and evidence available to the adjudicating authority while arriving at a conclusion whether the goods had been cleared without payment of duty, mis declared or undervalued.

- (vii) The Hon’ble Apex Court in the case of Badaku Joti Svant Vs. State of Mysore reported at 1978 (2) ELT J 323(SC) held as "In this view of

the matter the statement made by the appellant to the Deputy Superintendent of Customs and Excise would not be hit by Section 25 of the Evidence Act and would be admissible in evidence unless the appellant can take advantage of Section 24 of the Evidence Act. As to that it was urged on behalf of the appellant in the High Court that the confessional statement was obtained by threats. This was not accepted by the High Court and therefore, Section 24 of the Evidence Act has no application in the present case. It is not disputed that if this statement is admissible, the conviction of the appellant is correct. As we have held that a Central Excise Officer is not a Police officer within the meaning of those words in Section 25 of the Evidence Act, the appellant's statement is admissible. It is not ruled out by anything in Section 24 of the Evidence Act and so the appellant's conviction is correct and the appeal must be dismissed.

"

- (viii) In the case of **K. P. Abdul Majeed reported at 2017 (51) STR 507 (Ker)**, the Hon'ble High Court of Kerala has observed as under:

*Having regard to the legal implications evolved from the aforesaid factual situation, it is clear that confession statement of co-accused can be treated as evidence, provided sufficient materials are available to corroborate such evidence. **As far as retraction statement is concerned, it is for the person who claims that retraction has been made genuinely to prove that the statements were obtained under force, duress, coercion, etc., otherwise, the materials indicate that statements were given voluntarily.** When the statute permits such statements to be the basis of finding of guilt even as far as co-accused is concerned, there is no reason to depart from the said view.*

- (ix) The Hon'ble Supreme Court in the case of K.T.M.S. Mohd. v. Union of India - (1992) 3 SCC 178 held as under:

"34. We think it is not necessary to recapitulate and recite all the decisions on this legal aspect. But suffice to say that the core of all the decisions of this Court is to the effect that the voluntary nature of any statement made either before the Custom Authorities or the officers of Enforcement under the relevant provisions of the respective Acts is a sine qua non to act on it for any purpose and if the statement appears to have been obtained by any inducement, threat, coercion or by any improper means that statement must be rejected brevi manu.

At the same time, it is to be noted that merely because a statement is retracted, it cannot be recorded as involuntary or unlawfully obtained. It is only for the maker of the statement who alleges inducement, threat, promise etc. to establish that such improper means has been adopted. However, even if the maker of the statement fails to establish his allegations of inducement, threat etc. against the officer who recorded the statement, the authority while acting on the inculpatory statement of the maker is not completely relieved of his obligations in at least subjectively applying its mind to the subsequent retraction to hold that the inculpatory statement was not extorted. It thus boils down that the authority or any Court intending to act upon the inculpatory statement as a voluntary one should apply its mind to the retraction and reject the same in writing. It is only on this principle of law, this Court in several decisions has ruled that even in passing a detention order on the basis of an inculpatory statement of a detenu who has violated the provisions of the FERA or the Customs Act etc. the detaining authority should consider the subsequent retraction and record its opinion before accepting the inculpatory statement lest the order will be vitiated..."

(emphasis supplied)

- (x) Further, burden is on the accused to prove that the statement was obtained by threat, duress or promise like any other person as was held in **Bhagwan Singh v. State of Punjab - AIR 1952 SC 214, Para 30.**

Relying on the ratio of above judicial prudence, I find no merit in the contention of the noticees of given their statement under duress.

14.5 Further, it is impertive to mention that the noticee Ms. Fatema has claimed/alleged in her written submission that the investigation was not properly authorized and the officers did not have the necessary power to conduct the investigation and also alleged that the investigation was incomplete and key evidences was not collected or analyzed.

In this regard, I find that the subject Show Cause Notice was issued under Section 124 of Customs Act, 1962 by the officers of DRI on the basis of sepcific information regarding smuggling of foreign origin gold and only after compeltion of due investiagtion. Section 124 of Customs Act, 1962 read as :-

Section 124. Issue of show cause notice before confiscation of goods, etc. -

No order confiscating any goods or imposing any penalty on any person shall be made under this Chapter unless the owner of the goods or such person -

(a) is given a notice in ¹[writing with the prior approval of the officer of Customs not below the rank of ²[an Assistant Commissioner of Customs], informing] him of the grounds on which it is proposed to confiscate the goods or to impose a penalty;

(b) is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation or imposition of penalty mentioned therein; and

(c) is given a reasonable opportunity of being heard in the matter :

Provided that the notice referred to in clause (a) and the representation referred to in clause (b) may, at the request of the person concerned be oral.

Section 124 of Customs Act, 1962 say that Show Cause Notice under this section can be issued by the officers of Customs not below the rank of Assistant Commissioner of Customs. Earlier DRI officers were specifically empowered as “Customs Officers” under Section 4 of the Customs Act, 1962. This was done by virtue of Notification No. 17/2002-Cus(NT) dated 07.03.2002, as amended by Notification No. 82/2014-Cus(NT) dated 16.09.2014. Thus, wherever the Customs Act, 1962 mentions the power to be exercised by the ‘Customs officer’, DRI officers were empowered to exercise these powers by virtue of these Notifications. Further, after enactment of the Finance Act, 2022 vide Notification No. 25/2022-Customs (NT) dated 31.03.2022, Central Board of Indirect Taxes and Customs, in exercise of the power conferred by Section 3, Sub section (1) of Section 4 and Sub Section (1),(4) and (5) of Section 5 of Customs Act, 1962, has appointed DRI officers as Customs Officers and by virtue of this, Assistant Director of DRI or above his rank can issue Show Cause Notice under Section 124 of Customs Act, 1962. For this, no separate authorization is required.

In this regard, I find from the judgment of the High Court of Calcutta in the matter of Navneet Kumar Vs. Union of India [2018(362) ELT 17(Cal)] that the Hon’ble High Court of Calcutta passed an order dated 05.11.2019 in favour of Department in respect of Section 124 of Customs Act, 1962 and the relevant portion are reproduced as:-

“..... One has to look at Section 124 of the said Act. It says that an order confiscating any goods or imposing any penalty on any person shall be made without a notice in writing with the prior

approval of an officer of Customs not below the rank of an Assistant Commissioner of Customs. The question to be answered in this appeal is whether the Additional Director General, the Zonal Unit, Kolkata of the DRI had the authority and the power to issue the SCN dated 02.12.2017.

At the outset, I observe that the argument made that the SCN had to be issued by a proper officer is incorrect. Section 2(34) of the said Act enacts that a proper officer is one who is assigned functions to be performed by that category of officers, by the Board or the Principal Commissioner of Customs or Commissioner of Customs. On 2nd May 2012, the Board designated some officers to be proper officers. While designating such officers the function that each of such officers had to perform under a specified section of the said Act was provided. Each of these Sections referred to a proper officer to discharge the functions specified in that Section. Section 124 is not one of those Sections. In Section 124 of the said Act, the power has been given to an officer of Customs not below the rank of Assistant Commissioner of Customs to issue a SCN. There is no reference to a proper officer. In those, circumstances the argument of the respondent, writ petitioners or the finding of the learned judge that the impugned SCN had not been issued by a proper officer has no basis whatsoever and is rejected outright.

---All the appeals are allowed. The Impugned judgment and order dated 10.07.2018 is set aside. All interim orders are vacated. All the connected applications are disposed of by this order. All the writ applications are dismissed.”

Therefore, by the order dated 05.11.2019, the Hon’ble Division Bench of High Court at Calcutta in the case of ADG, DRI & Ors-Vs. Navneet Kumar [13 Nos W.P No. 3336(w) to 3348(w) of 2018] clearly justified the jurisdiction and authority of the officers of DRI in terms of Section 124 of the Customs Act and further differentiated “officer of Customs” and “ Proper officers” and observed that Section 124 of the Customs Act confers the power to Customs officer not to the proper officer.

Also, kind attention is drawn to Clause 97 of Finance Act, 2022 which validates the actions taken under different provisions of the Customs Act, 1962. Clause 97 of Finance Act, 2022 is reproduced below for ready reference:-

“Notwithstanding anything contained in any judgment, decree or order of any court, tribunal, or other authority, or in the provisions of the Customs Act, 1962 (hereinafter referred to as the Customs Act),—

- (i) anything done or any duty performed or any action taken or purported to have been taken or done under Chapters V, VAA, VI, IX, X, XI, XII, XIIA, XIII, XIV, XVI and XVII of the Customs Act, as it stood prior to its amendment by this Act, shall be deemed to have been validly done or performed or taken;*
- (ii) any notification issued under the Customs Act for appointing or assigning functions to any officer shall be deemed to have been validly issued for all purposes, including for the purposes of section 6;*
- (iii) for the purposes of this section, sections 2, 3 and 5 of the Customs Act, as amended by this Act, shall have and shall always be deemed to have effect for all purposes as if the provisions of the Customs Act, as amended by this Act, had been in force at all material times.*

Explanation.— For the purposes of this section, it is hereby clarified that any proceeding arising out of any action taken under this section and pending on the date of commencement of this Act shall be disposed of in accordance with the provisions of the Customs Act, as amended by this Act.”

The Finance Act, 2022 has also amended Section 3 of the Customs Act, 1962 and officers of DRI have been specifically mentioned as officers of Customs. By Virtue of Section 97(iii) of the Section Finance Act, 2022, the DRI officers are to be considered Customs officers for the past as well. Therefore, the SCN issued by DRI officers under Section 124 of Act is to be considered as validly issued by Custom officers and proper officers.

And lastly, the said facts have been validated by the Hon’ble Supreme Court of India in the case of M/s. Cannon India Pvt Ltd wherein the Hon’ble Supreme Court of India confirms that the officers of DRI are the proper officers to investigate and issue Show Cause Notice.

15. I perused the facts presented before me. The question that needs to be addressed in the instant case are within the jurisdiction of Customs Act, 1962 and allied laws as under: -

- i. Whether the goods seized are falls under "prohibited goods" as defined under Section 2(33) of the Customs Act, 1962;
- ii. Whether, seized 04 Gold bars total weighing 2094.15 Grams extracted from the gold paste found concealed in capsules having a market value of Rs.1,50,48,562/- recovered from the possession of Shri Murtaza Ali Bhopalwala (herein after mentioned as Noticee No. 1), Ms. Farida Bhopalwala (Noticee No. 2), Ms. Fatema (Noticee No. 3) is liable for confiscation under Section 111 (d), (l) and (m) of the Customs Act, 1962.
- iii. Whether the act of the Noticee No. 1 to Noticee No. 7 renders them to be penalized discretionarily under Section 112 & Section 117 of the Customs Act, 1962;

16. Whether the seized goods are falls under "prohibited goods" as defined under Section 2(33) of the Customs Act, 1962 or otherwise

16.1 Section 2(33) of the Customs Act, 1962 defines 'prohibited goods' 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*'. The said definition implies that in cases where the conditions applicable for import of goods are not complied with, such goods would fall under the category of 'prohibited goods'. In the instant case, the gold has not been brought in India by a nominated agency notified by the RBI or DGFT, as the case maybe and as such the same would be covered under the category of 'prohibited goods'. My above finding is aptly supported by the case law of **Om Prakash Bhatia reported at 2003 (155) ELT 423 (SC)** wherein it has been held by the Hon'ble Supreme Court as under:

*From the aforesaid definition, it can be stated that (a) if there is any prohibition of import or export of goods under the Act or any other law for the time being in force, it would be considered to be prohibited goods; and (b) this would not include any such goods in respect of which the conditions, subject to which the goods are imported or exported, have been complied with. **This would mean that if the conditions prescribed for import or export of goods are not***

complied with, it would be considered to be prohibited goods.

This would also be clear from Section 11 which empowers the Central Government to prohibit either 'absolutely' or 'subject to such conditions' to be fulfilled before or after clearance, as may be specified in the notification, the import or export of the goods of any specified description. The notification can be issued for the purposes specified in sub-section (2). Hence, prohibition of importation or exportation could be subject to certain prescribed conditions to be fulfilled before or after clearance of goods. If conditions are not fulfilled, it may amount to prohibited goods. This is also made clear by this Court in *Shekih Mohd. Omer v. Collector of Customs, Calcutta and Others* [(1970) 2 SCC 728] wherein it was contended that the expression 'prohibition' used in Section 111(d) must be considered as a total prohibition and that the expression does not bring within its fold the restrictions imposed by clause (3) of the Import Control Order, 1955. The Court negated the said contention and held thus:-

'...What clause (d) of Section 111 says is that any goods which are imported or attempted to be imported contrary to "any prohibition imposed by any law for the time being in force in this country" is liable to be confiscated. "Any prohibition" referred to in that section applies to every type of "prohibition". That prohibition may be complete or partial. Any restriction on import or export is to an extent a prohibition. The expression "any prohibition" in Section 111(d) of the Customs Act, 1962 includes restrictions. Merely because Section 3 of the Imports and Exports (Control) Act, 1947, uses three different expressions "prohibiting", "restricting" or "otherwise controlling", we cannot cut down the amplitude of the word "any prohibition" in Section 111(d) of the Act. "Any prohibition" means every prohibition. In other words all types of prohibitions. Restrictions is one type of prohibition. From item (I) of Schedule I, Part IV to Import Control Order, 1955, it is clear that import of living animals of all sorts is prohibited. But certain exceptions are provided for. But nonetheless the prohibition continues."

The above judgment has been followed by the Hon'ble High Court of Gujarat in the case of **Bhargavraj Rameshkumar Mehta reported at 2018 (361) ELT 260 (Guj)** wherein it has been observed as under:

15. We may recall, the contention of the Counsel for the petitioner in this respect was that the gold at the relevant time was freely importable. Import of gold was not prohibited. Case of the petitioner would therefore, fall under clause (ii) of Section 112 and penalty not exceeding 10% of the duty sought to be evaded would be the maximum penalty imposable. Such contention shall have to be examined in the light of the statutory provisions noted above. As noted, Section 111 of the Act provides for various eventualities in which the goods brought from a place outside India would be liable for confiscation. As per clause (d) of Section 111, goods which are imported or attempted to be imported or are brought within the Customs quarters for import contrary to any prohibition imposed by or under the Act or any other law for the time being in force, would be liable for confiscation. Similarly, for dutiable or prohibited goods found concealed in any manner in any conveyance would also be liable to confiscation. As per Section 2(39) the term 'smuggling' would mean in relation to any goods, any act or omission which will render such goods liable to confiscation under Section 111 or Section 113. **Thus, clearly Section 111 of the Customs Act prohibits any attempt at concealment of goods and bringing the same within the territory of India without declaration and payment of prescribed duty.** Term 'prohibited goods' as defined under Section 2(33) means any goods, the import or export of which is subject to any prohibition under the 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. This definition therefore, comes in two parts. The first part of the definition explains the term 'prohibited goods' as to mean those goods, import or export of which is subject to any prohibition under the law. The second part is exclusionary in nature and excludes from the term 'prohibited goods', in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with. From the definition of term 'prohibited goods', in case of goods, import of which is permitted would be excluded subject to satisfaction of the condition that conditions for export have been complied with. **By necessary implication therefore in case of goods, import of which is conditional, would fall within the definition of prohibited goods if such conditions are not complied with.**

16. Further clarity in this respect would be available when one refers to the term 'dutyable goods' as to mean any goods which are chargeable to duty and on which duty has not been paid. We refer to this definition since Section 112 makes the distinction in respect of goods in respect of which any prohibition is imposed and dutyable goods other than prohibited goods. When clause (ii) of Section 112 therefor, refers to dutyable goods other than prohibited goods, it shall necessarily have the reference to the goods, import of which is not prohibited or of which import is permissible subject to fulfilment of conditions and such conditions have been complied with. Condition of declaration of dutyable goods, their assessment and payment of customs duties and other charges is a fundamental and essential condition for import of dutyable goods within the country. Attempt to smuggle the goods would breach all these conditions. When clearly the goods are sought to be brought within the territory of India concealed in some other goods which may be carrying no duty or lesser duty, there is clear breach of conditions of import of goods though per se import of goods may not be prohibited.

Further, in case of Malabar Diamond Gallery P. Ltd. Vs ADG, DRI, Chennai [2016(341) ELT65(Mad.)], the Hon'ble Madras High Court has summarized the position on the issue, specifically in respect of gold, as under:

"64. Dictum of the Hon'ble Supreme Court and High Courts makes it clear that gold, may not be one of the enumerated goods, as prohibited goods, still, if the conditions for such import are not complied with, then import of gold, would squarely fall under the definition "prohibited goods", in Section 2 (33) of the Customs Act, 1962----."

Moreover, the Hon'ble High Court of Delhi in its order dated 23.11.2023 in Writ Petition No. 8976 of 2020 in the matter of Kiran Juneja Vs. Union of India & Ors. has held that "A fortiori and in terms of the plain language and intent of Section 2(33), an import which is affected in violation of a restrictive or regulatory condition would also fall within the net of "prohibited goods". Relying on the ratio of the judgments cited above, there is no doubt that the goods seized in the present case are to be treated as

"prohibited goods" within the meaning assigned to the term under Section 2(33) of the Customs Act, 1962.

17. I will now examine the case as per the documents available in the file and submission made by the some noticees at the time of personal hearing, one by one as per the relevant law and as per the provisions: -

17.1 I find that based on specific intelligence regarding carrying of restricted/prohibited goods by two passengers named Shri Murtaza Ali Bhopalwala and his wife Smt. Farida Bhopalwala who were arriving from Abu Dabhi to Ahmedabad, were intercepted by officers of Directorate of Revenue Intelligence, Ahmedabad Zonal Unit (herein after referred as 'DRI') while they were trying to exit through green channel without making any declaration and all proceeding were recorded under Panchnama proceeding dated 11.08.2024. The officers asked both the passengers whether they have anything to declare, to which they had denied. On direction by the DRI officers, they remove all the metallic objects from their body and worn clothes and passed through the Door Frame Metal Detector (DFMD) machine installed near the green channel in the Arrival Hall of Terminal 2 building. However, no beep sound was heard indicating that there was no metallic substance on the body/clothes of Shri Murtaza Ali Bhopalwala and Smt. Farida Bhopalwala. On examination of baggage images displayed from the Baggage Screening Machine for all the baggages (check-in and cabin), the DRI & Custom officers did not notice any unusual images indicating anything objectionable present in any of the bags carried by them. After thorough interrogation of Shri Murtaza Ali Bhopalwala by the officers of DRI and Customs and Smt. Farida Bhopalwala by the lady Officer, Shri Murtaza Ali Bhopalwala and Smt. Farida Bhopalwala both confessed that they both had concealed 2 (two) Black coloured capsules (total 4 capsules) consisting of gold in paste form mixed with chemicals in their body part i.e. rectum. Subsequently, both noticees, voluntarily removed the said concealed capsules from their body i.e. rectum by way of excretion and handed over to the DRI Officers for testing and valuation purpose.

It is also on the record that the government approved valuer tested the said gold and informed that the gross weight of all the 04 capsules containing gold paste recovered from Shri Murtaza Ali Bhopalwala and Smt. Farida Bhopalwala was 1390.44 grams and upon completion of extraction process by the Govt. Approved Valuer, he informed that the Net weight of

02 Gold bars derived from the said gold paste comes to 1232.67 grams with 999.0/24kt purity and having market value of Rs.88,57,967/-. He submitted his valuation report for the said 02 recovered gold bars vide his certificate no. 580/2024-25 and 581/2024-25 both dated 11.08.2024. It is uncontested fact that the gold in form of paste was not declared to the Customs Under Section 77 of the Customs Act, 1962 and both the noticees were trying to pass through green channel without making any declaration. As per the facts of case available on record and as discussed above, no such declaration of the impugned gold namely gold paste, which were found concealed and recovered in manner as described above, was made by Shri Murtaza Ali Bhopalwala and Smt. Farida Bhopalwala in prescribed declaration form. I find that both the noticees admitted that the said gold paste in capsules form was handed over to them by a person whose actual name was not known to them, but was known by name as "Aziz" and as per his direction they have inserted the capsules in their body. Further, I find that they have also shared the details of the person who was come to receive them at Airport on the direction of Shri Aziz. Shri Murtaza Ali Bhopalwala informed the officers his name as Shri Alim Saiyyed Pirjade.

In their voluntary statement dated 11.08.2024 tendered by them, they have admitted that they went to Dubai on 26.07.2024 from Mumbai and returned back to India (Ahmedabad) on 11.08.2024. I find from the content of the statement that, their tickets (to and fro) were booked by Shri Aziz. I find that it is highly implausible for a person Shri Aziz who was hardly known to Shri Murtaza Ali Bhopalwala and Smt. Farida Bhopalwala to book their tickets without any cognizant reason and created doubt on purpose of their visit to Dubai. I find that the noticee Shri Murtaza Ali Bhopalwala and his wife Smt. Farida Bhopalwala had neither questioned the manner of the panchnama proceedings at the material time nor controverted the facts detailed in the panchnama during the course of recording of their respective statement. Every procedure conducted during the panchnama by the Officers, was well documented and made in the presence of the panchas as well as both noticees. In fact, in their voluntary statement dated 11.08.2024, they have clearly admitted that they had travelled from Abu Dhabi to Ahmedabad by Air Arabia Flight 3L 111 on 11.08.2024 carrying the gold paste in form of capsules and concealed them in their rectum. They have clearly admitted in their statement that the gold in form of 04 capsules containing gold in paste form were given by shri Aziz at Al Ansaar Building

located in Al Nada Gift Centre, Sharjah. Shri Murtaza Ali Bhopalwala in his statement admitted that Shri Aziz has already informed them that while coming back to India, they have to carry the gold for him and only on that condition Shri Aziz booked their tickets and sponsored their trip. He admitted that in greed of money he alongwith his wife accepted the offer and carried the gold in form of capsules by concealing them in their body i.e rectum (02 capsules each) while coming back to India.

Further, they have mentioned that they had intentionally not declared the said gold paste in form of capsules concealed in their rectum before the Customs authorities as they wanted to clear the same illicitly and evade payment of customs duty. Further, they have also admitted that smuggling of gold without payment of customs duty is an offence under the Customs law and thereby, violated provisions of Customs Act, 1962 and the Baggage Rules, 2016. Further, it was observed that the said two (2) gold bars, having total weight of 1232.67 grams and purity 999.0/24kt, with a market value of Rs.85,57,967/-, were not declared before the Customs Authorities. This act tantamount to smuggling of gold and renders the said goods liable to confiscation under the provisions of Section 111 of the Customs Act, 1962. Further, I note that the value of these items exceeds the basic exemption limit under the Baggage Rules, 2016 therefore, the gold bars were liable to confiscation under the provisions of Section 111 of the Customs Act, 1962 and accordingly, gold was seized vide seizure memo dated 11.08.2024 on reasonable belief that the said gold was meant for smuggling.

Further, I find that at the time of personal hearing also, both the noticees Shri Murtaza Ali Bhopalwala and his wife Smt. Farida Bhopalwala confessed that said gold paste in form of capsules were handed over by Shri Aziz for smuggling. Both of them admitted that they have done this illegal activity in need of money. They have submitted that the gold was neither belong to them nor purchased by them.

17.2 I find from the 'Test report' that goods are composed of gold with 999.0/24kt purity, which is not in conformity with locally available gold but similar to gold generally smuggled from foreign countries. So, it is a fact that the goods have been correctly seized under the reasonable belief that the goods are smuggled goods as per Section 2(39) of the Customs Act, 1962.

I find that the importation of gold into India is highly regulated and bulk importation of gold item could only be effected by the nominated banks, agencies or business houses in the manner laid down by various DGFT regulations as well as the RBI circular or by the eligible passengers in the manner provided by the relevant regulations as the main object of the Customs Act is to prohibit smuggling of goods and sternly deal with the same as can be gathered/evident on a conjoint reading of Section 2(25), 11(2)(c), 111 and 112 of the Act.

Further, Section 11 of the Act, which principally dealing with the power to prohibit speaks of an absolute prohibition or import being subject to conditions that may be prescribed. It is thus manifest that a prohibition could be either in absolutist terms or subject to a regime of restriction or regulation. It is this theme which stands reiterated in Section 3(2) of the Foreign Trade (Development and Regulation) Act, 1992, (FTDR) which again speaks of a power to prohibit, restrict or regulate. It becomes pertinent to bear in mind that in terms of the said provision, all orders whether prohibiting, restricting or regulating are deemed, by way of a legal fiction, to fall within the ambit of Section 11 of the Act. This in fact reaffirms that Section 2(33) would not only cover situations where an import may be prohibited but also those where the import of goods is either restricted or regulated. In terms of the plain language, an import which is affected in violation of a restrictive or regulatory condition would also fall within the net of "prohibited goods". I find that in terms of the definition of 'prohibited goods' in Section 2(33) even prohibited goods could be imported or exported, subject to compliance with the terms and conditions as prescribed but if import is not done lawfully as per the procedure prescribed under the Customs Act or any other law for the time being in force, in that event the **said goods would fall under the definition of 'prohibited goods'. The necessary corollary is that goods being imported if not subjected to check up at the customs on their arrival and are cleared without payment of customs duty are treated as 'smuggled goods'.** As observed by the Madras High Court in Malabar Diamond Gallery P Ltd. (supra) " The expression, subject to the prohibition under the Customs Act, 1962, or any other law for the time being in force, in Section 2(33) of the Customs Act, has to be read and understood, in the light of what is stated in the entirety of the Act and other laws. Production of legal and valid documents for import along with payment of duty, determined on the goods imported, are

certainly conditions to be satisfied by an importer. If the conditions for import are not complied with, then such goods, cannot be permitted to be imported and thus, to be treated as prohibited from being imported."

Also, the observations of the High Court of Gujarat in Bhargavraj Rameshkumar Mehta Vs UOI - 2018 (361) ELT 260 has also enunciated the principle that, "condition of declaration of dutiable goods, their assessment and payment of customs duties and other charges is a fundamental and essential condition for import of dutiable goods within the country. Attempt to smuggle the goods would breach all these conditions."

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

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

and such passenger have not availed of the exemption under this notification.

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

17.5. A combined reading of the above-mentioned legal provision under the Foreign Trade regulations, Customs Act, 1962 and the notification issued thereunder, clearly indicates that import of gold including gold jewellery through baggage is restricted and condition have been imposed on said import by a passenger such as he/she should be of Indian origin or an Indian passport holder with minimum six months stay abroad etc. only passengers who satisfy these mandatory conditions can import gold as a part of their bona fide personal baggage and the same has be declared to the Customs at their arrival and pay applicable duty in foreign currency/exchange. I find that these conditions are nothing but restrictions imposed on the import of the gold through passenger baggage. I find that noticee named Shri Murtaza Ali Bhopalwala and Smt. Farida Bhopalwala had brought the gold totally weighing 1232.67 grams which is more than the prescribed limit. Further, none of them had declared the same before customs on their arrival which is an integral condition to import the gold and same had been admitted in their voluntary statement that they wanted to clear the gold clandestinely without payment of eligible custom duty. Moreover, they had no foreign exchange with them which is required for payment of eligible customs duty. Having no foreign exchange with them shows their intention that they were not willing to declare the gold before customs and want to clear the said gold illicitly. Since the conditions for import of gold as per the notification issued by DGFT and the restrictions imposed by RBI have been violated, the gold in question has to be treated

as 'prohibited goods' under Section 2(33). Consequently, it would fall within the definition of 'smuggling' under Section 2(39) which will render such goods liable to confiscation under Section 111 of the Act and this act of smuggling was clearly admitted by both noticees Shri Murtaza Ali Bhopalwala and Smt. Farida Bhopalwala in their respective voluntary statement as well as during the time of personal hearing.

17.6 Further, it is pertinent to mention that in the instant case, Department has correctly discharged their burden of proof as placed in terms of Section 123 of Customs Act, 1962 that the gold was of foreign origin and meant for smuggling rather than bonafide household baggage/goods, on the basis of voluntary statements of noticees themselves alongwith the testimony of co-accused Shri Dilmeer Alim Sayyed Pirjade and Ms. Fatema Shabbir Presswala, test report submitted by the Govt. Approved Valuer as well as from the digital evidences gathered from mobile phones of co-noticees. However, on contrary the noticee Shri Murtaza Ali Bhopalwala and Smt. Farida Bhopalwala failed to prove the gold found in their possession was not meant for smuggling and acquired in a legitimate way for their bonafide household goods. I find that converting the gold into paste form from solid form was a clever and premediated move and concealing the gold paste in rectum in form of capsules was just only to hoodwink the officers, so that they could remove the same without notice by the officers and without declaration to avoid the payment of customs duty. The said unmarked gold converted into paste from solid form to deceive the officers, and which was recovered from the possession of Shri Murtaza Ali Bhopalwala and Smt. Farida Bhopalwala and their confessional statements as to the source of the gold was sufficient to have a reasonable belief that the gold is of foreign origin and meant for smuggling. Shri Murtaza Ali Bhopalwala and Smt. Farida Bhopalwala who were carrying the gold had nothing in their possession to prove the legitimacy of the gold. The burden under Section 123 which is only of a reasonable belief; is effectively discharged by the Department who initiated action on the basis of specific intelligence and resulted into seizure of gold after due verification and investigation. Both of them in their statement clearly admitted that they had intentionally not declared the gold paste as they were asked to smuggle the same by concealing the gold in rectum so to avoid the detection from Customs. Further, I find from the statement and submission made during the personal hearing that both of them have disowned the seized gold and

said that they were mere working as carriers for Shri Aziz @ Abu Dhabi, who handed over the gold paste in form of capsules, for monetary consideration and in turn to hand over the gold paste to person who recognized them or escorted them. Thus, the onus to prove that the gold was not smuggled, so as to upset the reasonable belief entertained by the Department shifted and squarely rested on Shri Murtaza Ali Bhopalwala and Smt. Farida Bhopalwala and they have miserably failed to show the procurement and the possession of the gold by way of any legal document. To support my view, I rely on the decision of Hon'ble Kerala High Court in the case of Commissioner of Customs, Cochin V. Om Prakash Khatri which thereafter was upheld by the Hon'ble Apex Court as reported in 2019 (368) E.L.T. A155 (SC) wherein the following observation is made:

"We are in agreement with the view of the High Court. The appellant was unable to explain the source of the gold which was confiscated. In the circumstances, we find no merit in the civil appeals, which are accordingly dismissed."

Further, to support my view, I place reliance on the judgment of **the Hon'ble Supreme Court in case of CC Vs. D. Bhoormal 10 which clarifies the code of conduct to be followed, as under:-**

2004 (165) ELT 136(SC) 1999 (109) ELT 247 (T) (1997) 90 ELT 241 (SC) (1997) 89 ELT 646 (SC) 1983 (13) ELT 1546 (SC) –The law does not require the prosecution to prove the impossible. All that is required is the establishment of such a degree of probability that a prudent man may, on the basis, believe in the existence of the fact in issue. The Hon'ble Court further observed that _secrecy and stealth being its covering guards, it is impossible for the preventive department to unravel every link of the process.

Therefore, it is a case of smuggling of gold without declaring in the aforesaid manner with intent to evade payment of Customs duty is conclusively proved. Thus, it is proved that both noticees violated Section 77, Section 79 of the Customs Act for import/smuggling of gold which was not for bonafide use and thereby violated Rule 11 of the Foreign Trade Regulation Rules 1993, and para 2.26 of the Foreign Trade Policy 2015-20.

17.7 It is seen that for the purpose of customs clearance of arriving passengers, a two-channel system is adopted i.e Green Channel for passengers not having dutiable goods and Red Channel for passengers having dutiable goods and all passengers have to ensure to file correct

declaration of their baggage. I find that both the noticees Shri Murtaza Ali Bhopalwala and Smt. Farida Bhopalwala had not filed the baggage declaration form and had not declared the said gold which was in their possession, as envisaged under Section 77 of the Act read with the Baggage Rules and Regulation 3 of Customs Baggage Declaration Regulations, 2013 as amended and they were exit through Green Channel which shows that the noticees were not willing to declare the said gold in order to evade the payment of eligible customs duty. I also find that the definition of “eligible passenger” is provided under Notification No. 50/2017- Customs New Delhi, the 30th June, 2017 wherein it is mentioned as - “eligible passenger” means a passenger of Indian origin or a passenger holding a valid passport, issued under the Passports Act, 1967 (15 of 1967), who is coming to India after a period of not less than six months of stay abroad; and short visits, if any, made by the eligible passenger during the aforesaid period of six months shall be ignored if the total duration of stay on such visits does not exceed thirty days. I find that both of them have not declared the gold before customs authority. Had it not been due to the intelligence, alertness and diligence of the officers manning to intercept both noticees, the noticees would have gotten away with the impugned gold. It is also observed that the imports were also for non-bonafide purposes. Further, none of them have fulfilled the conditions prescribed for the eligible passenger to carry the gold in terms of Notification No. 50/2017-Customs, dated 30.06.2017. Therefore, the said improperly imported gold weighing 1232.67 grams (620.03 grams + 612.64 grams) concealed by them, without declaring to the Customs on arrival in India cannot be treated as bonafide household goods or personal effects. The noticees have thus contravened the Foreign Trade Policy 2015-20 and Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 read with Section 3(2) and 3(3) of the Foreign Trade (Development and Regulation) Act, 1992.

17.8 In terms of Section 111(d) of the Customs Act, 1962, the following goods brought from a place outside India shall 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;

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F. No: VIII/10-258/DRI/SVPIA/O&A/HQ/2024-25

Import of gold into India is regulated under various provisions and subject to strict conditions. According to Notification No. 50/2017-Customs dated 30.06.2017, as amended Gold, with description as below, is allowed to be imported by eligible passengers upon payment of applicable rate of duty subject to specific conditions as below being fulfilled.

Serial No. 356 (i) Gold bars, other than tola bars, bearing manufacturer's or refiner's engraved serial number and weight expressed in metric units, and gold coins having gold content not below 99.5%, imported by the eligible passenger, subject to fulfillment of Condition No. 41 of the Subject Notification.

Serial No. 356 (ii) Gold in any form other than (i), including tola bars and ornaments, but excluding ornaments studded with stones or pearls, subject to fulfillment of Condition No. 41 of the Subject Notification. Condition 41 of the said Notification No. 50/2017 dated 30.06.2017, as amended states that:-

If,-

- 1. (a) the duty is paid in convertible foreign currency;
(b) the quantity of import does not exceed ten kilograms of gold and one hundred kilograms of silver per eligible passenger; and*

- 2. the gold or silver is,-*

*(a) carried by the eligible passenger at the time of his arrival in India,
or*

(b) the total quantity of gold under items (i) and (ii) of Sr. No. 356 does not exceed one kilogram and the quantity of silver under Sr. No. 357 does not exceed ten kilograms per eligible passenger; and

(c) is taken delivery of from a customs bonded warehouse of the State Bank of India or the Minerals and Metals Trading Corporation Ltd., subject to the conditions 1 ;

Provided that such eligible passenger files a declaration in the prescribed form before the proper officer of customs at the time of his arrival in India declaring his intention to take delivery of the gold or silver from such a customs bonded warehouse and pays the duty leviable thereon before his clearance from customs.

Explanation.- For the purposes of this notification, "eligible passenger" means a passenger of Indian origin or a passenger holding a valid passport, issued under the Passports Act, 1967 (15 of 1967), who is coming to India after a period of not less than six months of stay abroad; and short visits, if any,

made by the eligible passenger during the aforesaid period of six months shall be ignored if the total duration of stay on such visits does not exceed thirty days and such passenger has not availed of the exemption under this notification or under the notification being superseded at any time of such short visits

From the facts of the case available on record, it is clearly appeared that conditions stipulated above were not fulfilled by the Noticees Shri Murtaza Ali Bhopalwala and Smt. Farida Bhopalwala as both of them visited Dubai on 26.07.2024 and returned on 11.08.2024, therefore, the condition of staying more than six months for becoming eligible passenger was not fulfilled in the instant case. *I find that a well-defined and exhaustive conditions and restrictions are imposed on import of various forms of gold by eligible passenger(s)/nominated banks/nominated agencies/premier or star trading houses/SEZ units/EOUs. These conditions are nothing but restrictions imposed on import of gold. In the subject case, it appears that no such condition was satisfied rendering it a clear case of smuggling.* It is pertinent to mention here that Hon'ble Supreme Court of India in Sheikh Mohd. Omer Vs. Collector of Customs, Calcutta [1983 (13) ELT 1439] clearly laid down that any prohibition applies to every type of prohibitions which may be complete or partial and even a restriction on import or export is to an extent a prohibition. Hence, the restriction on import of various forms of gold is to an extent a prohibition and any violation of the said conditions/restrictions would make the subject gold in this case, liable for confiscation under Section 111(d) of the Customs Act, 1962.

(II) In terms of Section 111 (I) of the Customs Act, 1962, the following goods brought from a place outside India shall be liable to confiscation –

(I) 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;

I find that the said gold paste containing in capsules concealed in their rectum and was not declared to the Customs under Section 77 of the Customs Act, 1962 and they passed through the Green Channel. As per the facts of the case available on record and as discussed above, no such declaration of the impugned goods, namely gold in form of gold paste which were found concealed and recovered in manner as described above, was

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made by the Noticees, in the prescribed declaration form. Also, I find that they were not eligible to import gold and that too undeclared in substantial quantity and hence the same constitute prohibited goods, which are liable to confiscation under Section 111 (l) of the Customs Act, 1962.

(III) in terms of Section 111(m) of the Customs Act, 1962, the following goods brought from place outside India shall liable to confiscation-

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

In this regard, I find that total 1232.67 grams of derived gold bars of foreign origin which was recovered from possession of Shri Murtaza Ali Bhopalwala and Smt. Farida Bhopalwala and admittedly smuggled into India. On test, the gold was found to be of purity of 999.0/24kt. Moreover, I find that the noticees could not produce any licit or valid documents regarding their legal importation/acquisition/possession/transportation of the gold of foreign origin found in person of Shri Murtaza Ali Bhopalwala and Smt. Farida Bhopalwala, thus failing to discharge their "burden of proof" that the gold was legally imported/possessed. They had also not declared the same to the customs in Indian Customs Declaration Form in terms of Section 77 of Customs Act, 1962, which read as:-

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.

As per the facts of the case available on records, no such declaration of the impugned gold, which were found concealed in person of Shri Murtaza Ali Bhopalwala and Smt. Farida Bhopalwala in prescribed declaration form and hence the said gold is liable for confiscation under Section 111 (m) of the Customs Act, 1962.

18. It, is therefore, proved that by the above acts of contravention, the passenger/noticees have rendered gold of 24 kt having 999.0 purity weighing 1232.67 gms., retrieved/derived from gold concealed in the form of gold paste in their rectum in form of capsules, having total market Value of Rs.88,57,967/-, seized vide Seizure Memo/Order dated 11.08.2024 under the Panchnama proceedings dated 11.08.2024 liable to confiscation

under the provisions of Sections 111(d), 111(l) & 111(m) of the Customs Act, 1962. By using the modus of concealing gold in the form of gold paste in capsules concealed in their rectum and without declaring to the Customs on arrival in India, it is observed that the passenger/noticees were fully aware that the import of said goods is offending in nature. It is therefore very clear that they have knowingly carried the gold and failed to declare the same to the Customs on their arrival at the Airport. Further, I find that in their voluntarily statement recorded under Section 108 of Customs Act, 1962, they admitted that they did not declare anything to Customs and while coming out of the green channel, they were apprehended by the officials of DRI, Ahmedabad with the said gold in form of paste. It is seen that they have involved themselves in carrying, keeping, concealing and dealing with the impugned goods in a manner which they knew or had reasons to believe that the same was liable to confiscation under the Act. It, is therefore, proved beyond doubt that the noticees Shri Murtaza Ali Bhopalwala and Smt. Farida Bhopalwala committed an offence of the nature described in Section 112 of Customs Act, 1962 making them liable for penalty under Section 112 of the Customs Act, 1962.

19. I further find that gold is not on the list of prohibited items but import of the same is controlled. The view taken by the **Hon'ble Supreme Court in the case of Om Prakash Bhatia** however in very clear terms lay down the principle that if importation and exportation of goods are subject to certain prescribed conditions, which are to be fulfilled before or after clearance of goods, non-fulfillment of such conditions would make the goods fall within the ambit of 'prohibited goods'. This makes the gold seized in the present case "prohibited goods" as the noticees trying to smuggle the same and were not eligible passengers to bring or import gold into India in their baggage. The gold was recovered in a manner concealed in form of gold paste in form of capsules concealed in their rectum and kept undeclared with an intention to smuggle the same and evade payment of customs duty. By using this modus, it is proved that the goods are offending in nature and therefore prohibited on its importation. Here, conditions are not fulfilled by the passenger.

19.1. I find that, the burden of proving that the seized gold bar was not smuggled goods lie on the person who claims to be the owner of the goods

so seized or from whose possession the goods were seized. Section 123 of the Customs Act, 1962 stipulates that:-

Section 123. Burden of proof in certain cases. -

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

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

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

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

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

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

In the instant case, the onus, for proving that the seized gold bars weighing 1232.67 grams of foreign origin are not smuggled in nature lie on both noticees from whose possession of impugned goods were seized on 11.08.2024. The gold bars derived from gold paste in form of capsules, recovered from noticees Shri Murtaza Ali Bhopalwala and Smt. Farida Bhopalwala and they have clearly admitted they were going to smuggle the same as per the direction of Shri Aziz for monetary consideration. In view of the above discussions, I find that the manner of concealment, in this case clearly of ***ingenious in nature*** and shows that the noticee had attempted to smuggle the seized gold to avoid detection by the Customs Authorities. Further, the noticee could not produce any licit or valid documents regarding the legal importation/acquisition/possession/transportation of the gold found in his possession. Thus, the noticee has failed to discharge the burden placed on them in terms of Section 123 and also not declared the same to the Customs in the prescribed Indian Customs Declaration Form. In view of the above discussions, I hold that the gold weighing 1232.67 grams of 24Kt./999.0 purity, retrieved/ derived from gold paste and undeclared by the passenger/noticee with an intention to clear the same illicitly from Customs Airport and to evade payment of Customs duty, are liable for absolute confiscation. Further, it becomes very clear that the gold was

carried to India by the noticee in concealed manner to evade the customs duty and for monetary benefit. In the instant case, ***I am therefore, not inclined to use my discretion to give an option to redeem the gold on payment of redemption fine, as envisaged under Section 125 of the Act.***

19.2. In the case of Samynathan Murugesan [2009 (247) ELT 21 (Mad)], the Hon'ble 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 has ruled that as the goods were prohibited and there was concealment, the Commissioner's order for absolute confiscation was upheld.

19.3. Further I find that in a case decided by the Hon'ble High Court of Madras reported at 2016-TIOL-1664-HC-MAD-CUSin 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)."

19.4. The Hon'ble High Court of Madras in the matter of Commissioner of Customs (AIR), Chennai-I Vs. P. Sinnasamy [2016 (344) E.L.T. 1154 (Mad.)] has held-

Tribunal had arrogated powers of adjudicating authority by directing authority to release gold by exercising option in favour of respondent - Tribunal had overlooked categorical finding of adjudicating authority that respondent had deliberately attempted to smuggle 2548.3 grams of gold, by concealing and without declaration of Customs for monetary

consideration - Adjudicating authority had given reasons for confiscation of gold while allowing redemption of other goods on payment of fine - Discretion exercised by authority to deny release, is in accordance with law - Interference by Tribunal is against law and unjustified –

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

19.5. In [2019 (370) E.L.T. 1743 (G.O.I.)], before the Government of India, Ministry of Finance, [Department of Revenue - Revisionary Authority]; Ms. Mallika Arya, Additional Secretary in Abdul Kalam Ammangod Kunhamu vide Order No. 17/2019-Cus., dated 7-10-2019 in F. No.375/06/B/2017-RA stated that it is observed that C.B.I. & C. had issued instruction vide Letter F. No. 495/5/92-Cus. VI, dated 10-5-1993 wherein it has been instructed that “in respect of gold seized for non-declaration, no option to redeem the same on redemption fine under Section 125 of the Customs Act, 1962 should be given except in very trivial cases where the adjudicating authority is satisfied that there was no concealment of the gold in question”.

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

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

24.....

25.....

*“26. The Supreme Court of India in State of Maharashtra v. Natwarlal Damodardas Soni [1980] 4 SCC 669/1983 (13) E.L.T. 1620 (SC)/1979 taxmann.com 58 (SC) **has held that smuggling particularly of gold, into India affects the public economy and financial stability of the country.**”*

19.7. Given the facts of the present case before me and the judgements and rulings cited above, I find that the manner of concealment, in this case clearly shows that the noticees had attempted to smuggle the seized gold to

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avoid detection by the Customs Authorities. Further, no evidence has been produced to prove licit import of the seized gold bars. Further, from the SCN, Panchnama and Statements, I find that the manner of concealment of the gold is **ingenious** in nature, as the noticees concealed the gold paste in form of capsules in their rectum, with intention to smuggle the same into India and evade payment of customs duty. Therefore, the gold weighing 1232.67 grams of 24Kt./999.0 purity in form of gold bars, retrieved/ derived from gold paste, is therefore, liable to be **confiscated absolutely. I therefore hold in unequivocal terms that the gold weighing 1232.67 grams (620.03 grams + 612.64 grams) of 24Kt./999.0 purity, placed under seizure would be liable to absolute confiscation under Section 111(d), 111(l) & 111(m) of the Act.**

19.8 I find that the Show Cause Notice has also proposes penalty under Section 112 and Section 117 of Customs Act, 1962 on the noticees Shri Murtaza Ali Bhopalwala and Smt. Farida Bhopalwala. In this regard, I find that there is no bar in the Customs Act upon simultaneous penalty under Section 112 (a) and (b). Bringing into India goods which contravene the provisions of Customs Act and omitting to declare the same under Section 77 of the Customs Act, 1962 are clearly covered under “does or omits to do any act which act or omission render such goods liable to confiscation under Section 111, or abets the doing or omission of such act” covered under Section 112(a) of the Customs Act, 1962 and Carrying/smuggling goods in an ingeniously concealed manner is clearly covered under Section 112(b) of the Customs Act, 1962. I find that not declaring the dutiable goods as required under Section 77 of Customs Act, 1962 and Rules and regulations made thereunder. The noticees had attempted to smuggle the said goods by deliberately not declaring the same upon arrival with willful intent to evade customs duty. Further, the statements of the both the noticees revealed that they were just carrier of gold for monetary benefits and has attempted to smuggle the gold on direction of Shri Aziz of Abu Dhabi. I find that in the instant case, the principle of mens-rea on behalf of noticees are established as the noticees have failed to follow the procedure and intentionally involved in smuggling of the gold. Therefore, both the noticees are liable to penalty under Section 112(a) and 112(b) of Customs Act, 1962. To support my view, I placed reliance on the judgment in case of Revisionary Authority, New Delhi in the matter of Smt. Shakeena Ahammed Thadayil, Kozhikode Vs. Commissioner of Customs, Calicut (Order No.

44/24-Cus dated 13.02.2024), which is squarely apt in the instant case. On deciding the penalty in the instant case, I also take into consideration the observations of Hon'ble Apex Court laid down in the judgment of M/s. Hindustan Steel Ltd Vs. State of Orissa; wherein the Hon'ble Apex Court observed that "The discretion to impose a penalty must be exercised judicially. A penalty will ordinarily be imposed in case where the party acts deliberately in defiance of law, or is guilty of contumacious or dishonest conduct or act in conscious disregard of its obligation; but not in cases where there is technical or venial breach of the provisions of Act or where the breach flows from a bona fide belief that the offender is not liable to act in the manner prescribed by the Statute." In the instant case, the noticees were attempting to smuggled the gold in form of paste and attempting to evade the Customs Duty by not declaring the derived gold bars net weighing 1232.67 grams having purity of 999.0 and 24Kt. Hence, the identity of the goods are not established and non-declaration at the time of import, is considered as an act of omission on their part. I further find that the noticees had involved themselves and abetted the act of smuggling of the said gold bars weighing 1232.67 grams, carried by them. They have agreed and admitted in their respective statements that they had travelled from Abu Dhabi to Ahmedabad with the said gold in form of paste concealed in their rectum. Despite their knowledge and belief that the gold carried by them is an offence under the provisions of the Customs Act, 1962 and the Regulations made under it, both of them attempted to smuggle the said gold of 1232.67 grams, having purity 999.0 by concealment. Thus, it is clear that both of them have concerned themselves with carrying, removing, keeping, concealing and dealing with the smuggled gold which they very well knew and had reason to believe that the same were liable for confiscation under Section 111 of the Customs Act, 1962. Accordingly, I hold that the noticee named Shri Murtaza Ali Bhopalwala and Smt. Farida Bhopalwala are liable for the penalty under Section 112(a) & 112 (b) of the Customs Act, 1962.

19.9 Regarding imposition of penalty under Section 117 of Customs Act, 1962, I find that Section 117 of Customs Act, 1962 provide *for imposition of penalty on any person who contravenes any provision of the said Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, to be liable to a penalty not exceeding four lakhs rupees. The maximum amount of penalty prescribed*

under Section 117 initially at Rs. One lakh was revised upwards to Rs. Four lakhs, with effect from 01.08.2019. The detailed discussions in the preceding paragraphs clearly prove that both the noticees not only failed to fulfill the conditions but also failed to abide by the responsibilities reposed on them as per the provision of Customs Act. Hence, there are clear violations of the Section 77 & Section 79 of the Customs Act, 1962. In the instant case, both of them accepted to carry the gold in form of paste for monetary benefit and involved themselves in the smuggling of gold. Hence, it is, fit case for imposing penalty under Section 117 of Customs Act, 1962 on the noticees named Shri Murtaza Ali Bhopalwala and Smt. Farida Bhopalwala.

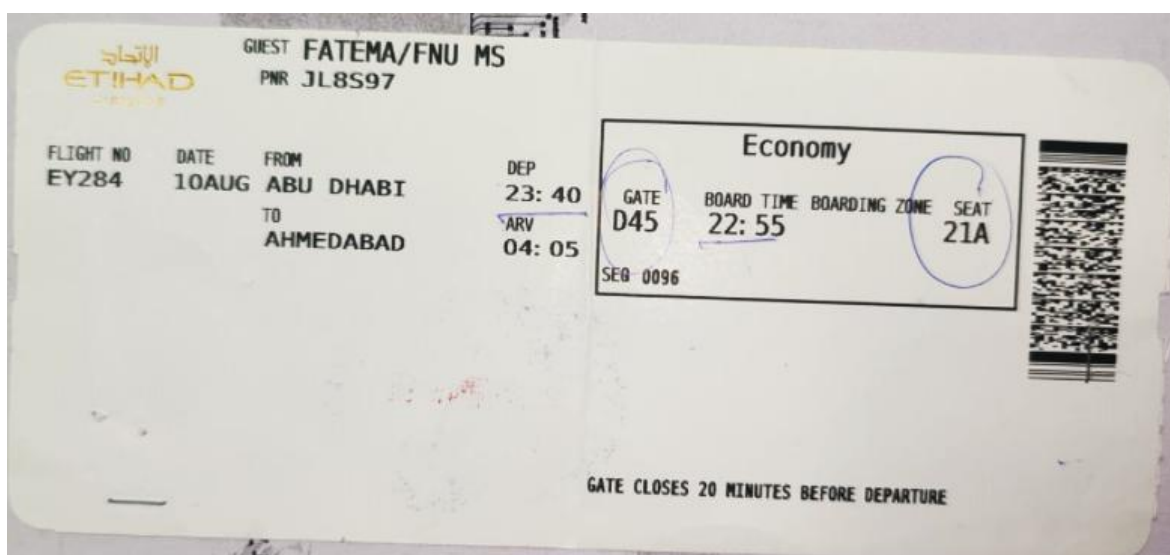
20. Now, I discuss the matter whether the gold recovered from noticee Ms. Fatema Shabbir Presswala is liable for confiscation or otherwise under Section 111 of Customs Act, 1962 and whether the noticee is liable for penalty under Section 112 of Customs Act, 1962 and Section 117 of Customs Act, 1962 or not.

20.1 I find that the panchnama dated 11.08.2024 drawn at Hotel Kanchan Palace, Ahmedabad clearly drawn out the fact and on basis of specific intelligence that a person named Shri Dilmeer Alim Sayyed Pirjade, was going to receive the passengers from airport and same also substantiated by the confessional statements of Shri Murtaza Ali Bhopalwala and Smt. Farida Bhopalwala who were intercepted by DRI while they were trying to exit through green channel, wherein they have mentioned that they were to be received by a person named Shri Alim Sayyed Pirjade on the direction of Shri Aziz of Abu Dhabi.

Further, intelligence revealed that the said person namely Shri Dilmeer Alim Sayyed Pirjade was staying in the hotel Kanchan Palace, 3rd Floor, Jaypunj Complex, Opp. Shankar Bhuvan, Gandhi Bridge Corner, Shahpur Road, Ahmedabad – 380004. The intelligence further revealed that the said person impersonating himself as Gauravkumar Parihar and accordingly a search of the hotel was conducted and the proceeding were recorded under panchnama proceeding dated 11.08.2024 in presence of two independent witnesses. I find from panchnama that the said person was staying at room no. 305 of said hotel. The receptionist also informed that a lady named Ms. Fatema had also come to this booked room as a visitor. The officers of DRI asked Shri Dilmeer Alim Sayyed Pirjade

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(Impersonated as Shri Gaurav Parihar) to move to the Room No. 305 of the said Hotel. On opening the room no. 305, a lady opened the door and introduces herself as Ms. Fatema (Passport No. M9194464) and informed the officers that she had arrived from Abu Dhabi to Ahmedabad on Etihad Flight No. EY 284 at around 04:00 AM in the morning of 11.08.2024 and same was also confirmed by her passport and boarding pass with PNR JL8S97 recovered from the said room. In context of the present case, I find it worth to reproduce the flight ticket as :-



The officers asked both persons whether they have any contraband with them to which they denied. Further, during the search of Room no. 305 alongwith baggages found in that room, three capsules covered with black coloured tape containing paste form substance were recovered from the brown-coloured ladies hand bag which belong to Ms. Fatema. I find that Shri Dilmeer Alim Sayyed Pirjade admitted that the said three capsules of foreign origin gold in paste form had been carried by Ms. Fatema from Abu Dhabi vide Flight No. EY-284 on 11.08.2024. Further, Ms. Fatema also confirmed that she had brought the said capsules from Abu Dhabi which were handed over to her by Shri Aziz @ Abu Dhabi and in turn to hand over the same to Shri Dilmeer Alim Sayyed Pirjade, she came to the Hotel Kanchan Palace. Shri Dilmeer also confirmed that Ms. Fatema carried the said gold paste in form of capsules by concealing in her rectum.

20.2 It is also on record that the Government Approved Valuer has tested/checked the said gold paste and on completion of the process of conversion, 02 gold bars were derived from the said gold paste, having net weight of 861.480 grams having purity 999.0/24kt and having market value

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of Rs. 61,90,595/- and The Government Approved valuer has submitted his valuation report vide certificate no. 579/2024-25 dated 11.08.2024. The details of the same are as:-

S. No.	Details of Items	Net Weight in Gram	Purity	Market value (Rs)	Tariff Value (Rs)
1	Gold Bar	861.480	999.0 24Kt	6190595	5584691
	Total	861.480		6190595	5584691

Further, I find from the voluntary statement tendered by her on 11.08.2024 and 12.08.2024, that she went to Sharjah for job of cooking three months back and came to India to visit her family on 11.08.2024. She admitted that during her stay at Sharjah one person named Shri Aziz@ Abu Dhabi gave her some money alongwith the air ticket from Abu Dhabi to Ahmedabad alongwith three capsules containing gold in paste form to carry to same into India. She admitted that after arriving at Ahmedabad vide Flight No. EY-284 dated 11.08.2024 she exited through green channel without making any declaration of the said gold. She further claimed that Shri Dilmeer Alim Sayyed Pirjade was received her from the Airport and took her to Hotel Kanchan. At the hotel in Room No. 305, she removed the said capsules from her rectum and placed in her bag as per the direction of Shri Dilmeer Alim Sayyed Pirjade.

20.3 Further, she clearly admitted that she had no purchase bill for the said gold paste as same was given by Shri Aziz @ Abu Dhabi and same was meant for smuggling. Further, I find from the statement that she had no foreign currency with her which is primary and foremost condition after declaration and required for payment of Customs Duty on importation of gold. Not having any foreign currency with her at the time of arrival clearly demonstrating that she was not willing to declare the gold before customs authority and removed the gold clandestinely with sole purpose of smuggling and evading the payment of eligible customs duty.

20.4 In her submission also, she has never contested about the possession of gold and admitted that the gold paste in form of 03 capsules was brought by her from Abu Dhabi which was handed over to her by Shri Aziz @ Abu Dhabi. I find from the statement of Ms. Fatema alongwith statement of Shri Dilmeer Alim Sayyed Pirjade and from her written submission, that she was brought the foreign origin gold in form of capsules by concealing it in her rectum for monetary benefits. She clearly admitted in her submission that

the said gold paste in form of capsules was given to her by Shri Aziz @ Abu Dhabi who was the mastermind behind the gold smuggling and she was merely an unwitting participant. The explanation given by the noticee that she was unaware of smuggling cannot be held to be genuine and creditworthy, as in her voluntary statement dated 11/12.08.2024, she herself admitted that she smuggled the gold in paste form containing in capsules by concealing the same in her rectum for monetary benefits. Further from retrieved whatsapp chat between Shri Dilmeer and Ms. Nafisa Husain Burhanpurwala dated 07.06.2024, wherein they have shared the details regarding payment of Commission of Rs. 45,700/- to Ms. Nafisa for smuggling of gold for earlier occasion, clearly makes it evident that Ms. Nafisa was an active member of syndicate who involved in the smuggling of gold as a carrier and was a habitual offender. In any case ignorance of law is no excuse not to follow something which is required to be done by the law in a particular manner. This principle has been recognized and followed by the Apex Court in a catena of its judgments. To support my view, I relied upon the judgment of Hon'ble High Court of Calcutta in case of Provash Kumar Dey Vs. Inspector of Central Excise and others wherein it was held that "*ignorance of law is no excuse and accordingly, the petitioner was rightly found guilty for contravention of Rule 32(2) [1993(64) ELT23(Del.)]*".

20.5 Further, under her submission, she submitted that she did not play a dominant role in smuggling operation and she did not have control over the gold or the means of smuggling it; that the investigation was incomplete, and key evidence was not collected or analyzed and the authorities failed to verify the authenticity of the gold or the circumstances of its seizure; that she was in innocent possession of the gold, unaware of its illegal origin; that the gold was received as a gift or inheritance; that she had no knowledge of its illegal importation. In this regard, I find that the above explanation given by the noticee is not creditworthy and merits no credence, as on one hand she clearly admitted that she was came to know that a person named Shri Aziz @ Abu Dhabi was providing some money alongwith air tickets in lieu of smuggling of gold and she willingly accepted his offer of smuggling of gold by contacting him and on other hand she contradicts herself by saying that she was unaware of illegal origin of gold and was in innocent possession of gold. From the voluntary statement of Shri Dilmeer Alim Sayyed Pirjade, I find that this was not her first time of carrying the gold in paste form by concealing it in her rectum in form of capsules, but on earlier occasions

also, she had smuggled the gold. Further from the deposition of Shri Dilmeer Alim Sayyed Pirjade, I find that Ms. Fatema used to share the details of new passengers with him who were willing to smuggle the gold into India for monetary benefits. These above facts clearly establishes her active and willing participation in the smuggling operation. **Therefore, the plea of noticee that she was unwitting participant and was in innocent possession of gold is far from truth and baseless without any merits. Moreover, in the event of her own admission no further corroboration is required, reliance is placed on the decision of the Supreme Court in Commissioner of C. Ex., Madras Vs. M/s Systems & Components Pvt. Ltd. - 2004 (165) ELT 136, where it has been held that "it is a basic and settled law that what has been admitted need not be proved". I therefore reject the contention as raised by the noticee as frivolous and baseless.**

20.6 She also contested that she was accused of smuggling of gold only on the basis of testimony of Shri Dilmeer Alim Sayyed Pirjade, a co-noticee in the Show Cause Notice and referred the case law of Hon'ble Madras High Court in the matter of Union of India Vs. R Rajendran (2004). In this regard, I find that the statements given by noticee herself alongwith the co-noticee Shri Dilmeer Alim Sayyed Pirjade under Section 108 of the Customs Act, 1962, were voluntarily and accordingly carry evidentiary value under the law. To support my view, I relied upon the judgment in case of **K. P. Abdul Majeed reported at 2017 (51) STR 507 (Ker)**, wherein the Hon'ble High Court of Kerala has observed as under:

*Having regard to the legal implications evolved from the aforesaid factual situation, it is clear that confession statement of co-accused can be treated as evidence, provided sufficient materials are available to corroborate such evidence. **As far as retraction statement is concerned, it is for the person who claims that retraction has been made genuinely to prove that the statements were obtained under force, duress, coercion, etc., otherwise, the materials indicate that statements were given voluntarily.** When the statute permits such statements to be the basis of finding of guilt even as far as co-accused is concerned, there is no reason to depart from the said view.*

Furthermore, WhatsApp chats between Shri Dilmeer Alim Sayyed Pirjade and Ms. Fatema (Mobile No. 919893428600), I find that she was in regular

touch with Shri Dilmeer and used to forward/share the details of persons viz. copy of passport, photos etc. to Shri Dilmeer. From the above, I hold that she had played an active role in the gold smuggling syndicate and was providing details of the persons to the member of the syndicate and I also find that Ms. Fatema is habitual offender as apart from this present case, she was also involved in the smuggling of gold into India in earlier instances. From the evidences gathered in the form of Panchnama, Statements of various persons recorded under Section 108 of the Customs Act, 1962 and digital data extracted/retrieved from the respective mobile phones, I find that Ms. Fatema Jobat/Ms. Fatema Shabbir Presswala had attempted to smuggle the gold weighing 861.48 grams. From the **totality of facts, circumstances, voluntary statements, digital evidence from the respective mobile numbers**, it is conclusively established that:

- The seized gold, i.e. two bars weighing 861.48 grams, is of **foreign origin**;
- Shri Aziz @ Abu Dhabi who the main conspirator in the gold smuggling operation had handed over the gold paste containing in capsules to Ms. Fatema for smuggling and also promised to pay her a monetary consideration after successful delivery of the said gold;
- Shri Dilmeer Alim Sayyed Pirjade, who received and escort Ms. Fatema from airport to Hotel Kanchan on direction of Shri Aziz @ Abu Dhabi;
- Ms. Fatema did not declare the said gold weighing 861.48 grams and having Market Value of Rs. 61,90,595/- before the Customs Authorities, though the value of the same exceeds the basic exemption limit under the Baggage Rules and she passed through the green channel without declaration;
- Ms. Fatema was in continuous contact with Shri Dilmeer Alim Sayyed Pirjade and shared the details of person who willing for smuggling of gold;
- In earlier instances as well, Ms. Fatema had involved in smuggling of gold for monetary consideration on instructions of Shri Aziz;
- Ms. Fatema in her voluntary statement recorded on 11.08.2024/12.08.2024 & 16.12.2024 admitted her involvement in smuggling of gold;
- Shri Dilmeer Alim Sayyed Pirjade in his voluntary statement recorded on 11/12.08.2024 & 20.12.2024 admitted the fact that he received Ms. Fatema from airport on 11.08.2024 and escort her to the Hotel Kanchan where she handed over the capsules containing gold in paste form from her rectum;
- Shri Dilmeer Alim Sayyed Pirjade, Ms. Nafisa Husain Burhanpurwala and Ms. Fatema actively participated in smuggling of gold in active collusion with Aziz @ Dubai for monetary benefits;

- The attempt to smuggle and clear the gold without declaration constitutes a **willful and deliberate violation** of Section 111 (d) (l) & (m) of the Customs Act, 1962;

From the above discussion and findings, it is evidently clear that the allegation made against Ms. Fatema was not only based on the testimony of Shri Dilmeer Alim Sayyed Pirjade rather it was corroborated with her confessional statement, non-submission of legitimate documents of procurement of gold and digital evidences gathered during the investigation. Therefore, the contention of noticee that she was alleged of smuggling only on basis of statement of Shri Dilmeer Alim Sayyed Pirjade is not tenable, afterthought and merit no credence.

20.7 I also note that the provisions of Section 65B of the erstwhile Indian Evidence Act, 1872 are *pari materia* to Section 138C(4) of the Customs Act, 1962. Both provisions lay down essential conditions for the admissibility of electronic records, that the source of the document must be identified, the manner in which it was produced should be clearly described, and it must be accompanied by a certificate issued by a person occupying a responsible official position in relation to the operation of the device or the management of the relevant activities. These statutory safeguards are intended to ensure the authenticity and integrity of digital records used as evidence. In the present case involving the organized smuggling of foreign-origin gold through SVPI Airport, Ahmedabad, several items of digital evidence were relied upon during the investigation. It is pertinent to note that smartphones, being capable of storing, transmitting, and receiving digital content through various applications such as WhatsApp, are functionally equivalent to computers for the purposes of Sections 65B and 138C. These devices serve as primary conduits for communication, coordination, and data storage in such illicit operations. Shri Dilmeer Alim Sayyed Pirjade voluntarily provided screenshots of WhatsApp chats exchanged with Ms. Fatema, Shri Aziz @ Abu Dhabi, Shri Gauravkumar Parihar, Shri Babu Bhai Shri Murtaza Ali Bhopalwala and Ms. Nafisa Husain Burhanpurwala which form a crucial part of the digital evidence in this case. These screenshots were duly supported by a certificate issued under Section 65B of the Indian Evidence Act as well as under Section 138C(4) of the Customs Act, thereby satisfying the evidentiary requirement for admissibility. I further observe that with the enactment of the **Bhartiya Sakshya Adhiniyam, 2023**, which replaced the Indian Evidence Act, the admissibility of electronic records

continues to be governed by similarly structured but modernized provisions. Section 61 of the said Adhiniyam clearly provides that ***no electronic or digital record shall be denied admissibility solely on the ground of being digital in nature***. It further affirms that such records shall, subject to Section 63, carry the same legal weight and enforceability as traditional documentary evidence. Section 63(4) corresponds to the earlier Section 65B(4), reiterating the requirement of a certification by a responsible person attesting to the manner of production, device integrity, and source reliability. Moreover, the Act expands the definition of electronic evidence under Section 2(1)(d), bringing it in line with evolving technological usage. In light of the above statutory provisions and factual circumstances, and considering the corroborative value of the digital evidence with other materials on record, such as travel data, call detail records, and voluntary statements, I am satisfied that the digital evidence including WhatsApp chats and images are both admissible and reliable. These pieces of evidence not only meet the legal threshold for admissibility but also substantively establish the complicity and coordination among the noticees in the present gold smuggling case. Accordingly, I hold that the digital evidence gathered during the investigation is admissible and carries significant probative value in this case.

20.8 It is uncontested fact that the said derived gold bars were not declared to the Customs Under Section 77 of the Customs Act, 1962 and the noticee was passed through green channel. As per the facts of case available on record and as discussed above, no such declaration of the impugned gold namely gold bars, which were found concealed and recovered in manner as described above, was made by Ms. Fatema Shabbir Presswala in prescribed declaration form. Further, I find that the noticee was not eligible to import gold and that too undeclared in substantial quantity and hence the same cannot be treated as “bonafide baggage” in terms of section 79 of the Customs Act, 1962 and the same appropriately constitute prohibited goods which are liable to confiscation under Section 111 of the Customs Act, 1962. Further, I find that the noticee has admitted that she had no purchase bill or any other legitimate documents regarding procurement of gold. She confessed that the said gold paste in form of capsules was handover by a person known by name as Shri Aziz @ Abu Dhabi. Therefore, the noticee has failed to discharge the burden of proof placed on her in terms of Section 123 of Customs Act, 1962 that the Gold was legally imported/possessed. Applying the ratio of the judgments of the Hon'ble

Supreme Court in the matter of Om Prakash Bhatia Vs Commissioner of Customs [2003 (6) SCC 161] and the Hon'ble High Court, Madras in the case of Samynathan Murugesan Vs. Commissioner of Customs 1201,0 (254) ELT A0151, I find that the said smuggled Gold Bars weighing 861.48 grams of foreign origin are liable to absolute confiscation under Section 111 (d), (l) and (m) of the Customs Act, 1962.

20.9 I find that she undoubtedly confessed that she was aware that smuggling of gold without payment of customs duty is an offence under the Customs law and thereby, violated provisions of Customs Act and the Baggage Rules, 2016. By using the modus of concealing the gold in form of paste containing in capsules concealed in her rectum and without declaring to the Customs on arrival in India, it is observed that she was fully aware that the import of said goods is offending in nature. It is therefore very clear that she has knowingly carried the gold and failed to declare the same to the Customs on her arrival at the Airport. It is seen that she has involved herself in carrying, keeping, concealing and dealing with the impugned goods in a manner which she knew or had reasons to believe that the same were liable to confiscation under the Act. I find that the noticee has not declared the gold before customs authority. It is also observed that the imports were also for non-bonafide purposes. Therefore, the said improperly imported gold bars total net weighing 861.48 Grams recovered from the possession of Ms. Fatema having market value of Rs. 61,90,595/- , without declaring to the Customs on arrival in India cannot be treated as bonafide household goods or personal effects and accordingly, the noticee has not fulfilled the conditions of eligible passenger to brought the gold. The noticee has thus contravened the Foreign Trade Policy 2015-20 and Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 read with Section 3(2) and 3(3) of the Foreign Trade (Development and Regulation) Act, 1992. It, is therefore, proved beyond doubt that the noticee Ms. Fatema has committed an offence of the nature described in Section 112 of Customs Act, 1962 making her liable for penalty under Section 112 of the Customs Act, 1962.

20.10 I further find that the gold is not on the list of prohibited items but import of the same is controlled. The view taken by the Hon'ble Supreme Court in the case of Om Prakash Bhatia however in very clear terms lay down the principle that if importation and exportation of goods

are subject to certain prescribed conditions, which are to be fulfilled before or after clearance of the goods, non-fulfilment of such conditions would make the goods fall within the ambit of 'prohibited goods'. This makes the gold seized in the present case "prohibited goods" as the noticee Ms. Fatema, trying to smuggle it, was not eligible passenger to bring it in India or import gold into India in her baggage. The said 02 gold bars weighing 861.48 grams, which were recovered from her possession, and were kept undeclared with an intention to smuggle the same and evade payment of Customs duty. Further, the noticee concealed the said gold in form of paste in form of capsules concealed in her rectum. By using this modus, it is proved that the goods are offending in nature and therefore prohibited on its importation. Here, conditions are not fulfilled by the noticee.

20.11. Further, I find that the Noticee has quoted and relied on various case laws/judgments alongwith her defense submission regarding her non-involvement in the smuggling of gold. I am of the view that conclusions in those cases may be correct, but they cannot be applied universally without considering the hard realities and specific facts of each case. Those decisions were made in different contexts, with different facts and circumstances and the ratio cannot apply here directly. Therefore, I find that while applying the ratio of one case to that of the other, the decisions of the Hon'ble Supreme Court are always required to be borne in mind. The Hon'ble Supreme Court in the case of *CCE, Calcutta Vs Alnoori Tobacco Products [2004 (170) ELT 135(SC)]* has stressed the need to discuss, how the facts of decision relied upon fit factual situation of a given case and to exercise caution while applying the ratio of one case to another. This has been reiterated by the Hon'ble Supreme Court in its judgement in the case of *Escorts Ltd. Vs CCE, Delhi [2004(173) ELT 113(SC)]* wherein it has been observed that one additional or different fact may make huge difference between conclusion in two cases, and so, disposal of cases by blindly placing reliance on a decision is not proper. Again in the case of *CC(Port), Chennai Vs Toyota Kirloskar [2007(2013) ELT4(SC)]*, it has been observed by the Hon'ble Supreme Court that, the ratio of a decision has to be understood in factual matrix involved therein and that the ratio of a decision has to be culled from facts of given case, further, the decision is an authority for what it decides and not what can be logically deduced there from. In view of the above discussions, I find that the manner of concealment being clever and premediated, in this case clearly shows that the noticee was not willing to declare the gold before Customs Authority and had attempted to smuggle

the seized gold to avoid detection by the Customs Authorities and to evade the payment of eligible customs duty. Further, no evidence has been produced to prove licit import of the seized gold at the time of interception. Further, from the SCN, Panchnama, voluntary Statements and digital evidences, I find that the noticee was not willing to declare the said derived gold bars and tried to remove them clandestinely, to evade payment of customs duty. Further, the Noticee in her statements clearly stated that she had carried the said gold by concealment to smuggle the gold for monetary benefits. ***I am therefore, not inclined to use my discretion to give an option to redeem the gold on payment of redemption fine, as envisaged under Section 125 of the Act.***

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

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

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

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

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

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

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

20.15. The 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.) held-

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

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

20.16. In 2019 (370) E.L.T. 1743 (G.O.I.), before the Government of India, Ministry of Finance, [Department of Revenue - Revisionary Authority];

Ms. Mallika Arya, Additional Secretary in Abdul Kalam Ammangod Kunhamu vide Order No. 17/2019-Cus., dated 07.10.2019 in F. No. 375/06/B/2017-RA stated that it is observed that C.B.I. & C. had issued instruction vide Letter F. No. 495/5/92-Cus. VI, dated 10.05.1993 wherein it has been instructed that “in respect of gold seized for non-declaration, no option to redeem the same on redemption fine under Section 125 of the Customs Act, 1962 should be given except in very trivial cases where the adjudicating authority is satisfied that there was no concealment of the gold in question”.

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

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

*“26. The Supreme Court of India in State of Maharashtra v. Natwarlal Damodardas Soni [1980] 4 SCC 669/1983 (13) E.L.T. 1620 (SC)/1979 taxmann.com 58 (SC) **has held that smuggling particularly of gold, into India affects the public economy and financial stability of the country.**”*

20.18. Given the facts of the present case before me and the judgements and rulings cited above alongwith the documentary as well as digital evidences, the said 02 gold bars weighing 861.48 grams, carried by the noticee is therefore liable to be confiscated absolutely. **I therefore hold in unequivocal terms that the said 02 gold bars weighing 861.48 grams, placed under seizure would be liable to absolute confiscation under Section 111(d), 111(l) & 111(m) of the Customs Act, 1962.**

20.19 Regarding imposition of penalty under Section 112 of Customs Act, 1962, I find that in the instant case, the principle of mens-rea on behalf of noticee Ms. Fatema is established beyond doubts on the basis of discussion and findings corroborative by the documentary as well as digitally evidences. I further find that the act of bringing gold into India in

contravention of the provisions of the Customs Act, and failure to declare the same under Section 77 of the Act, clearly falls within the scope of Section 112(a) of the Customs Act, 1962. Moreover, the investigation has revealed that the noticee had carried the seized gold from Abu Dhabi to Ahmedabad and would be handed over it to Shri Dilmeer Alim Sayyed Pirjade on direction of Shri Aziz @ Abu Dhabi. These facts clearly establish her deeper involvement in the smuggling operation. Therefore, her conduct is squarely covered under Section 112(b) of the Customs Act, 1962. In support of this view, reliance is placed on the decision of the Revisionary Authority, New Delhi, in the case of **Smt. Shakeena Ahammed Thadayil, Kozhikode vs. Commissioner of Customs, Calicut** (Order No. 44/24-Cus dated 13.02.2024), which is directly applicable to the facts of the present case. In the instant case, it is evident that **Ms. Fatema** deliberately engaged in activities such as carrying, removing, depositing, harbouring, keeping, concealing, selling, purchasing, or in any other manner dealing with smuggled gold, knowing or having reason to believe that such goods were liable to confiscation under the Customs Act, 1962. Further, on deciding the penalty in the instant case, I also take into consideration the observations of Hon'ble Apex Court laid down in the judgment of *M/s. Hindustan Steel Ltd Vs. State of Orissa*; wherein the Hon'ble Apex Court observed that "The discretion to impose a penalty must be exercised judicially. A penalty will ordinarily be imposed in case where the party acts deliberately in defiance of law, or is guilty of contumacious or dishonest conduct or act in conscious disregard of its obligation; but not in cases where there is technical or venial breach of the provisions of Act or where the breach flows from a bona fide belief that the offender is not liable to act in the manner prescribed by the Statute. In the instant case, the noticee was attempting to smuggle the gold and tried to evade the Customs Duty by not declaring the gold weighing 861.48 grams having purity of 999.0 and 24Kt. Hence, the identity of the goods is not established and non-declaration at the time of import is considered as an act of omission on her part. I further find that the noticee had involved herself and abetted the act of smuggling of the said gold bars weighing 861.48 grams, carried by her. She has agreed and admitted in her statement that she travelled from Abu Dhabi to Ahmedabad with the said gold paste concealed in her rectum in form of Capsules. Despite her knowledge and belief that the gold in form of paste carried by her is an offence under the provisions of the Customs Act, 1962 and the Regulations made under it, the noticee attempted to smuggle the said gold

of 861.48 grams, having purity 999.0 by concealment. Thus, it is clear that the noticee has concerned herself with carrying, removing, keeping, concealing and dealing with the smuggled gold which she knows very well and has reason to believe that the same are liable for confiscation under Section 111 of the Customs Act, 1962. Accordingly, I hold that Ms. Fatema is liable for penalty under Section 112(a) & 112(b) of the Customs Act, 1962.

20.20 The Show Cause Notice also proposes penalty under Section 117 of the Customs Act, 1962 on Ms. Fatema. I find that Section 117 of Customs Act, 1962 provide ***for imposition of penalty on any person who contravenes any provision of the said Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, to be liable to a penalty not exceeding four lakhs rupees. The maximum amount of penalty prescribed under Section 117 originally Rs. One lakh was enhanced to Four lakhs, with effect from 01.08.2019.*** The detailed discussions in the preceding paragraphs clearly establish that the noticee intentionally committed acts that resulted in the violation of multiple provisions of the Customs Act, 1962 and involved in systematic smuggling of gold under a syndicate, which leading to evasion of a huge amount of Customs duty, thereby causing loss to the Government Exchequer. In doing so, she failed to fulfil the legal obligations and responsibilities cast on her under the provisions of Customs Act, 1962. Accordingly, I find that this is a fit case for imposition of penalty under Section 117 of the Customs Act, 1962 on Ms. Fatema.

21. Now, I come to allegation in the Show Cause Notice that as to whether penalty should be imposed upon Shri Dilmeer Alim Sayyed Pirjade under Section 112 of Customs Act, 1962 and Section 117 of Customs Act, 1962 or otherwise.

I find from the panchnama dated 11.08.2024 that on the basis of specific intelligence regarding a passenger who was trying to smuggle some contraband into India and the said passenger was to be received by a person named Shri Dilmeer Alim Sayyed Pirjade. The intelligence further revealed that Shri Dilmeer Alim Sayyed Pirjade was staying at Hotel Kanchan Palace by impersonating himself as Shri Gauravkumar Parihar. I also find from the panchnama dated 11.08.2024 drawn in Arrival Hall of

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Terminal 2 of SVPIA, Airport wherein two passengers named Shri Murtaza Ali Bhopalwala and Smt. Farida Bhopalwala, who were travelling from Abu Dhabi to Ahmedabad vide Air Arabia Flight No. 3L 111 on 11.08.2024 has also confirmed that a person named "Alim Saiyyed Pirjade" would come to receive them at Airport and after that he would escort them to a hotel where they were going to handover the gold in form of capsules to Shri Alim Saiyyed Pirjade which they were carrying by hiding them in their rectum. On the basis of said information, the officers reached the said hotel and enquired about the Shri Dilmeer Alim Sayyed Pirjade from reception. Shri Jagdeesh Singh Guman, Owner of said hotel informed that Shri Gauravkumar Parihar was staying in Room No. 305 alongwith Ms. Nikita Gauravkumar Parihar. Further, he also informed that one lady named Ms. Fatema was also visited the Room No. 305 as visitor. Thereafter, a search was conducted in presence of Panchas of Room No. 305 alongwith the baggages found in that room. During the Search 03 Capsules covered with black tape were recovered from a brown-coloured ladies' handbag which was belonged to Ms. Fatema who further revealed that she brought the said capsules containing gold from Abu Dhabi by concealing the same in her rectum on direction of Shri Aziz @ Abu Dhabi and arrived at Ahmedabad vide Flight No. EY-284 dated 11.08.2024 in early morning and in order to handover the said capsules to Shri Dilmeer Alim Sayyed Pirjade, she came to Room No. 305 of Hotel Kanchan Palace. Her deposition is also confirmed from the recovered flight ticket having PNR no. JL8S97.

21.1. Under his submission, the noticee has alleged that the statements of Shri Murtaza Ali Bhopalwala and Smt. Farida Bhopalwala was recorded under duress and under threat of arrest. However, on contrary, I find that Shri Murtaza Ali Bhopalwala and Smt. Farida Bhopalwala has never questioned the manner of the panchnama proceedings at the material time nor controverted the facts detailed in their voluntary statement tendered before DRI officers at any stage of investigation and also during the personal hearing they have never mentioned that their statement of was involuntary and on contrary both of them admitted that they had carried the gold in form of paste and concealed the same in form of capsules in their rectum on the direction of Shri Aziz @ Abu Dhabi in greed of money. Therefore, the contention of the noticee that the statements of Shri Murtaza Ali Bhopalwala and Smt. Farida Bhopalwala were taken under duress is afterthought and holds no ground.

Further, I find that Shri Dilmeer Alim Sayyed Pirjade was in continuous touch with Shri Aziz @ Abu Dhabi who regularly send the details of the carrier passengers and after arrival at Ahmedabad, the carrier passengers had been escorted by Shri Dilmeer Alim Sayyed Pirjade in association with Ms. Nafisa to the hotel for taking delivery of said smuggled gold and after receiving the gold from carrier passengers, the same had been handed over to the person designated by the Shri Aziz @ Abu Dhabi and received their commission from the said designated person as per the direction of Shri Aziz @ Abu Dhabi. The Call record data and Whatsapp data of mobile phone of Shri Dilmeer Alim Sayyed Pirjade revealed that he was in constant touch of Shri Aziz @ Abu Dhabi and received the details of the carrier passengers on his mobile number. Further, I find that on the direction of Shri Aziz @ Abu Dhabi he saved his mobile number (9579079625) in the name of Shri Sachin Bhagwat in his apple I Phone just to hide his real identity. I also note that the Noticee Shri Dilmeer Alim Sayyed Pirjade impersonating himself as Shri Gauravkumar Parihar so that he could hide his real identity which depicting from the forged Aadhar Card recovered from him and if any case he was apprehended while smuggling of gold, he could save himself from the clutches of law. By concealing his real identity and presenting himself as Shri Gauravkumar Parihar instead of his real name of Shri Dilmeer Alim Sayyed Pirjade, clearly indicate his intention and participation in the smuggling of gold. I also find from the call details and whatsapp chat between him and Ms. Fatema, that both of them have known to each other from long time and were in constant touch with each other. I also note that Ms. Fatema has regularly shared the details of the persons/passengers who were willing to smuggle the gold for monetary benefit.

21.2 The evidences gathered, both oral and documentary, sstatements of various persons recorded under Section 108 of the Customs Act, 1962, CDR/SDR details of the relevant mobile numbers, digital data extracted/retrieved from mobile phones, clearly establishes the role of Noticee Shri Dilmeer Alim Sayyed Pirjade as carrier and an abettor in the syndicate involved in the smuggling of gold through SVPI Airport, Ahmedabad. He played a significant role in the smuggling syndicate by:

- *Escorting the carrier passengers from Airport to the Hotel on direction of Shri Aziz @ Abu Dhabi*
- *Collecting the smuggled gold from the carrier passengers at the Hotel,*

- *Handing over the said gold to the concerned person designated by Shri Aziz @ Abu Dhabi*

These acts demonstrate his active involvement and support in the organized smuggling operation. From the above, I find that Shri Dilmeer Alim Sayyed Pirjade (alias Shri Gauravkumar Himatlal Parihar) involved in the said gold smuggling syndicate and was instrumental in helping the syndicate members masquerade their real identity during gold smuggling activities and thereby actively participated in smuggling of gold through SVPI airport, Ahmedabad. I find that in his voluntary statements recorded during the investigation, Shri Dilmeer Alim Sayyed Pirjade admitted his role in the gold smuggling operation. He further admitted in his voluntary statement that the said instance was not his first instance wherein he involved in smuggling of gold by escorting carrier passengers but apart from this instance he had escorted carrier passengers on 14-15 times earlier wherein he had escorted approx. 19-20 carrier passengers and for that he had received his commission apart from the expenditure incurred for hotel, food and transporting. From the above deposition of Shri Dilmeer Alim Sayyed Pirjade, I find that he was a member of syndicate who actively and willingly participated in smuggling of gold by escorting the carrier passengers and taking delivery of gold from them and then in turn further hand over the said smuggled gold to the person designated by Shri Aziz @ Abu Dhabi, as per his direction. Therefore, the plea of noticee that he has nothing to do with the recovered gold and was not involved in any syndicate and was 8Km away from the Airport is not tenable and creditworthy on the basis of evidences in form of documentary as well as digital evidences.

21.3 It is also established that the syndicate, including Shri Dilmeer Alim Sayyed Pirjade, made deliberate use of encrypted and alternate communication platforms such as **WhatsApp** which offer end-to-end encryption and are often preferred to evade surveillance by law enforcement agencies. This behaviour indicates a conscious and well-planned effort to conceal the illicit operations and maintain secrecy in communication among syndicate members. Additionally, Shri Dilmeer Alim Sayyed Pirjade impersonating himself as Shri Gauravkumar Parihar and used a forged Aadhar Card in the name of Shri Gauravkumar Parihar having photo of Shri Dilmeer Alim Sayyed Pirjade which was sent to him by Shri Aziz @ Abu Dhabi. Further, he saved the mobile number 9714656786 as "Gaurav Bhai" on the direction of Shri Aziz Bhai to which he generally used to call on that number on the direction of Shri Aziz. Further, his regular telephonic contact

with the carrier passengers and mastermind Shri Aziz @ Abu Dhabi alongwith the persons whose details were shared by Shri Aziz @ Abu Dhabi especially on the date of the smuggling activity, clearly demonstrates his active and deliberate participation.

21.4 I also note that in “Collector of Customs, Madras & others Vs Bhoormull, 1983 (13) ELT 1546 (SC), the Hon’ble Supreme Court in the context of the burden on the Department to prove the goods were smuggled in nature, held that, the law does not require the prosecution to prove the impossible. All that it requires is the establishment of such a degree of probability that prudent man may, on its basis, believe in the existence of the fact in issue”. In the present case, I have already discussed various evidences in the form of documentary as well as digitally available on record which clearly establishes the smuggling of gold of 2094.15 grams (620.03 grams + 612.64 grams + 861.480 grams) by Shri Aziz @ Abu Dhabi in connivence of his associates/carriers named Shri Murtaza Ali Bhopalwala, Smt. Farida Bhopalwala, Ms. Fatema Shabbir Presswala and with the help of Shri Dilmeer Alim Sayyed Pirjade and Ms. Nafisa Husain Burhanpurwala.

21.5 It needs to be appreciated that in proceedings under tax legislation like the Customs Act, the prosecution is not required to adhere to the principles of burden of proof beyond reasonable doubt. It is a settled principle of law that the department is not required to prove their case with mathematical accuracy but the theory of preponderance of probability holds good in such cases where the assessee have acted in an unscrupulous manner. My above finding is aptly supported by the following judicial pronouncements:

- a) **M.P Goenka reported at 2015 (318) ELT 409 (Del)** which has been affirmed by the Hon’ble Supreme Court as reported at **2015 (324) ELT A81 (SC)**. The Hon’ble High Court of Delhi had held as under:
*“Here, this Court notes that proceedings under tax legislation such as the FCRA or the **Customs Act do not require the prosecution to discharge the criminal-law burden of proof beyond reasonable doubt**. Under such proceedings, a balance of probabilities is satisfactory. In Radheyshyam Kejriwal v. State of West Bengal, (2011) 3 SCC 581 = 2011 (266) E.L.T. 294 (S.C.) the Supreme Court held:
 “A person held liable to pay penalty in adjudication proceeding can not necessarily be held guilty in criminal trial. **Adjudication proceedings***

are decided on the basis of preponderance of evidence of a little higher degree whereas in a criminal case entire burden to prove beyond all reasonable doubt lies on the prosecution... it is trite that standard of proof required in criminal proceedings is higher than that required before adjudicating authority."

- b) **M/s Ramachandra Rexins P Ltd. reported at 2013 (295) ELT 116 (T)** which was upheld by the Hon'ble Supreme Court as reported at **2014 (302) ELT A61 (SC)**. The Hon'ble Tribunal had held as under:

*In a case of clandestine activity involving suppression of production and clandestine removal, **it is not expected that such evasion has to be established by the Department in a mathematical precision.** After all, a person indulging in clandestine activity takes sufficient precaution to hide/destroy the evidence. The evidence available shall be those left in spite of the best care taken by the persons involved in such clandestine activity. In such a situation, the entire facts and circumstances of the case have to be looked into and **a decision has to be arrived at on the yardstick of 'preponderance of probability' and not on the yardstick of 'beyond reasonable doubt'**, as the decision is being rendered in quasi-judicial proceedings.*

21.6 In view of the cumulative circumstantial evidences, digital evidences, documentary records, the purity of gold, voluntary statements of the noticees, and CDR/SDR details, I held that a well-organized smuggling syndicate, masterminded by Shri Aziz @ Abu Dhabi, with the active involvement and assistance of other associates viz. Shri Dilmeer Alim Sayyed Pirjade, Ms. Fatema, Ms. Nikita alias Ms. Nafisa Husain Bhurhanpurwala were engaged in the organized smuggling of gold into India. The gold was smuggled into India with the clear intent to evade payment of applicable customs duties. The evidence reveals a repeated pattern of smuggling activity, deliberate concealment, and cash-based process, as confirmed through WhatsApp chats, images, call records, and voluntary admissions. Accordingly, I hold that the said smuggled gold total weighing 2094.15 grams (620.03 grams + 612.64 grams + 861.480 grams), having total Market value of Rs. 1,50,48,562/- (Rs. 44,55,536/- + Rs.

44,02,431/- + Rs. 61,90,595/-), are liable for confiscation under the provisions of Sections 111(d), 111(l), and 111(m) of the Customs Act, 1962.

21.7 Regarding the allegation of no seizure of gold has been affected either from his possession and no corroborative evidences showing his involvement in syndicate for smuggling of gold, I observed that in cases of gold smuggling, a co-accused's involvement may extend beyond direct possession of the gold, encompassing various roles such as facilitating transportation, providing logistical support, or even engaging in money laundering. While possession is strong evidence of involvement, it's not a definitive marker. In the matter, I consider the totality of circumstances, including statements from co-accused and the accused, digital evidences in form of whatsapp chat with the master mind of smuggling, exchanging the details of passengers through whatsapp or messages, sharing of photos of carrier passengers, impersonating himself with the identity of other in order to hide his real identity, concretely proves that there was syndicate involved in smuggling of gold wherein Shri Aziz @ Abu Dhabi was mastermind of the smuggling, who smuggled the gold into India with the help of Shri Dilmeer Alim Sayyed Pirjade who manages the operation at locally includes escorting the carrier passenger from Airport to Hotel; receiving the gold from carrier passengers and in turn handover the said gold to the persons designated by Shri Aziz @ Abu Dhabi on his direction. From the above documentary evidences alongwith the digital evidence, it is ample clear that the noticee Shri Dilmeer Alim Sayyed Pirjade was an active member of the Syndicate which handles carrier passengers on the direction of Shri Aziz of Dubai. Thus, the allegation of the noticee of not being involved in any smuggling activity and not a part of syndicate, hold no ground and thoughtless and just contrary to the evidences on record.

21.8 Under his submission, the noticee submitted that he was not liable for penalty under Section 112 of Customs Act, 1962. In this regard, I find that bringing into India goods which contravene the provisions of Customs Act and omitting to declare the same under Section 77 of the Customs Act, 1962 are clearly covered under “does or omits to do any act which act or omission render such goods liable to confiscation under Section 111, or abets the doing or omission of such act” covered under Section 112(a) of the Customs Act, 1962 and Carrying/smuggling goods in an ingeniously concealed manner is clearly covered under Section 112(b) of the Customs Act,

1962. In this regard, I find that the noticee was the main handler to facilitate the passengers who arrived Ahmedabad from foreign destination carrying gold. Further, the statements of the noticee reveals that he was just handler of gold for monetary benefits and has involved in the smuggling of gold on direction of Shri Aziz. I find that in the instant case, the principle of mens-rea on behalf of noticee is established as the noticee has actively and intentionally involved in smuggling of the gold by way of facilitating the passengers who arrived with the gold in paste form at Ahmedabad and manages further delivery of the said gold to the person who designated by Shri Aziz. Therefore, the noticee has involved in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, **or in any other manner dealing with any goods** which he knows or has reason to believe that gold is liable to confiscation under section 111 and is liable to penalty under Section 112(b) of Customs Act, 1962. On deciding the penalty in the instant case, I also take into consideration the observations of Hon'ble Apex Court laid down in the judgment of M/s. Hindustan Steel Ltd Vs. State of Orissa; wherein the Hon'ble Apex Court observed that "The discretion to impose a penalty must be exercised judicially. A penalty will ordinarily be imposed in case where the party acts deliberately in defiance of law, or is guilty of contumacious or dishonest conduct or act in conscious disregard of its obligation; but not in cases where there is technical or venial breach of the provisions of Act or where the breach flows from a bona fide belief that the offender is not liable to act in the manner prescribed by the Statute." In the instant case, the noticee has breached the law by doing the act of smuggling in concealed manner. Despite his knowledge and belief that the gold handled by him is an offence under the provisions of the Customs Act, 1962 and the Regulations made under it, by concealment and without following procedure laid down. Accordingly, I hold that the noticee named Shri Dilmeer Alim Sayyed Pirjade is liable for the penalty under Section 112 (b) of the Customs Act, 1962.

21.9 Regarding imposition of penalty under Section 117 of Customs Act, 1962, I find that Section 117 of Customs Act, 1962 provide *for imposition of penalty on any person who contravenes any provision of the said Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, to be liable to a penalty not exceeding four lakhs rupees. The maximum amount of penalty prescribed*

under Section 117 initially at Rs. One lakh was revised upwards to Rs. Four lakhs, with effect from 01.08.2019. The detailed discussions in the preceding paragraphs clearly prove that the noticee not only failed to fulfill the conditions but also failed to abide by the responsibilities reposed on them as per the provision of Customs Act. In the instant case, the noticee was facilitate the carrier passengers who arrived with the gold from Dubai in connivance with Shri Aziz and involved himself in the smuggling of gold. Hence, it is, fit case for imposing penalty under Section 117 of Customs Act, 1962 on the noticee named Shri Dilmeer Alim Sayyed Pirjade.

22. Now, I come to allegation in the Show Cause Notice that as to whether there is an involvement of Noticee Ms. Nafisa Husain Burhanpurwala in smuggling of gold or otherwise and penalty should be imposed upon him under Section 112 of Customs Act, 1962 and Section 117 of Customs Act, 1962 or otherwise.

I find that panchnama dated 11.08.2024 clearly mentioned that on the basis of specific intelligence that a passenger was trying to smuggle some contraband into India and the said passenger was to be received by a person named Shri Dilmeer Alim Sayyed Pirjade. The intelligence further revealed that Shri Dilmeer Alim Sayyed Pirjade was staying at Hotel Kanchan Palace, Ahmedabad by impersonating himself as Shri Gauravkumar Parihar. I also find from the panchnama dated 11.08.2024 drawn in Arrival Hall of Terminal 2 of SVPIA, Airport wherein two passengers named Shri Murtaza Ali Bhopalwala and Smt. Farida Bhopalwala, who were travelling from Abu Dhabi to Ahmedabad vide Air Arabia Flight No. 3L 111 on 11.08.2024 has also confirmed that a person named "Alim Saiyyed Pirjade" would come to receive them at Airport and after that he would escort them to a hotel where they were going to handover the gold in form of capsules to Shri Alim Saiyyed Pirjade. On the basis of said information, the officers reached the said hotel and enquired about the Shri Dilmeer Alim Sayyed Pirjade from reception. Shri Jagdeesh Singh Guman, Owner of said hotel informed that Shri Gauravkumar Parihar was staying in Room No. 305 alongwith **Ms. Nikita Gauravkumar Parihar**. Further, he also informed that one lady named Ms. Fatema was also come to Room No. 305 as visitor.

22.1. From the deposition of Shri Dilmeer Alim Sayyed Pirjade, I find that Ms. Nafisa Husain Burhanpurwala was impersonating herself as Ms.

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Nikita Parihar and both have booked the hotel room by mentioning as Husband and wife. Under his voluntary statement, Shri Dilmeer Alim Sayyed Pirjade submitted that Ms. Nafisa was introduces to him by Shri Aziz @ Abu Dhabi and told him that she would help him in escorting the carrier passengers and after her joining many couple carrier passengers have arrived with the gold which was handed over to them by Shri Aziz for smuggling. On direction of Shri Aziz @ Abu Dhabi, Shri Dilmeer Alim Sayyed Pirjade saved her number as “ Gauravbhai wife”. Further, I find from the photograph/images in form of I.T.S Smart Card shared by Mobile No. 9714656786 (Saved as Gaurav Bhai in the Mobile of Shri Dilmeer Alim Sayyed Pirjade) to Shri Dilmeer Alim Sayyed Pirjade on 07.07.2024, that the said card was belong to Ms. Nafisa Husain Burhanpurwala and as per admission of Shri Dilmeer confirmed that the said picture pertains to Ms. Nafisa Husain Burhanpurawala, the same lady with whom he used to stay at Hotel Kanchan Palace in the name of Ms. Nikita Parihar. This clearly depicts that Ms. Nafisa Husain Burhanpurwala was impersonating herself as Ms. Nikita Gauravkumar Parihar in order to hide her real identity. For better understanding of the same, I hereby reproduce the concerned chat alongwith the said Smart Card is as :-

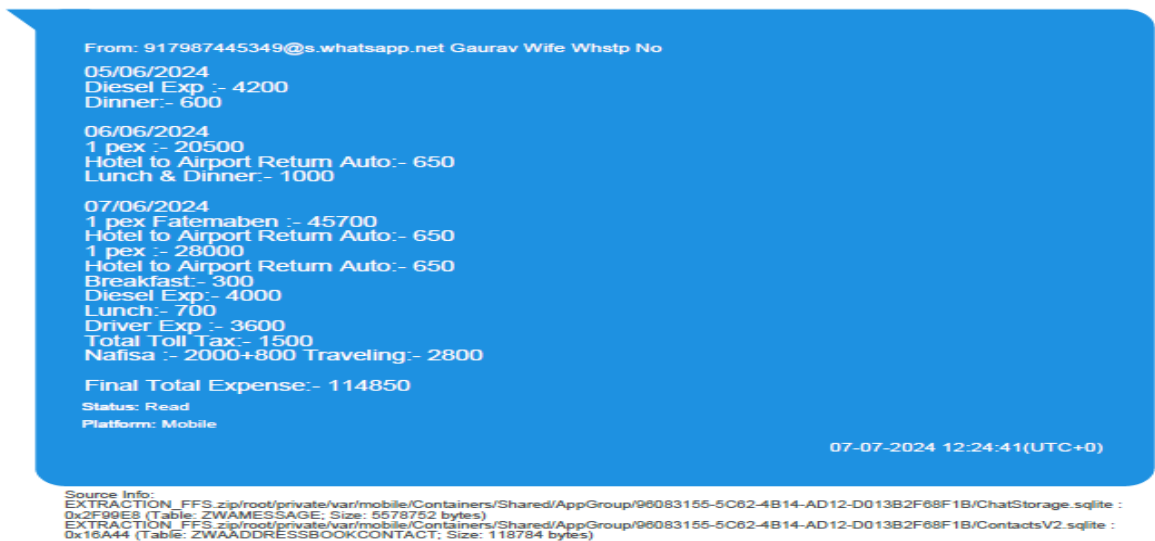


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(Image 13 – Image of I.T.S. Smart Card, alongwith source info, sent to Shri Dilmeer (Mobile No. 9579079625) by Mobile No. 919714656786 (contact no. saved in mobile phone as Gaurav Bhai) through WhatsApp Chat

22.2 Further, in his voluntary statement Shri Dilmeer Alim Sayyed Pirjade admitted that on 11.08.2024 they both have visited Airport to receive the carrier passengers Shri Murtaza Ali Bhopalwala and his wife Smt. Farida Bhopalwala on direction of Shri Aziz @ Abu Dhabi, however when they were not come out from the Airport he returned to the hotel but Ms. Nafisa was stayed at Airport and waiting for them. Further, from the whatsapp chat between Shri Dilmeer and Ms. Nafisa during the period 05.07.2024 to 11.08.2024 wherein both were in continuous touch with each other and both had received many carrier passengers from airport during the said period. Some of the excerpts of the said chat are being reproduced here in below:



(Image 16 – Image depicting screenshot of whatsapp chat where expenses details pertaining to date 05/06/2024 to 07/06/2024 were shared with Shri Dilmeer (Mobile No. 9579079625) by Mobile No. 917987445349 (contact saved in Shri Dilmeer's phone as Gaurav Wife Whstp No.)

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On showing the above chat to Shri Dilmeer, he confirmed that the entry pertaining to date 07/06/2024, for the amount of Rs. 45,700/- paid to Ms. Fatema as her commission for carrying smuggled gold. It is pertinent to mention here that Ms. Fatema is the same lady which was apprehended by the DRI officers with 03 smuggled capsules containing gold in paste form (derived one gold bar having Net weight 861.48 grams) on 11.08.2024 at Hotel Kanchan.

Further from the whatsapp chat and Calls between Shri Dilmeer and Ms. Nafisa on 11.08.2024 in early morning revealed that they were in constant touch with each other and asked about the arriving passenger. I find from the statement of Shri Dilmeer wherein he revealed that they were going to receive Ms. Fatema from Airport on 11.08.2024. For clarity, I hereby reproduce some excerpts of chats between them on 11.08.2024: -

From: 919579079625@s.whatsapp.net sachin bhagwat (owner)
To: 917987445349@s.whatsapp.net Gaurav Wife Whstp No

Kya re

Participant	Delivered	Read	Opened
917987445349@s.whatsapp.net Gaurav Wife Whstp No	11-08-2024 02:05:52(UTC+0)	11-08-2024 02:06:14 (UTC+0)	

Status: Read
Platform: Mobile

11-08-2024 02:05:51(UTC+0)

Source Info:
EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ChatStorage.sqlite : 0x5322E9 (Table: ZWAMESSAGE; Size: 5578752 bytes)
EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/Library/Preferences/group.net.whatsapp.WhatsApp.shared.plist : 0x3313 (Size: 96089 bytes)
EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ContactsV2.sqlite : 0x16A44 (Table: ZWAADDRESSBOOKCONTACT; Size: 118784 bytes)

From: 919579079625@s.whatsapp.net sachin bhagwat (owner)
To: 917987445349@s.whatsapp.net Gaurav Wife Whstp No

Hai kya wo

Participant	Delivered	Read	Opened
917987445349@s.whatsapp.net Gaurav Wife Whstp No	11-08-2024 02:06:47(UTC+0)	11-08-2024 02:07:03 (UTC+0)	

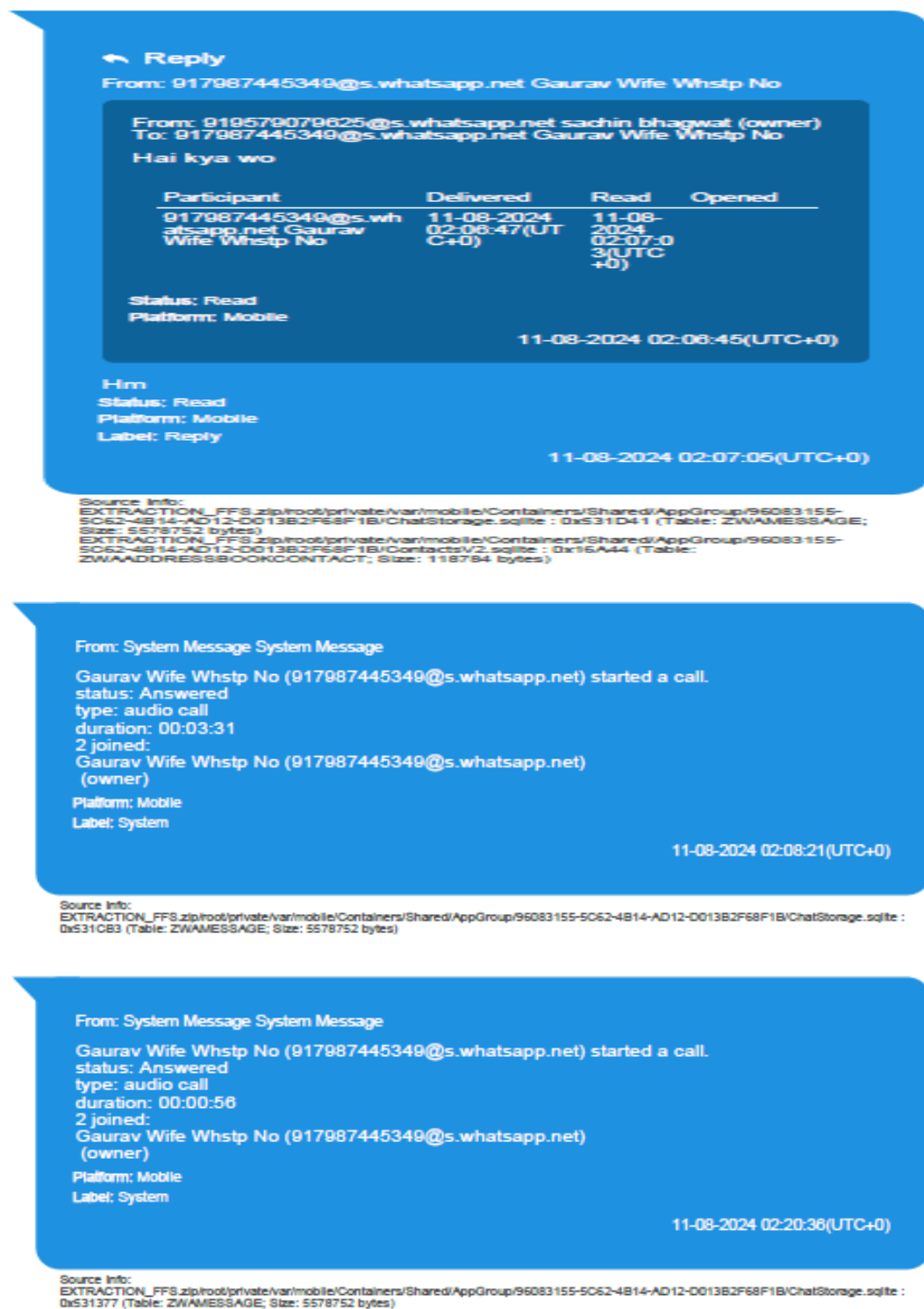
Status: Read
Platform: Mobile

11-08-2024 02:06:45(UTC+0)

Source Info:
EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ChatStorage.sqlite : 0x5314AE (Table: ZWAMESSAGE; Size: 5578752 bytes)
EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/Library/Preferences/group.net.whatsapp.WhatsApp.shared.plist : 0x3313 (Size: 96089 bytes)
EXTRACTION_FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ContactsV2.sqlite : 0x16A44 (Table: ZWAADDRESSBOOKCONTACT; Size: 118784 bytes)

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(Image 20 – Image depicting screenshot of some of whatsapp chat between Shri Dilmeer (Mobile No. 9579079625) and Mobile No. 917987445349 (contact saved in mobile phone as Gaurav Wife Whstp No) on 11.08.2024

Further, Shri Dilmeer also confirmed that M/s. Nafisa was used to send the details of their day-to-day expenses such as Hotel Expenses, Travel Expenses, Food Expenses, Petrol/Diesel expenses, amount given to the carriers for their commission as per the direction of Aziz Bhai to him and in turn he further shared such details with Aziz Bhai. From the above evidences in form of documentary as well as digital evidences it is clearly establishes that she parallelly worked alongwith Shri Dilmeer Alim Sayyed Pirjade to receive/carry passenger, who smuggled gold.

22.3 I further find from the Subscriber Data Record (SDR) of the mobile number 7987445349 on which Shri Dilmeer regularly exchanged the whatsapp messages, images and called to that number, that the said number was registered under the name of Ms. Nafisa Husain Burhanpurwala. The evidences gathered, both oral and documentary, statements of various persons recorded under Section 108 of the Customs Act, 1962, CDR/SDR details of the relevant mobile numbers, digital data extracted/retrieved from mobile phones, clearly establishes the role of Noticee Ms. Nafisa Husain Burhanpurwala as carrier and an abettor in the syndicate involved in the smuggling of gold through SVPI Airport, Ahmedabad. She played a significant role in the smuggling syndicate by:

- *Escorting the carrier passengers from Airport alongwith Shri Dilmeer to the Hotel on direction of Shri Aziz @ Abu Dhabi*
- *Prepare their day-to-day expenses such as Hotel Expenses, Travel Expenses, Food Expenses, Petrol/Diesel expenses, amount given to the carriers for their commission as per the direction of Aziz Bhai*

These acts demonstrate her active involvement and support in the organized smuggling operation. From the above, I find that Ms. Nafisa Husain Burhanpurwala (alias Ms. Nikita Parihar) involved in the said gold smuggling syndicate and was instrumental in helping the syndicate members in gold smuggling activities and thereby actively participated in smuggling of gold through SVPI airport, Ahmedabad. From the deposition of Shri Dilmeer Alim Sayyed Pirjade regarding Ms. Nafisa Husain Burhanpurwala, I find that she was a member of syndicate who actively and willingly participated in smuggling of gold by escorting the carrier passengers to hotel and prepare details of their day-to-day expenses such as Hotel Expenses, Travel Expenses, Food Expenses, Petrol/Diesel expenses, amount given to the carriers for their commission as per the direction of Aziz Bhai.

22.4 It is also established that the syndicate, including Ms. Nafisa Husain Burhanpurwala, made deliberate use of encrypted and alternate communication platforms such as **WhatsApp** which offer end-to-end encryption and are often preferred to evade surveillance by law enforcement agencies. Further, I also find that all the members have used forged documents for their identity in order to hide their real identity to deceive the officers and could save themselves from the clutches of law. This behaviour indicates a conscious and well-planned effort to conceal the illicit operations and maintain secrecy in communication among syndicate members. Additionally, Ms. Nafisa Husain Burhanpurwala impersonating

herself as Ms. Nikita Parihar. From the evidences in form of digital as well as documentary, clearly demonstrates her active and deliberate participation.

22.5 I also note that in “Collector of Customs, Madras & others Vs Bhoormull, 1983 (13) ELT 1546 (SC), the Hon’ble Supreme Court in the context of the burden on the Department to prove the goods were smuggled in nature, held that, the law does not require the prosecution to prove the impossible. All that it requires is the establishment of such a degree of probability that prudent man may, on its basis, believe in the existence of the fact in issue”. In the present case, I have already discussed various evidences in the form of documentary as well as digitally available on record which clearly establishes the smuggling of gold of 2094.15 grams by Shri Aziz @ Abu Dhabi in connivence of his associates.

22.6 In view of the cumulative circumstantial evidences, digital evidences, documentary records, the purity of gold, voluntary statements of the noticees, and CDR/SDR details, I held that a well-organized smuggling syndicate, masterminded by Shri Aziz @ Abu Dhabi, with the active involvement and assistance of other associates viz. Shri Dilmeer Alim Sayyed Pirjade, Ms. Fatema, Ms. Nikita alias Ms. Nafisa Husain Burhanpurwala were engaged in the systematic smuggling of gold into India. The gold was smuggled into India with the clear intent to evade payment of applicable customs duties. The evidence reveals a repeated pattern of smuggling activity, deliberate concealment, and cash-based transactions, as confirmed through WhatsApp chats, images, call records, and voluntary admissions. Accordingly, I hold that the said smuggled gold total weighing 2094.15 grams, in the instant case, having total Market value of Rs. 1,50,48,562/-, are liable for confiscation under the provisions of Sections 111(d), 111(l), and 111(m) of the Customs Act, 1962.

22.7 Furter, I observed that in cases of gold smuggling, a co-accused's involvement may extend beyond direct possession of the gold, encompassing various roles such as facilitating transportation, providing logistical support, or even engaging in money laundering. While possession is strong evidence of involvement, it's not a definitive marker. In the matter, I consider the totality of circumstances, including statements from co-accused and the accused, digital evidences in form of whatsapp chat with the master mind of smuggling, exchanging the details of passengers

through whatsapp or massages, sharing of photos of carrier passengers, impersonating herself with the identity of other in order to hide her real identity, concretely proves that there was syndicate involved in smuggling of gold wherein Shri Aziz @ Abu Dhabi was mastermind of the smuggling, who smuggled the gold into India with the help of Shri Dilmeer Alim Sayyed Pirjade and Ms. Nafisa Husain Burhanpurwala who manages the operation at locally includes escorting the carrier passenger from Airport to Hotel; receiving the gold from carrier passengers and in turn handing over the said gold to the persons designated by Shri Aziz @ Abu Dhabi on his direction. From the above documentary evidences alongwith the digital evidence, it is ample clear that the noticee Ms. Nafisa Husain Burhanpurwala was an active member of the Syndicate who handles carrier passengers in association with Shri Dilmeer Alim Sayyed Pirjade on the direction of Shri Aziz of Abu Dhabi.

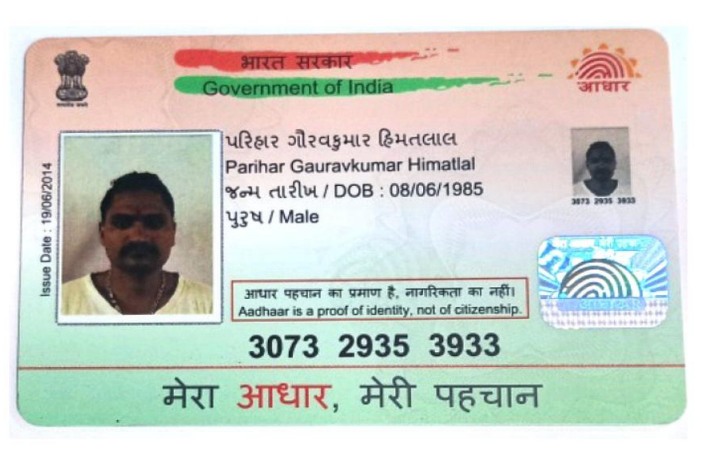
22.8 I find that the noticee has neither submitted her defense submission, nor present herself before the Adjudicating authority at the time of personal hearing. From the facts, it is evident that the noticee is not bothered for ongoing adjudication process and has nothing to submit in her defense. I also find from the statements of Shri Dilmeer Alim Sayyed Pirjade that Ms. Nafisa was his acquaintance and her work was to assist him in escorting the carrier passengers from Airport to hotel and keep the records of their day-to-day expenses such as Hotel Expenses, Travel Expenses, Food Expenses, Petrol/Diesel expenses, amount given to the carriers for their commission as per the direction of Aziz Bhai. In view of the cumulative circumstantial evidences, digital evidences, documentary records, the purity of gold, voluntary statements of the noticees, and CDR/SDR details It is seen that the noticee Ms. Nafisa Husain Burhanpurwala was active member of syndicate and has involved herself in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, **or in any other manner dealing with gold** in a manner which he knew or had reasons to believe that the same were liable to confiscation under the Act. I further find that her deliberate absence from the investigation and from the present proceedings strongly suggests that she has intentionally evaded participation in order to avoid accountability for her role in the smuggling activity. It, is therefore, proved beyond doubt that the noticee Ms. Nafisa Husain Burhanpurwala has committed an offence of the nature described in Section 112 of Customs Act, 1962 making her liable for penalty under

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Section 112(b) of the Customs Act, 1962. Further, the noticee has not appeared before the investigating officer to prove her innocence and not co-operated in the investigation, which makes her liable for penal action under Section 117 of Customs Act, 1962.

23. Now, I come to allegation in the Show Cause Notice that as to whether there is an involvement of Noticee Shri Gauravkumar Himatlal Parihar in smuggling of gold or otherwise and penalty should be imposed upon him under Section 112 of Customs Act, 1962 and Section 117 of Customs Act, 1962 or otherwise.

I find from the cumulative analysis of statements, electronic records, WhatsApp chats, and other material evidence available on record that Shri Gauravkumar Parihar was a key member of organized syndicate involved in systematic and repeated act of gold smuggling into India. It is evident from the Panchnama dated 11.08.2024 drawn at premises of Hotel Kanchan Palace, Ahmedabad, that Shri Dilmeer Alim Sayyed Pirjade, impersonating as “Gauravkumar Parihar” and was staying in Room No. 305 of the Hotel Kanchan Palace along with Ms. Nafisa Husain Burhanpurwala who impersonating as Ms. Nikita Gauravkumar Parihar and shown herself as wife of Shri Gauravkumar Parihar. I find from the deposition of Shri Dilmeer Alim Sayyed Pirjade during the investigation that he used the forged Aadhar Card of Shri Gauravkumar Parihar having his photo in place of Shri Gauravkumar Parihar on the same which was sent to him by Aziz Bhai@ Abu Dhabi to show as identity for hotel booking. For better understanding, I hereby produce the copy of said Aadhar Card bearing no. 3073-2935-3933 showing all the details identical except the Photo on the Aadhar Card which is replaced with the photo Shri Dilmeer Alim Sayyed Pirjade.



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(Image 11 - Screenshot of pdf file named as Kaagaz_20231124_134331656218.pdf, alongwith source info, sent to Shri Dilmeer (Mobile No. 9579079625) by Mobile No. 919714656786 (contact no. saved in mobile phone as Gaurav Bhai) through Whatsapp Chat



(Image 12 – Image depicting forged aadhar card of Shri Gauravkumar Parihar submitted by Shri Dilmeer at Hotel Kanchan Palace for hotel room booking)

I also find from the list of contact details retrieved from the mobile of Shri Dilmeer that Phone Number 919714656786 was saved in the name of Gaurav Bhai and on being asked Shri Dilmeer Alim Sayyed Pirjade mentioned that the said phone number was forwarded to him by Shri Aziz @ Abu Dhabi and instructed him to save the number in the name of Shri Gaurav bhai.

23.1 I find from the chats between Shri Dilmeer and Shri Gaurav bhai (Mobile No. 9714656786) that Shri Gaurav Kumar Parihar has forward copy of his Aadhar Card bearing number 3073-2935-3933 to Shri Dilmeer and said Aadhar card was matched with the Aadhar card recovered from

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the Hotel Room except the photo on both Aadhar cards, which clearly indicate that Shri Gaurav Kumar Parihar deliberately provided his Aadhar card to be used illegally by replacing his photo with the photo of Shri Dilmeer Alim Sayyed Pirjade. Further, from the chats, I find that Shri Gauravkumar Parihar has sent the details of Ms. Nafisa Husain Burhanpurwala who assisted Shri Dilmeer in the smuggling of Gold and lived with him in hotel impersonating herself as wife of Shri Dilmeer under the name of Ms. Nikita Parihar. Also, I find that Shri Gauravkumar Parihar generally send the copy of Aadhar Cards of different person to Shri Dilmeer and in turn Shri Dilmeer Sent the said Aadhar Card after replacing their original photo with other ones so that the same could be used fraudulently in smuggling activity. For instance, Shri Gaurav Parihar has sent a pdf file named _____ as _____ ‘LALIT EAadhaar_1293775060018220140512161851_06012017112003_569755.pdf to Shri Dilmeer and Shri Dilmeer sent back pdf file on 17.06.2024 named as ‘kk.pdf’ of forged copy of the same Aadhar card having picture of a different person on the Aadhar card. The details of the same are shown below:

From: 919714656786@s.whatsapp.net Gaurav Bhai

LALIT

EAadhaar_1293775060018220140512161851_06012017112003_569755.pdf

Attachments:

Title: LALIT EAadhaar_1293775060018220140512161851_06012017112003_569755.pdf

Size: 143220

File name: LALIT EAadhaar_1293775060018220140512161851_06012017112003_569755.pdf

Path: https://mmg.whatsapp.net/v/t62/7116-24/23425384_1141480783550463_2570222588220043828_n.enc?ccb=11-4&oh=01_Q5AaiDOPai48Fv3oo12lvECEpg1baS5k727GKjEWG3DiWT8&oe=869730E8&_nc_sid=5e03e0&mms3=true

LALIT EAadhaar_1293775060018220140512161851_06012017112003_569755.pdf

Status: Read

Platform: Web

17-06-2024 05:33:06(UTC+0)

Source Info:
EXTRACTION FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ChatStorage.sqlite : 0x1F8AB3 (Table: ZWAMESSAGE, ZWAMELIAITEM; Size: 5578752 bytes)
EXTRACTION FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ContactsV2.sqlite : 0x16B8C (Table: ZWAADDRESSBOOKCONTACT; Size: 118784 bytes)
EXTRACTION FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/Message/Media/919714656786@s.whatsapp.net/t/t62/7116-24/23425384_1141480783550463_2570222588220043828_n.enc?ccb=11-4&oh=01_Q5AaiDOPai48Fv3oo12lvECEpg1baS5k727GKjEWG3DiWT8&oe=869730E8&_nc_sid=5e03e0&mms3=true: (Size: 143220 bytes)

From: 919714656786@s.whatsapp.net Gaurav Bhai

Password:- 392001

Status: Read

Platform: Mobile

17-06-2024 05:33:18(UTC+0)

Source Info:
EXTRACTION FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ChatStorage.sqlite : 0x1F8C51 (Table: ZWAMESSAGE; Size: 5578752 bytes)
EXTRACTION FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ContactsV2.sqlite : 0x16B8C (Table: ZWAADDRESSBOOKCONTACT; Size: 118784 bytes)

OIO No:110 /ADC/SRV/O&A/2025-26
F. No: VIII/10-258/DRI/SVPIA/O&A/HQ/2024-25

Forwarded

From: 919579079625@s.whatsapp.net sachin bhagwat (owner)

To: 919714656786@s.whatsapp.net Gaurav Bhai

kk.pdf

Attachments:

Size: 2372551

File name: kk.pdf

Path: https://mmg.whatsapp.net/vt62-7110-24/13843723_1180079075323651_2878324850778526339_n.enc?ccb=11-4&oh=01_Q5AaiMV2AgBWWsPLbqPVpa99e-L2VTgeWrlunalDyen4oU&oe=68978401&_nc_sid=5e03e0&mms3=true

kk.pdf

Participant	Delivered	Read	Opened
919714656786@s.whatsapp.net Gaurav Bhai	17-06-2024 13:03:54(UTC+0)	17-06-2024 15:12:11 (UTC+0)	

Status: Read

Platform: Mobile

Label: Forwarded

17-06-2024 13:03:47(UTC+0)

Source Info:

EXTRACTION FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ChatStorage.sqlite : 0x21BCF6 (Table: ZWAMESSAGE, ZWAMEDIAMITEM, Size: 5578752 bytes)

EXTRACTION FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/Library/Preferences/group.net.whatsapp.WhatsApp.shared.plist : 0x3313 (Size: 96089 bytes)

EXTRACTION FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/ContactsV2.sqlite : 0x16B8C (Table: ZWAADDRESSBOOKCONTACT, Size: 118784 bytes)

EXTRACTION FFS.zip/root/private/var/mobile/Containers/Shared/AppGroup/96083155-5C62-4B14-AD12-D013B2F68F1B/Message/Media/919714656786@s.whatsapp.net/d/1/d185013d-0df7-4ae0-bf68-3e42b62645e6.pdf : (Size: 2372551 bytes)

भारतीय विशिष्ट पहचान प्राधिकरण

भारत सरकार

Unique Identification Authority of India

Government of India

आधार

नामांकन क्रम संख्या/Enrolment No.:129377506/00182

Soni Lalitkumar Himmatlal (सोनी ललितकुमार हिममतलाल)

S/O: Himmatlal Soni, C-920, Kesumama No Chaklo, Bharuch, Bharuch, Gujarat - 392001

तमारी आधार संख्या/ Your Aadhaar No.: 9913 9110 6671

मांरो आधार, मांरी ओलाभ

भारत सरकार

GOVERNMENT OF INDIA

सोनी ललितकुमार हिममतलाल

Soni Lalitkumar Himmatlal

जन्म तारीख/ DOB: 02/03/1979

पुरुष / MALE

9913 9110 6671

मांरो आधार, मांरी ओलाभ

भारतीय विशिष्ट पहचान प्राधिकरण

UNIQUE IDENTIFICATION AUTHORITY OF INDIA

संरनाभुं :

ना. बर: हिममतलाल सोनी, सी- 920, कुसुमामा नो चकलो, भारुच, भारुच, गुजरात - 392001

Address:

S/O: Himmatlal Soni, C-920, Kesumama No Chaklo, Bharuch, Bharuch, Gujarat - 392001

9913 9110 6671

मेरा आधार, मेरी पेहाचान

आधार

मेरा आधार, मांरी ओलाभ

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मेरा आधार, मेरी पेहाचान

Image- 14

भारतीय विशिष्ट पहचान प्राधिकरण

भारत सरकार

Unique Identification Authority of India

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आधार

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Soni Lalitkumar Himmatlal (सोनी ललितकुमार हिममतलाल)

S/O: Himmatlal Soni, C-920, Kesumama No Chaklo, Bharuch, Bharuch, Gujarat - 392001

तमारी आधार संख्या/ Your Aadhaar No.: 9913 9110 6671

मांरो आधार, मांरी ओलाभ

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मेरा आधार, मेरी पेहाचान

आधार

मेरा आधार, मांरी ओलाभ

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9913 9110 6671

मेरा आधार, मेरी पेहाचान

Image-15

(Image 14 & 15 – Images depicting screenshots of pdf file LALIT EAadhaar_1293775060018220140512161851_06012017112003_569755.pdf and kk.pdf”, alongwith source info, sent to Shri Dilmeer (Mobile No. 9579079625) by Mobile No. 919714656786 (pertains to Shri Gauravkumar Parihar and contact no. saved in mobile phone of Shri Dilmeer as Gaurav Bhai) and vice-cersa, through WhatsApp Chat

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From the above, it evidently establishes that Shri Gauravkumar Himatlal Parihar involved in the said gold smuggling syndicate. From the gathered digital evidences, it is very much evident that he used to share the copy of Aadhar cards of different person on whatsapp to be used in smuggling activity by forging them and was instrumental in helping the syndicate members masquerade their real identity during gold smuggling activities by replacing their original photo of Aadhar Card with an active member of syndicate and thereby concerned himself in the illegal activity of gold smuggling through SVPI airport, Ahmedabad. Moreover, I find from the visit note dated 06.01.2025 issued by Senior Intelligence Officer (SIO), DRI, Mumbai Zonal Unit regarding verification of address mentioned in Aadhar Card which was recovered from the possession of Shri Dilmeer Alim Sayyed Pirjade at the time of search of Room No. 305 of Hotel Kanchan as well as personal search of Shri Dilmeer who staying in that Room, having mentioned address on that is “ 402, 4th Floor, Jyoti Apartment, C-Wing, Nr. Angel Paradise School, Narayan Nagar, Thane, Maharashtra-400612” and belonged to Shri Gauravkumar Parihar, that no such person namely Shri Gauravkumar Parihar and Ms. Nikita Gauravkumar Parihar was found residing at the mentioned address, which clearly establishes that the said Aadhar Card was generated illegally with the fake details and accordingly mens-rea on behalf noticee clearly established in the instant case.

23.2 Furter, I observed that in cases of gold smuggling, a co-accused's involvement may extend beyond direct possession of the gold, encompassing various roles such as facilitating transportation, providing logistical support, or helping in forging the documents. In the matter, I consider the totality of circumstances, including statements from co-accused and the accused, digital evidences in form of whatsapp chat with the members of syndicate, exchanging the details of passengers through whatsapp or messages, sharing of photos of carrier passengers, forging the documents, concretely proves that there was syndicate involved in smuggling of gold wherein Shri Aziz @ Abu Dhabi was mastermind of the smuggling, who smuggled the gold into India with the help of his aids in India. From the above documentary evidences alongwith the digital evidence, it is ample clear that the noticee Shri Gaurav Parihar was an active member of the Syndicate who facilitate the smuggling activity by managing the copy of Aadhar cards of different person and helped in forging the documents.

23.3 I find that the noticee has neither submitted his defense submission, nor present himself before the Adjudicating authority at the time of personal hearing. From the facts, it is evident that the noticee is not bothered for ongoing adjudication process and has nothing to submit in his defense. By the using the name of Shri Gauravkumar Parihar by Shri Dilmeer Alim Sayyed Pirjade to save his mobile number in Apple Phone and using Aadhar of Shri Gauravkumar Parihar which was provided by himself to Shri Dilmeer Alim Sayyed Pirjade for forging it and used for booking of hotel to facilitate the stay of the members of the syndicate and carriers/passengers as per the direction of Aziz Bhai conclusively proved that Shri Gauravkumar Parihar was actively and willing participated in the smuggling activity. In view of the cumulative circumstantial evidences, digital evidences, documentary records, the purity of gold, voluntary statements of the noticees, and CDR/SDR details It is seen that the noticee Shri Gauravkumar Parihar was active member of syndicate and has involved himself in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, **or in any other manner dealing with gold** in a manner which he knew or had reasons to believe that the same were liable to confiscation under the Act. I further find that her deliberate absence from the investigation and from the present proceedings strongly suggests that he has intentionally evaded participation in order to avoid accountability for his role in the smuggling activity. It, is therefore, proved beyond doubt that the noticee Shri Gauravkumar Parihar has committed an offence of the nature described in Section 112 of Customs Act, 1962 making him liable for penalty under Section 112(b) of the Customs Act, 1962. Further, the noticee has not appeared before the investigating officer to prove his innocence and not co-operated in the investigation and also helped the syndicate member to forge the documents to hide their real identity. All these omission and commission on behalf of noticee makes him liable for penal action under Section 117 of Customs Act, 1962.

24. Now, I come to allegation in the Show Cause Notice that as to whether there is an involvement of Noticee Shri Aziz @ Abu Dhabi in smuggling of gold or otherwise and penalty should be imposed upon him under Section 112 of Customs Act, 1962 and Section 117 of Customs Act, 1962 or otherwise.

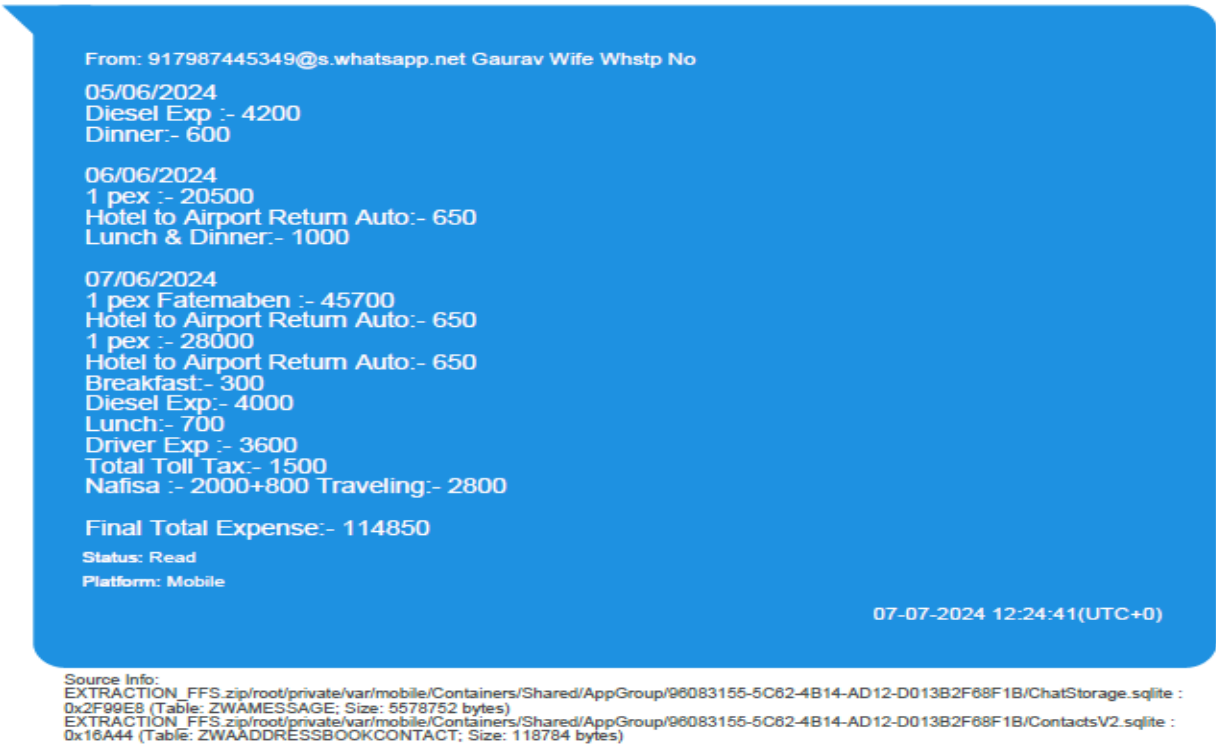
24.1 The cumulative analysis of statements, electronic records, WhatsApp chats, and other material evidence conclusively establishes that Shri Aziz @ Abu Dhabi is the principal architects behind the well-organized syndicate involved in systematic and repeated acts of gold smuggling into India from Dubai/Abu Dhabi/Sharjah. He orchestrated the entire operation, from identifying carriers, arranging logistics, executing delivery and making payment to carrier passengers as well as to his aids. The operational control, planning, coordination, and execution of smuggling activities were conceptualized and carried out under his instructions. The smuggled quantity of gold in the instant case was to the tune of 2094.15 grams which was derived from 07 capsules which were recovered from the passengers named as Shri Murtaza Ali Bhopalwala, Smt. Farida Bhopalwala and Ms. Fatema Shabbir Presswala which was seized vide seizure memo dated 11.08.2024 under Panchnama proceeding dated 11.08.2024.

24.2 The modus operandi adopted by the syndicate reveals a high level of planning and compartmentalization. Shri Aziz @ Abu Dhabi would first identify individuals possessing valid Indian passports who were either willing to travel or already planning to travel from India to U.A.E. These individuals were lured into acting as gold carriers on their return journey from U.A.E to India in exchange for monetary consideration or benefits, such as Air Tickets and their trip expenditure. Further, on confirming the availability of such individuals, travel arrangements, including the booking of flight tickets, were made by Shri Babu Bhai @ Dubai under the instructions of Shri Aziz @ Abu Dhabi and in turn Shri Babu Bhai Shared the Air Tickets, e-visa details, photos etc. of the carrier/passengers with Shri Dilmeer and Shri Dilmeer used to share details of new carriers/passengers viz. copies of Passport, Aadhar Card, PAN Card etc. with Shri Babu Bhai for visa purpose. Once the carrier arrived in Dubai, the syndicate coordinated the delivery of gold to be smuggled, either on the person of the carrier or in their baggage. For instance, in the case of Shri Murtaza Ali Bhopalwala and Smt Farida Bhopalwala, it is revealed that the gold was handed over to them in Abu Dhabi by Shri Aziz @ Abu Dhabi alongwith the tickets. After receiving the gold, the carriers were instructed on how to conceal and carry the smuggled gold in their return journey to India. In the most of instances, the modus was kept the same as gold was handed over to carrier passengers in form gold paste containing in capsule form and carrier passengers were directed to conceal the same in their body i.e rectum, so that the same could not be detected easily by the DFMD

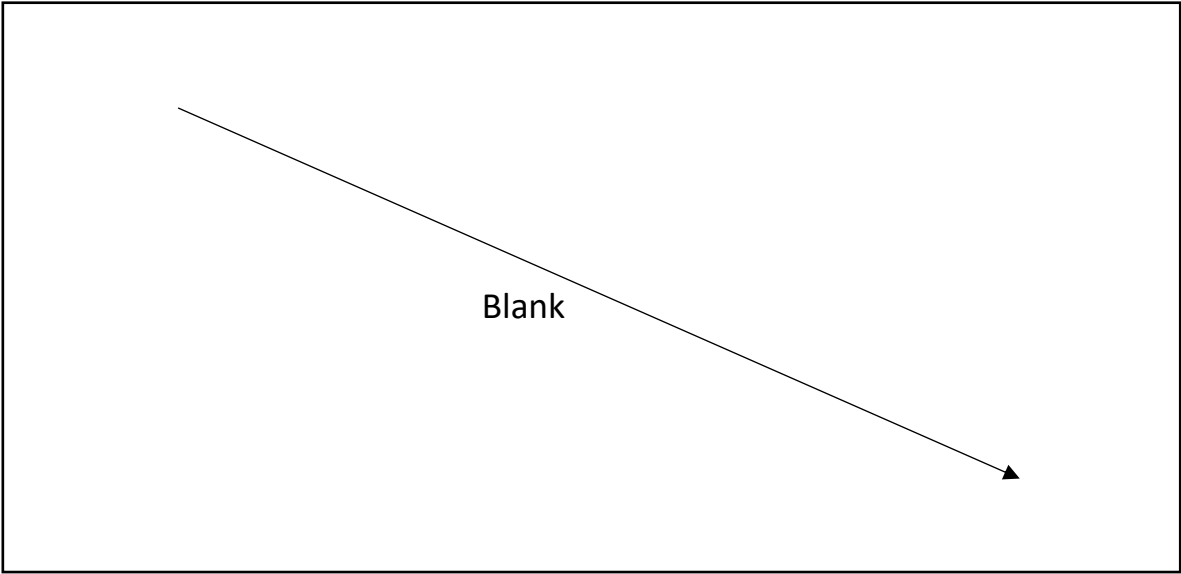
Machine or by the officers. It is also on record that monetary considerations were regularly passed on to the carrier passengers as well as to the aids of Shri Aziz @ Abu Dhabi in cash for facilitating the smuggling of gold. After successful clearance, the gold was collected from the carrier by Shri Dilmeer Alim Sayyed Pirjade in association with Ms. Nafisa Husain Burhanpurwala, as per the instructions of Shri Aziz. Shri Dilmeer Alim Sayyed Pirjade then handed over the said smuggled gold to a designated individual as directed. Thereafter, Ms. Nafisa Husain Burhanpurwala prepared and shared the expenditure details to Shri Dilmeer Alim Sayyed Pirjade, who in turn sent them to Shri Aziz for confirmation. Further, cash transactions related to smuggling of gold were also handled by Shri Aziz. Shri Aziz used to give directions to Shri Dilmeer and Ms. Nafisa to hand over the cash to the persons who participated in the smuggling activity in any way, and they complied accordingly. I find that the noticees made deliberate use of alternative communication platforms such as WhatsApp calling, chat and messages which are known to offer end-to-end encryption and are often used to avoid detection by law enforcement agencies. The overall evidence, including the WhatsApp chats, digital images indicating high-value cash transactions, voluntary statements, and call detail records, collectively establishes the fact that the gold smuggling operation was not a one-off activity but a systematic and organized racket involving several individuals over multiple instances.

24.3 I also note that his non-appearance before the DRI, despite issuance of multiple summonses, demonstrates his deliberate evasion and unwillingness to participate in the investigation. I further note that Shri Aziz @ Abu Dhabi did not even bother to appear for personal hearing opportunity granted to him, nor did he represent his case by submitting any defence reply. These facts clearly indicate that he was actively involved in the smuggling racket and has nothing to submit in his defence. This conduct clearly demonstrates a deliberate attempt to evade the investigation and reflects a lack of bona fide intent to engage with the proceedings. In view of the above, I find that Shri Aziz has nothing substantial to say in his defence. His failure to submit defense reply, despite ample opportunities, reinforces the conclusion that he has no tenable explanation or justification against the charges levelled in the Show Cause Notice.

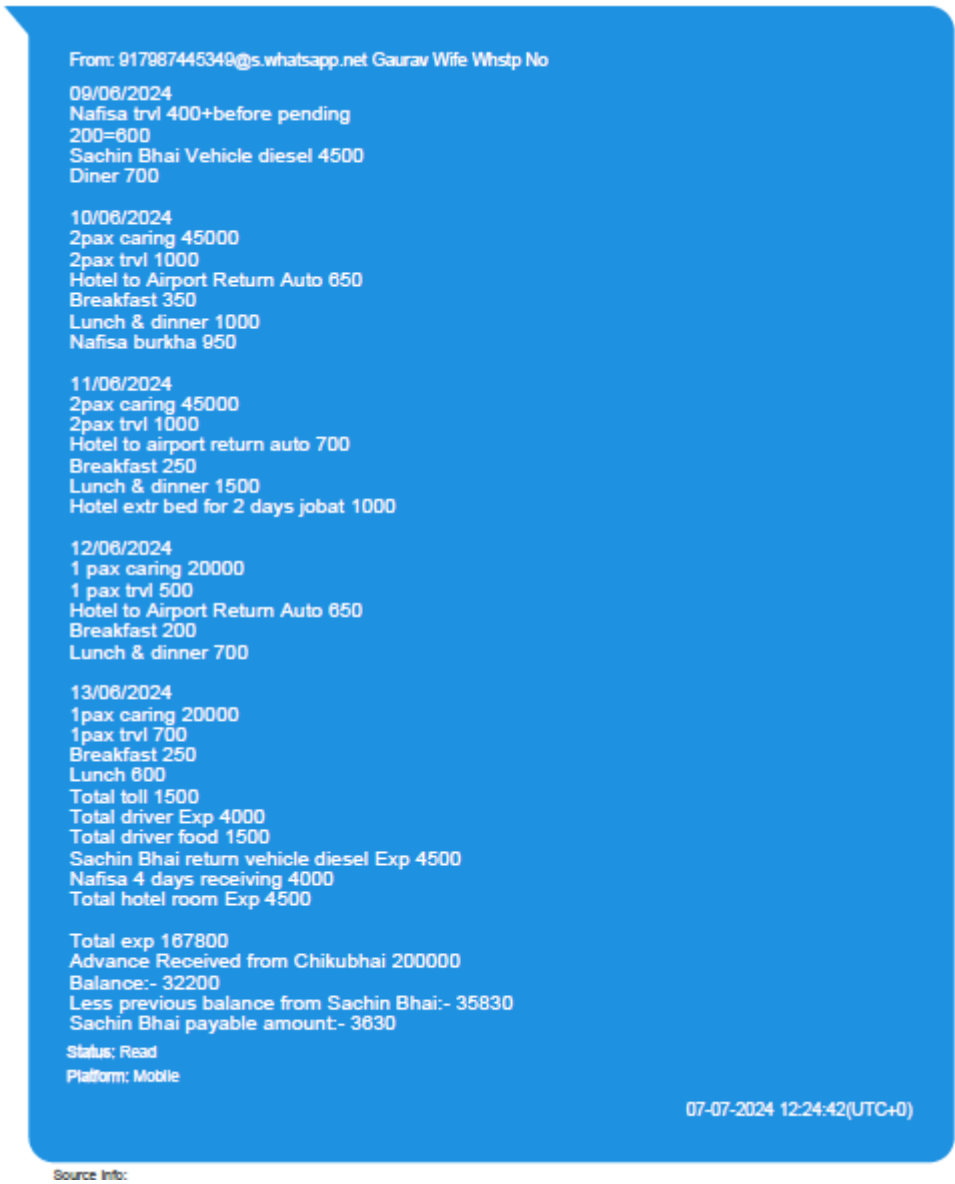
24.4 Additionally, records indicated that smuggling operations were not limited to the present case. There are other WhatsApp chats and images recovered during the investigation which suggest the involvement of the same group in gold smuggling on other dates as well. This fact is further supported by whatsapp chats between Shri Dilmeer and Ms. Nafisa on various occasions wherein they have shared the details regarding payment made to the carrier passengers alongwith the details of expenditure occurred for handling of the said carrier passengers. For better understanding some excerpts of the chats between Shri Dilmeer and Ms. Nafisa are hereby reproduced as:-



(Image 16 – Image depicting screenshot of whatsapp chat where expenses details pertaining to date 05/06/2024 to 07/06/2024 were shared with Shri Dilmeer (Mobile No. 9579079625) by Mobile No. 917987445349 (contact saved in Shri Dilmeer’s phone as Gaurav Wife Whstp No.)



OIO No:110 /ADC/SRV/O&A/2025-26
F. No: VIII/10-258/DRI/SVPIA/O&A/HQ/2024-25



(Image 19 – Image depicting screenshots of whatsapp chat where expenses details were shared with Shri Dilmeer (Mobile No. 9579079625) by Mobile No. 917987445349 (contact saved in Shri Dilmeer’s phone as Gaurav Wife Whstp No)

From the above, it is evidently clear that the Noticees are habitual offenders engaged in recurring smuggling activities.

24.5 I further find that various persons had formed an understanding with Shri Aziz @ Abu Dhabi and hatched a conspiracy to smuggle gold from U.A.E in India. The manner in which the persons had conspired with Shri Aziz @ Abu Dhabi have been discussed at length hereinabove wherein the carriers have carried the gold in India, Shri Dilmeer with the help of Ms. Nafisa has played the role of providing escorting services and collection of gold and in turn further handover the said gold to the designated person on the direction of Shri Aziz. All the persons who have given inculpatory statements are a part of the conspiracy with Shri Aziz and were all involved in the common interest of smuggling of gold in India. Thus, anything

admitted by them with reference to their common interest in the conspiracy can very well be used at admissible evidence. My findings to this effect are aptly supported by the decision of Hon'ble High Court of Delhi in the case of **S K Jain reported at 2016 (333) ELT 89 (Del)** wherein it has been held as under:

*"In the case at hand, there is a recovery of foreign currency from the co-accused. The relationship of employer and employee has been admitted both by the petitioner and the co-accused. **The statement of the co-accused and the other documents seized show that the co-accused was acting on the behest of the petitioner.** At this stage, the Court will not dissect the evidence against each accused and come to the conclusion that the only evidence against the petitioner is the statement of the co-accused and that being not substantive evidence, no charge can be framed against him. **It is well settled that in a case of conspiracy if there is reasonable ground to believe that two or more persons have conspired together to commit an offence then by virtue of Section 10 of the Evidence Act, anything said, done or written by one of such persons in reference to their common intention, is a relevant fact as against each of the persons believed to be so conspiring, as well for the purpose of proving the existence of the conspiracy, as for the purpose of showing that any such person was a party to it.**"*

24.6 From the above findings, I conclude that Shri Aziz @ Abu Dhabi, in connivance with other co-noticees and carrier passengers, had knowingly acquired possession of and engaged in carrying, removing, keeping, concealing, and delivering smuggled gold into India. These activities were undertaken without the knowledge of the Customs Authorities, without proper declaration, and without payment of the applicable Customs duty, all for monetary gain. Accordingly, I find and hold that Shri Aziz @ Abu Dhabi was actively involved in and systematically managed the smuggling of weighing 2094.15 grams into India for their personal enrichment. I further find and hold that their acts of omission and commission have rendered the said smuggled goods liable for confiscation under **Sections 111(d), 111(l), and 111(m)** of the **Customs Act, 1962**.

24.7 The SCN also proposes penalty under Section 112(a) & (b) of the Customs Act, 1962 on Shri Aziz @ Abu Dhabi. I further find that I have already held the smuggled gold weighing **2094.15 grams**, seized on **11.08.2024** by the DRI, Ahmedabad, to be liable for confiscation under Section 111 of the Customs Act, 1962. I also find that Shri Aziz @ Abu Dhabi, being the mastermind and beneficial owner of the said seized goods, are liable for penalty under Section 112 of the Customs Act, 1962. I note that Section 112 of the Customs Act, 1962 prescribes penalties for improper

importation of goods, etc. The relevant portion is reproduced below for reference:

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, harbouring, keeping, concealing, selling or purchasing, **or in any other manner dealing with any goods** which he knows or has reason to believe are liable to confiscation under [section 111](#),*

From the above, I find that bringing gold into India in contravention of the provisions of the Customs Act and failure to declare the same under Section 77 of the Act clearly falls within the ambit of Section 112(a) of the Customs Act, 1962. Further, as discussed in detail earlier, Noticee Shri Aziz @ Abu Dhabi is found to be the key mastermind of the gold smuggling operation and the actual beneficiary/owner of the seized smuggled gold. Based on the statements of Shri Murtaza Ali Bhopalwala, Smt. Farida Bhopalwala, Ms. Fatema Shabbir Presswala and Shri Dilmeer Alim Sayyed Pirjade, as well as the WhatsApp chat records retrieved during the investigation, it is clearly established that the noticee had arranged the carriers, namely, Shri Murtaza Ali Bhopalwala, Smt. Farida Bhopalwala and Ms. Fatema Shabbir Presswala for smuggling of 2094.15 grams of gold. Therefore, the conduct is squarely covered under Section 112(b) of the Customs Act, 1962. In support of my view, reliance is placed on the decision of the Revisionary Authority, New Delhi in the case of **Smt. Shakeena Ahammed Thadayil, Kozhikode vs. Commissioner of Customs, Calicut** (Order No. 44/24-Cus dated 13.02.2024), which is directly applicable to the facts of the present case. While determining the imposition of penalty in this matter, I also take into consideration the observations of the Hon'ble Supreme Court in **Hindustan Steel Ltd. vs. State of Orissa**, wherein it was held that:

“The discretion to impose a penalty must be exercised judicially. A penalty will ordinarily be imposed in cases where the party acts deliberately in defiance of law, or is guilty of contumacious or dishonest conduct, or acts in conscious disregard of its obligations; but not in cases where there is a technical or venial breach of the provisions of the Act or where the breach flows from a bona fide belief that the offender is not liable to act in the manner prescribed by the statute.”

In the present case, it is evident that Shri Aziz @ Abu Dhabi deliberately engaged in activities such as carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, **or in any other manner dealing with gold**, knowing or having reasons to believe that such goods were liable to confiscation under the Customs Act, 1962. Accordingly, I hold that Shri Aziz @ Abu Dhabi is liable for penalty under Section 112(b) of the Customs Act, 1962. Further, the noticee has not appeared before the investigating officer to prove his innocence and not co-operated in the investigation and also helped the syndicate member to forge the documents to hide their real identity. All these omission and commission on behalf of noticee makes him liable for penal action under Section 117 of Customs Act, 1962.

25. Accordingly, I pass the following Order:

ORDER

- i.** I order **absolute confiscation** of 01 gold bar having net weight 620.03 grams having a market value of Rs. **44,55,536/-**, extracted from the gold paste containing in 02 capsules concealed in rectum by Shri Murtaza Ali Bhopalwala and placed under seizure under panchnama dated 11.08.2024 and seizure memo order dated 11.08.2024 under Section 111(d),111(l) and 111(m) of the Customs Act, 1962;
- ii.** I order **absolute confiscation** of 01 gold bar having net weight **612.64** grams having a market value of Rs. **44,02,431/-**, extracted from the gold paste containing in 02 capsules concealed in rectum by Smt. Farida Bhopalwala and placed under seizure under panchnama dated 11.08.2024 and seizure memo order dated 11.08.2024 under Section 111(d),111(l) and 111(m) of the Customs Act, 1962;
- iii.** I order **absolute confiscation** of 02 gold bars having net weight **861.48** grams having a market value of Rs. **61,90,595/-**, extracted from the gold paste containing in 03 capsules concealed in rectum by Ms. Fatema Shabbir Presswala and placed under seizure under panchnama dated 11.08.2024 and seizure memo order dated 11.08.2024 under Section 111(d),111(l) and 111(m) of the Customs Act, 1962;

- iv. I impose a penalty of Rs.11,00,000/- (Rupees Eleven Lakh Only) on **Shri Murtaza Ali Bhopalwala** under the provisions of Section 112(a)(i) & Section 112(b)(i) of the Customs Act 1962.
- v. I impose a penalty of Rs. 11,00,000/- (Rupees Eleven Lakh Only) on **Smt. Farida Bhopalwala** under the provisions of Section 112(a)(i) & Section 112(b)(i) of the Customs Act 1962.
- vi. I impose a penalty of Rs. 15,50,000/- (Rupees Fifteen Lakh Fifty Thousand Only) on **Ms. Fatema Shabbir Presswala** under the provisions of Section 112(a)(i) & Section 112(b)(i) of the Customs Act 1962.
- vii. I impose a penalty of Rs. 25,00,000/- (Rupees Twenty-Five Lakh Only) on **Shri Aziz @ Abu Dhabi** under the provisions of Section 112(b)(i) of the Customs Act 1962.
- viii. I impose a penalty of Rs. 10,00,000/- (Rupees Ten Lakh Only) on **Shri Dilmeer Alim Sayyed Pirjade** under the provisions of Section 112(b)(i) of the Customs Act 1962.
- ix. I impose a penalty of Rs. 10,00,000/- (Rupees Ten Lakh Only) on **Ms. Nafisa Husain Burhanpurwala** under the provisions of Section 112(b)(i) of the Customs Act 1962.
- x. I impose a penalty of Rs. 5,00,000/- (Rupees Five Lakh Only) on **Shri Gauravkumar Himatlal Parihar** under the provisions of Section 112(b)(i) of the Customs Act 1962.
- xi. I impose a penalty of Rs. 2,00,000/- (Rupees Two Lakh Only) on **Shri Murtaza Ali Bhopalwala** under the provisions of Section 117 of the Customs Act 1962.
- xii. I impose a penalty of Rs. 2,00,000/- (Rupees Two Lakh Only) on **Smt. Farida Bhopalwala** under the provisions of Section 117 of the Customs Act 1962.
- xiii. I impose a penalty of Rs. 2,00,000/- (Rupees Two Lakh Only) on **Ms. Fatema Shabbir Presswala** under the provisions of Section 117 of the Customs Act 1962.
- xiv. I impose a penalty of Rs. 2,00,000/- (Rupees Two Lakh Only) on **Shri Aziz @ Dubai** under the provisions of Section 117 of the Customs Act 1962.
- xv. I impose a penalty of Rs. 2,00,000/- (Rupees Two Lakh Only) on **Shri Dilmeer Alim Sayyed Pirjade** under the provisions of Section 117 of the Customs Act 1962.

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- xvi.** I impose a penalty of Rs. 1,00,000/- (Rupees One Lakh Only) on **Ms. Nafisa Husain Burhanpurwala** under the provisions of Section 117 of the Customs Act 1962.
- xvii.** I impose a penalty of Rs. 1,00,000/- (Rupees One Lakh Only) on **Shri Gauravkumar Himatlal Parihar** under the provisions of Section 117 of the Customs Act 1962.

26. Accordingly, the Show Cause Notice No. DRI/AZU/GI-02/ENQ-33/2024 dated 07.02.2025 stands disposed of.

(Shree Ram Vishnoi)
Additional Commissioner
Customs, Ahmedabad

F. No. VIII/10-258/DRI/SVPIA/O&A/HQ/2024-25 Date:30.07.2025

DIN: 20250771MN0000555EC3

By SPEED POST A.D.

To,

1. Shri Murtaza Ali Bhopalwala, residing at 102, Rehmat Manzil, 148-149, Mohammedi Gali Noori Colony, Manik Bagh Road, Indore, MP-452014 (**Email id : murtuzahasan1979@gmail.com**);
2. Ms. Farida Bhopalwala, residing at Flat No. 102, Rehmat Manzil, 148-149, Noori Colony, Mohammedi Gali, Indore, Madhya Pradesh – 452014 (**Email id : murtuzahasan1979@gmail.com**);
3. Ms. Fatema Shabbir Presswala, residing at 6, Bohara Bakhal Marg Nan3 Alirajpur, Tehsil Alirajpur, District Alirajpur, Madhya Pradesh, 457887 (**Email id : fatemashabbirpress@gmail.com**);
4. Shri Aziz@AbuDhabi (**To be served Through Notice Board**)
5. Shri Dilmeer Alim Sayyed Pirjade, residing at Idgah Road, Stedium Mage, At/Post – Sangmner, Sangamner, Ahmadnagar, Maharastra – 422605 (**Email id : dilmeersayyed@gmail.com**);
6. Ms. Nafisa Husain Burhanpurwala (**To be served Through Notice Board**)
7. Shri Gauravkumar Himatlal Parihar residing at 402, 4th Floor, Jyoti Apartment, C Wing, Narayan Nagar, Thane, Maharashtra – 400612 (**Email id : parihar.gaurav86@hotmail.com**) (**To be served Through Notice Board**)

Copy to :-

1. The Principal Commissioner of Customs, Ahmedabad. (Kind Attn: RRA Section)

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2. The Dy./Asstt. Commissioner of Customs (AIU), SVPIA, Ahmedabad.
3. The Dy./Asstt. Commissioner of Customs (TRC), Ahmedabad.
4. The Assistant/Deputy Director, DRI, AZU, Ahmedabad
5. The System In charge, Customs HQ, Ahmedabad for uploading on official web-site i.e. <http://www.ahmedabadcustoms.gov.in>
6. Guard File.