

OIO No.25/AB/ADC/SRT-AIRPT/2024-25

F. No. VIII/26-03/AIU/CUS/2024-25



अपर आयुक्त, सीमा शुल्क कार्यालय

OFFICE OF THE ADDITIONAL COMMISSIONER OF CUSTOMS

सीमा शुल्क सदन, सूरत/CUSTOMS HOUSE,SURAT

4th Floor, Customs House, Beside SMC Ward Office, Althan-Bhimrad Road, Althan, Surat –395007 ; Tel. No.- 0261-2990051

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PREAMBLE

A	डी आई ऐन/DIN	20250371MN000000D6AE
B	फ़ाइल संख्या / File No.	F. No. VIII/26-03/AIU/CUS/2024-25
C	कारण बताओ नोटिस संख्या और तारीख Show Cause Notice No. and date	F. No. VIII/26-03/AIU/CUS/2024-25 dated 20.09.2024
D	ऑर्डर-इन-ओरिजिनल नंबर / Order-In-Original No.	25/AB/ADC/SRT-AIRPT/2024-25
E	आदेश तारीख/ Date of Order-In-Original	18.03.2025
F	जारी करने की तिथि/ Date of Issuance	19.03.2025
G	द्वारा पारित / Passed by	Shri Anunay Bhati Additional Commissioner, Customs Surat International Airport, Surat
H	यात्री का नाम और पता Name and address of Passenger	Shri Rohan Dinesh Gujarati S/o Shri Dineshbhai Madhabhai Gujarati, 63, Anmol Row House, City Light Road, Mota Varachha, Surat City, PIN-394101, Gujarat

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

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

२. इस आदेश से अपने को व्यथित महसूस करने वाला कोई भी व्यक्ति आयुक्त (अपील), सीमा शुल्क, 4th मंजिल, हुडको बिल्डिंग, ईश्वर भवन रोड, नवरंगपुरा, अहमदाबाद- ३८०००९ के यहाँ अपील कर सकता है । इस तरह की अपील, पार्टी को इस आदेश के सौंपे जाने अथवा डाक के प्राप्त होने के साठ दिन के अन्दर सीमा शुल्क (अपील) नियम, १९८२ के अंतर्गत फार्म स सी. ए. १ और २ दी जानी चाहिए। इस अपील पर नियमानुसार कोर्ट का स्टाम्प लगा होना चाहिए ।

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

३. अपील के साथ निम्नलिखित चीजे संलग्न की जाए ।

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

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

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

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

BRIEF FACTS OF THE CASE:

Shri Rohan Dinesh Gujarati (hereinafter referred to as the "Passenger/Noticee"), Age 28 years, S/o Shri Dineshbhai Madhabhai Gujarati, residing at 63, Anmol Row House, City Light Road, Mota Varachha, Surat City, PIN-394101, Gujarat, holding passport No. M2863308 arrived at Surat International Airport on 07.04.2024 from Dubai on Air India Express Flight No. IX-174 dated 07.04.2024.

2. Whereas, based on passenger profiling, one passenger, namely Shri Rohan Dinesh Gujarati, suspected to be carrying high-value dutiable/prohibited goods in-person or in the baggage who was intercepted by the officers of the Air Intelligence Unit (AIU) (hereinafter referred to as the "officers"), in the presence of panchas under Panchnama proceedings dated 07.04.2024, near the green channel of the Arrival Hall of International Terminal of International Airport, Surat. The passenger was found to carrying two baggage viz, one black colour trolley bag and one black colour backpack. The officers asked the passenger whether he had anything to declare, which the passenger denied. The officers informed the passenger that they would conduct his personal search and detailed examination of his baggage. The officers offered their personal search to the passenger, but the passenger politely denied it. Thereafter, the officers asked the passenger whether he wanted to be searched in the presence of the Executive Magistrate or the Superintendent (Gazetted Officer) of Customs; in reply, the passenger consented to be searched before the Superintendent of Customs. The officers and the passenger then entered the room meant for Baby Care in the Arrival area. Meanwhile, during frisking and physical search of the passenger, the belt worn by the passenger was found to be abnormally heavy due to its heavy buckle. Accordingly, the passenger was asked to remove his belt, which was passed through the XBIS scanner machine in the arrival hall of Surat International Airport. While scanning, a dark image, indicating the presence of some high-density metallic object like gold in buckle, was seen in the monitor attached to the scanner machine. Thereafter, the buckle was detached from the belt and weighed in the machine and its weight was found to be approx. 192.17 grams.

3. Thereafter, the officers passed the luggage carried by him through the XBIS Scanner machine and also thoroughly checked the luggage after withdrawing its contents; however, nothing objectionable/prohibited goods were found.

4. Whereas the Customs officer, in the presence of the panchas and the passenger called Shri Vikasraj Juneja, Government Approved Valuer, in the Customs office at Surat International Airport. The Customs officer informed him about the recovery of a metal, which appeared to be gold, from the passenger and requested the testing of purity, weight, and valuation of the said material. After examination and weighment of the belt buckle on his weighing scale, the valuer certified the same to be a 24 kt gold weighing 192.170 grams. The market value of the gold item was Rs. 14,06,684/- (Rupees Fourteen Lakh Six Thousand Six Hundred Eighty-Four only) and its tariff value was Rs. 11,44,393/- (Rupees Eleven Lakh Forty-Four Thousand Three Hundred Ninety-Three only) as per Notification No. 27/2024-Customs-(NT) dated 04.04.2024 and 25/2024 – Customs (NT) dated 07.04.2024. Thereafter, the valuer issued a valuation certificate dated 07.04.2024. The Customs officers again sealed the gold weighing 192.170 grams and handed it to the warehouse in charge, Surat International Airport, Surat.

5. Whereas the above-mentioned 24 kt gold item weighing 192.170 grams was having a market value of Rs. 14,06,684/- (Rupees Fourteen Lakh Six Thousand Six Hundred Eighty-Four only) and its tariff value of Rs. 11,44,393/- (Rupees Eleven

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Lakh Forty-Four Thousand Three Hundred Ninety-Three only) recovered from the passenger, Shri Rohan Dinesh Gujarati was placed under seizure under the provisions of Section 110 of the Customs Act 1962 vide Seizure order dated 07.04.2024 under Panchnama proceedings dated 07.04.2024, on a reasonable belief that the said gold was smuggled into India and was liable for confiscation under provisions of the Customs Act, 1962.

6. The following documents were withdrawn from the Passenger for further investigation:

- Copy of Boarding Pass, from Dubai to Surat, of Air India Express Flight No. IX-174 dated 07.04.2024, Seat No. 29C, PNR No. H93F5H.
- Copy of Passport No. M2863308 issued at Surat on 13.10.2014 and valid up to 12.10.2024. His address as per passport is 63, Anmol Row House, City Light Road, Mota Varachha, Surat City, PIN-394101, Gujarat, India.
- Copy of Aadhar card bearing No. 9134 0210 1798.

7. Whereas, a statement of Shri Rohan Dinesh Gujarati was recorded on 07.04.2024 under the provision of Section 108 of the Customs Act, 1962, wherein he inter alia stated:

- that he resided at 63, Anmol Row House, City Light Road, Mota Varachha, Surat City, PIN-394101, Gujarat, India, with his father, mother, sister, wife, and daughter; that he was in textile manufacturing business by profession and handling his father's business; that he had studied till 12th; that he could read, write and understand English, Gujarati, and Hindi Languages;
- that he was shown and explained the panchnama dated 07.04.2024 drawn at International Airport, Surat, by the officers of Customs AIU, International Airport, Surat, which was in English, and after understanding the same, he put his dated signature on the panchnama in token of acceptance of the facts stated therein;
- that this was his first trip to Dubai; he had gone to Sharjah on 03.04.2024 from Surat International Airport, Surat; that the gold Buckle of 24 kt recovered from his possession belonged to him and he was the owner of the same; that he had purchased the same from Dubai from one of the broker name Salim; that he did not know him (Salim); that he met him (Salim) in Dubai for the first time by local reference; that the Belt was made of 24 carat gold, weighing 190 grams and he had purchased the same by paying Rs. 13,54,000/-; that he took loan from various persons and made payment in cash to one person sent by him in Surat and he sent the amount through Hawala; that he did not know the person whom the cash was handed over; that he met him first time; that he did not declare the said gold item as he was aware that import of Gold without payment of Customs duty was an offence; that he had tried to smuggle the gold into the country;
- that after clearing the immigration procedures, he collected his baggage, and during checkout, he was intercepted by the Customs officials, and further procedures, as stated in Panchnama dated 07.04.2024, were carried out; that he had committed an offence by smuggling of Gold, for which he has to face the consequences as prescribed under the Customs Law.

8. LEGAL PROVISIONS RELEVANT TO THE CASE

- a)** As per para 2.27 of 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 Ministry of Finance.”
- b)** As per Section 3(2) of the Foreign Trade (Development and Regulation) Act, 1992 – “the Central Government may by Order make provision for prohibiting, restricting or otherwise regulating, in all cases or in specified classes of cases and subject to such exceptions, if any, as may be made by or under the Order, the import or export of goods or services or technology.”
- c)** As per Section 3(3) of the Foreign Trade (Development and Regulation) Act, 1992-“All goods to which any Order under sub-section (2) applies shall be deemed to be goods the import or export of which has been prohibited under section 11 of the Customs Act, 1962 (52 of 1962) and all the provisions of that Act shall have effect accordingly.”
- d)** As per Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 – “no export or import shall be made by any person except in accordance with the provisions of this Act, the rules and orders made thereunder and the foreign trade policy for the time being in force.”
- e)** As per Section 11(3) of the Customs Act, 1962- “Any prohibition or restriction or obligation relating to import or export of any goods or class of goods or clearance thereof provided in any other law for the time being in force, or any rule or regulation made or any order or notification issued thereunder, shall be executed under the provisions of that Act only if such prohibition or restriction or obligation is notified under the provisions of this Act, subject to such exceptions, modifications or adaptations as the Central Government deems fit.”
- f)** As per Section 2(3) of the Customs Act, 1962 – “baggage” includes unaccompanied baggage but does not include motor vehicles.
- g)** As per Section 2(22), of Customs Act, 1962 definition of 'goods' includes-
 - a. vessels, aircrafts and vehicles;
 - b. stores;
 - c. baggage;
 - d. currency and negotiable instruments; and
 - e. any other kind of movable property;
- h)** As per Section 2(33) of Customs Act 1962-“prohibited goods means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force, but does not include such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with.”
- i)** As per Section 2(39) of the Customs Act 1962 –“‘smuggling’ in relation to any goods, means any act or omission, which will render such goods liable to confiscation under Section 111 or Section 113.”
- j)** 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.”
- k)** As per Section 110 of Customs Act, 1962-“if the proper officer has reason to

believe that any goods are liable to confiscation under this Act, he may seize such goods.”

- l)** Any goods which are imported or attempted to be imported or 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 shall be liable to confiscation under section 111 (d) of the Customs Act 1962.
- m)** Any dutiable or prohibited goods found concealed in any manner in any package either before or after the unloading thereof are liable to confiscation under Section 111 (i) of the Customs Act 1962.
- n)** Any dutiable or prohibited goods removed or attempted to be removed from a customs area or a warehouse without the permission of the proper officer or contrary to the terms of such permission are liable to confiscation under Section 111 (j) of the Customs Act 1962.
- o)** As per Section 112 of the Customs Act 1962-“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 manner dealing with any goods which he know or has reason to believe are liable to confiscation under Section 111, shall be liable to penalty.”
- p)** As per Section 119 of Customs Act 1962 any goods used for concealing smuggled goods shall also be liable for confiscation.
- q)** As per Section 123 of Customs Act 1962 (Burden of proof in certain cases)
 - (1) where any goods to which this section applies are seized under this Act in the reasonable belief that they are smuggled goods, the burden of proving that they are not smuggled goods shall be-
 - (a) in a case where such seizure is made from the possession of any person -
 - (i) on the person from whose possession the goods were seized; and
 - (ii) if any person, other than the person from whose possession the goods were seized, claims to be the owner thereof, also on such other person;
 - (b) in any other case, on the person, if any, who claims to be the owner of the goods so seized.
 - (2) This section shall apply to gold, [and manufactures thereof,] watches, and any other class of goods which the Central Government may by notification in the Official Gazette specify.
- r)** As per Customs Baggage Declaration Regulations, 2013- “all passengers who come to India and having anything to declare or are carrying dutiable or prohibited goods shall declare their accompanied baggage in the prescribed form.”
- s)** As per DGFT Notification No. 36/2015-2020 dated 18.12.2019, Import policy of gold in any form, other than monetary gold and silver in any form, is amended from ‘Free’ to ‘Restricted’; import is allowed only through nominated agencies as notified by RBI (in case of banks) and DGFT (for other agencies).

9. CONTRAVENTION AND VIOLATION OF LAWS

It, therefore, appeared that:

- a)** Shri Rohan Dinesh Gujarati had actively involved himself in the instant case of smuggling of gold into India. The said passenger had improperly imported gold in belt buckle form weighing 192.170 grams, having a market value of Rs. 14,06,684/- (Rupees Fourteen Lakh Six Thousand Six Hundred Eighty-Four only), and its tariff value was Rs. 11,44,393/- (Rupees Eleven Lakh Forty Four Thousand Three Hundred Ninety Three only), without declaring it to the Customs, by way of concealment in-person. He concealed the gold in his belt in buckle form with a deliberate and mala fide intention to smuggle the said gold into India and fraudulently circumvent the restrictions and prohibitions imposed under the Customs Act, 1962 and other Allied Acts, Rules, and Regulations. The gold improperly imported by him with commercial considerations without declaration before the proper officer of Customs cannot be treated as bona fide household goods or personnel effects. Shri Rohan Dinesh Gujarati had thus contravened the Foreign Trade Policy 2023, 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 and DGFT Notification No. 36/2015-2020 dated 18.12.2019.
- b)** By not declaring the value, quantity, and description of the goods imported by him, the said passenger violated the provision of Baggage Rules, 2016, read with section 77 of the Customs Act, 1962, read with Regulation 3 of Customs Baggage Declaration Regulations, 2013.
- c)** The gold improperly imported by the passenger, Shri Rohan Dinesh Gujarati, by concealing the same in his pants in form of belt buckle without declaring it to the Customs was thus liable for confiscation under Section 111(d), (i) and (j) read with Section 2 (22), (33), (39) of the Customs Act, 1962 and further read in conjunction with Section 11(3) of the Customs Act, 1962.
- d)** Shri Rohan Dinesh Gujarati, by his above-described acts of omission and commission on his part had rendered himself liable to penalty under Section 112 of the Customs Act, 1962.
- e)** As per Section 123 of the Customs Act, 1962, the burden of proving that the said improperly imported gold, weighing 192.170 grams, having a market value of Rs. 14,06,684/- (Rupees Fourteen Lakh Six Thousand Six Hundred Eighty-Four only) and its tariff value was Rs. 11,44,393/- (Rupees Eleven Lakh Forty Four Thousand Three Hundred Ninety-Three only) without declaring it to the Customs, were not smuggled goods, was upon the passenger/Noticee, Shri Rohan Dinesh Gujarati.

10. Accordingly, a Show Cause Notice bearing F. No. VIII/26-03/AIU/CUS/2024-25 dated 20.09.2024 was issued to Shri Rohan Dinesh Gujarati calling upon him to show cause in writing to the Additional Commissioner of Customs, Surat International Airport, Surat, having his office situated on 4th Floor, Customs House, Beside SMC Ward Office, Althan-Bhimrad Road, Althan, Surat – 395017 within thirty days from the receipt of notice as to why:-

- (i)** The recovered 24-carat gold weighing 192.170 grams having a market value of Rs. 14,06,684/- (Rupees Fourteen Lakh Six Thousand Six Hundred Eighty-Four only), and its tariff value was Rs. 11,44,393/- (Rupees Eleven Lakh Forty Four Thousand Three Hundred Ninety-Three only), seized vide Seizure Order dated 07.04.2024 under panchnama proceeding dated 07.04.2024

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should not be confiscated under Section 111(d), 111(i) and 111(j) of the Customs Act, 1962;

- (ii) A penalty should not be imposed upon him under Section 112 of the Customs Act, 1962.

11. DEFENCE REPLY:

In the Show Cause Notice dated 20.09.2024 issued to the noticee, the noticee was asked to submit his written reply/defence submission to the said notice within the stipulated time. However, no defence submission/reply to the notice was filed by the noticee within the time specified. Later on, a defence reply dated 07.03.2025 was submitted on behalf of the noticee by Shri M. S. Rathod and Shri J. R. Paladiya, both acting as authorized representatives.

12. RECORD OF PERSONAL HEARING

“Audi alteram partem” is an essential principle of natural justice that dictates to hear the other side before passing any order. Therefore, an opportunity to be heard in person was granted to the noticee to appear for a personal hearing on 7.01.2025 and 28.02.2025 vide office letter of even F. No. VIII/26-03/AIU/CUS/2024-25 dated 26.12.2024 and 19.02.2025. The noticee sought the adjournment to a later date and accordingly the next date for hearing was fixed on 07.03.2025. Subsequently, Shri M. S. Rathod and Shri J. R. Paladiya, both Advocates and acting as authorized representatives of the noticee, appeared on 07.03.2025 wherein they submitted their defence reply dated 07.03.2025 and copy of the purchase bill of the said gold, and reiterated the same reply during the course of hearing.

In the defence reply dated 07.03.2025, they submitted the following:

- that they had purchased the gold items from a shop, namely, Thangals LLC (Br), Marahaba, in hotel Building, Gold Souq, Dubai, U. A. E., PO Box-64869, and submitted a copy of the invoice of purchase No. 418 dated 06.04.2024;
- that he is the legal owner of the gold item seized and produced the copy of the invoice in this regard, as he was not aware of the Airport Rules and Import-export policy, the mistake was made by him;
- that this case is not of smuggling but non-declaration, and this mistake happened due to misunderstanding and not knowing the proceedings;
- that he is not a habitual offender and no other case is registered against him;
- that the seized quantity was bought for personal use, and the quantity is not commercial; the gold is not prohibited goods, so his request for the release of seized gold may be considered;
- that he is a law-abiding citizen and sole breadearner in his family with limited income; he is ready to pay penalty and duty in accordance with the Customs Act, 1962, and will not make any mistake of this type again.

13. DISCUSSION AND FINDINGS

I have carefully reviewed this case's facts, the relied-upon documents and the relevant legal provisions, the defence submission made by the noticee, and other

material on records. Therefore, I will now proceed to decide the instant case based on evidence and documents available on record.

14. In the present case, I find that the main points to be decided are whether:

- (i) The recovered 24-carat gold weighing 192.170 grams, having a market value of Rs. 14,06,684/- (Rupees Fourteen Lakh Six Thousand Six Hundred Eighty-Four only) and its tariff value was Rs. 11,44,393/- (Rupees Eleven Lakh Forty Four Thousand Three Hundred Ninety-Three only), seized vide Seizure Order dated 07.04.2024 under panchnama proceeding dated 07.04.2024 should be confiscated under Section 111(d), 111(i) and 111(j) of the Customs Act, 1962 or otherwise;
- (ii) A penalty should be imposed upon him under Section 112 of the Customs Act, 1962 or otherwise.

15. I find that the panchnama has recorded that on 07.04.2024, a passenger, namely Shri Rohan Dinesh Gujarat holding passport No. M2863308 arrived at Surat International Airport from Dubai on Air India Express Flight No. IX-174. Based on passenger profiling, the passenger suspected of carrying high-value dutiable/prohibited goods was intercepted by officers of the Air Intelligence Unit (AIU) in the presence of panchas under Panchnama proceedings dated 07.04.2024 near the green channel of the Arrival Hall at the International Terminal. The passenger was found to be carrying two pieces of baggage, a black trolley bag and a black backpack. When asked if he had anything to declare, the passenger denied any declaration. The officers advised that his person and baggage would be subjected to a detailed search. Although his personal search was offered, it was initially declined until he consented to be searched before the Superintendent of Customs. Subsequently, the officers escorted the passenger to the Baby Care room in the Arrival area, where, during the frisking process, his belt was observed to be unusually heavy due to its buckle. The belt was removed and passed through the XBIS scanner, which produced a dark image indicative of a high-density metallic object suggestive of gold. The buckle was detached and weighed, recording a weight of approximately 192.17 gms. Following a comprehensive scan and manual check of his luggage, wherein no objectionable or prohibited items were found. In the presence of the panchas and the passenger, the Customs officer called Shri Vikasraj Juneja, Government Approved Valuer, to the Customs office. The valuer examined, weighed, and certified the belt buckle as 24 kt gold weighing 192.170 gms, with a market value of Rs. 14,06,684 and a tariff value of Rs. 11,44,393, pursuant to Notification No. 27/2024-Customs-(NT) dated 04.04.2024 and No. 25/2024-Customs-(NT) dated 07.04.2024. The gold item was sealed and placed under seizure under Section 110 of the Customs Act, 1962, vide a seizure order dated 07.04.2024, on the reasonable belief that it had been smuggled into India, thus making it liable for confiscation under the provisions of the Act.

16. Further, I have gone through the statement of Shri Rohan Dinesh Gujarati recorded on 07.04.2024 under the provision of Section 108 of the Customs Act, 1962, wherein he inter alia stated:

- that this was his first trip to Dubai; he had gone to Sharjah on 03.04.2024 from Surat International Airport, Surat; that the gold Buckle of 24 kt recovered from his possession belonged to him and he was the owner of the same; that he had purchased the same from Dubai from one of the broker name Salim; that he did not know him (Salim); that he met him (Salim) in Dubai for the first time by local reference; that the Belt was made of 24 carat gold, weighing 190 grams and he had purchased the same by paying Rs.

13,54,000/-; that he took loan from various persons and made payment in cash to one person sent by him in Surat and he sent the amount through Hawala; that he did not know the person whom the cash was handed over; that he met him first time; that he did not declare the said gold item as he was aware that import of Gold without payment of Customs duty was an offence; that he had tried to smuggle the gold into the country;

- that after clearing the immigration procedures, he collected his baggage, and during checkout, he was intercepted by the Customs officials, and further procedures, as stated in Panchnama dated 07.04.2024, were carried out; that he had committed an offence by smuggling of Gold, for which he has to face the consequences as prescribed under the Customs Law.

17. Further, I find that the noticee has never retracted his aforesaid statement dated 07.04.2024, and he had confessed the offence committed by him in his statement. Therefore, I consider his statement to be material evidence in the instant case, and to fortify my stand, I place my reliance on the observations/judgments of the following cases of the Hon'ble Apex Court and others:

- The Hon'ble Apex Court has held in the case of **Surjeet Singh Chhabra vs UOI**, reported as 1997 (84) ELT 646 (SC), that the statement made before the Customs Officers, though retracted within 6 days is an admission and binding, since Customs Officers are not Police Officers under Section 108 of the Customs Act, 1962;
- The confessional statement given before the Customs officers is admissible evidence as they are not the police officers. This view has been upheld by the Hon'ble Supreme Court in the case of **Badaku Joti Savant vs. State of Mysore** [1978 (2) ELT J 323 (SC)];
- The decision of the Hon'ble Madras High Court in the case of **Assistant Collector of Customs Madras-I vs. Govindasamy Raghupathy** 1998 (98) ELT 50 (Mad), in which the court held that the confessional statement under Section 108, even though later retracted is a voluntary statement and was not influenced by duress and is a true one.
- The Hon'ble Apex Court in **Naresh J Sukhawani vs UOI** held that the Statement before the Customs Officer is a material piece of evidence.

18. Furthermore, I find that the noticee has neither questioned the manner of the Panchnama proceedings at the relevant time nor contested the facts detailed in the Panchnama while recording his statement. Every procedure conducted during the Panchnama by the officers was thoroughly documented and executed in the presence of the panchas and the passenger. Additionally, as admitted in his statement, I find that the passenger knowingly attempted to smuggle gold into India cleverly in the form of a Belt Buckle, violating the Customs Act of 1962. The noticee has further confessed that he was fully aware of the nature of his actions and their legal consequences. He also stated that the golden belt buckle weighing 192.170 grams belonged to him, that he owned the same, and that he had purchased it from one broker, Salim, whom he met through a local reference. Further, against purchasing the gold belt buckle weighing 190 grams of 24 carat, he had paid Rs. 13,54,000/- (by arranging through loans from friends) in cash through hawala at Surat, India, to a person sent by Salim. He also confessed that he brought the gold item with the intention of smuggling the same into India, despite being aware that importing gold without paying Customs duty constituted an offense, he did not declare the gold to the Customs Authorities. After reviewing the foregoing, I am

satisfied to affirm that Rohan Dinesh Gujarati's deliberate failure to declare the gold belt buckle upon arrival and his attempt to avoid detection by Customs authorities clearly indicate his intention to smuggle gold into India. Upon arriving at Surat International Airport on 07.04.2024, he proceeded through immigration and baggage collection without making any declaration to any Customs officer. However, during the checkout process, he was intercepted by Customs officials, leading to the discovery of the smuggled gold and subsequent legal proceedings as per the Panchnama dated 07.04.2024. After a careful review of the preceding events, I am conclusively led to the determination that the passenger has violated the provisions of the Customs Act, 1962; the Baggage Rules, 2016; the Foreign Trade (Development & Regulations) Act, 1992; the Foreign Trade (Development & Regulations) Rules, 1993; and the Foreign Trade Policy 2023.

19. Further, I find that the noticee confessed that he had not declared the said gold to the Customs authorities, which was disguised as a belt buckle to avoid detection by Customs. Further, it can be deduced from the discussion in the foregoing paragraph that he had not declared the same with the sole intention of smuggling the gold into India. Further, I find the modus used by the passenger concealing the gold 24 Kt disguising as a belt buckle ingeniously, which further corroborates his mala fide intent to circumvent the provisions of the Customs Act. I strongly opine that this is a clear case of non-declaration intending to smuggle the gold into Indian territory. Accordingly, there is sufficient evidence to affirm that the passenger was in possession of gold when he arrived at Surat Airport on 07.04.2024, and he failed to declare it before the Customs Authorities arrived at Surat International Airport, Surat. Therefore, it can be reasonably concluded that the case of gold smuggling against the passenger is conclusively established, as the gold recovered from his possession was kept undeclared with the intent to smuggle and evade the payment of Customs duty. Thus, I find it irrefutably established that the passenger had violated Section 77, Section 79 of the Customs Act, 1962 for the import/smuggling of gold which was not for bona fide use, and hence he has also contravened Rule 11 of the Foreign Trade Regulation Rules 1993 and Para 2.27 of Foreign Trade Policy 2023. It is pertinent to mention here that since gold is a notified item and when goods notified thereunder are seized under the Customs Act, 1962, on the reasonable belief that they are smuggled goods, then as per Section 123 of the Customs Act, 1962, the burden to prove that they are not smuggled goods, shall be on the person from whose possession the goods have been seized. In the instant case, noticee in his statement dated 07.04.2024, has clearly confessed that he wanted to evade Customs duty, and, therefore, he had not declared the same with the sole intention to smuggle the gold into India.

20. Further, I deem it pertinent at this juncture to refer to **Section 2(39) of the Customs Act, 1962**, wherein **"smuggling"** is defined as any act or omission that renders goods liable to confiscation under **Section 111 or Section 113** of the Act. From the facts discussed above, it is evident that Shri Rohan Dinesh Gujarati had carried a gold 24 carat disguised as a belt buckle with the deliberate intent to smuggle the same into India without payment of Customs duty. His actions have rendered the said gold liable for confiscation under Sections 111(d), 111(i), and 111(j) of the Customs Act, 1962. By concealing the gold on his person and failing to declare it before the Customs authorities, it is evident that he acted with a clandestine motive to evade customs duty. Moreover, he has confessed to smuggling, establishing his **'mens rea'** (guilty intent). Upon reviewing the above, I am of the considered opinion that the deliberate act of concealment by Shri Rohan Dinesh Gujarati and non-declaration of the gold before Customs in this case categorically make his offence fall within the definition of smuggling, making him liable for the confiscation of the impugned goods and penal consequences under the Customs Act, 1962.

21. Further, I have observed that the noticee had not filled out the baggage declaration form and had not declared the said gold which was in his possession, as envisaged under Section 77 of the Customs Act read with the Baggage Rules, 2016 and Regulation 3 of Customs Baggage Declaration Regulations, 2013. It has also been observed that the import was also for non-bona fide purposes, as the same was carried out with the sole intent of smuggling into India through clever concealment, as discussed above. Therefore, the said improperly imported gold by the passenger, Shri Rohan Dinesh Gujarati, without declaring to the Customs on his arrival in India, cannot be treated as bona fide household goods or personal effects. Therefore, it is undeniably established that the passenger has contravened the Foreign Trade Policy 2023 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.

22. Further, I find that in his submission dated 07.03.2025, the noticee has submitted that he had purchased the gold belt buckle from a shop, namely, Thangals LLC (Br), Marahaba, in hotel Building, Gold Souq, Dubai, U. A. E., PO Box-64869, and submitted a copy of the invoice of purchase No. 418 dated 06.04.2024. I have carefully examined the passenger's claim of purchasing gold items from Thangals LLC (Br), Dubai, U.A.E., as per Invoice No. 418 dated 06.04.2024. I note that several discrepancies undermine the document's credibility. First, the invoice lacks critical details typically found in bona fide gold purchase records, such as specific carat, hallmark, or purity. Simply describing the goods as "gold items" is insufficient, given that the seized article is a gold belt buckle. This omission casts doubt on whether the invoice references the belt buckle or some other piece of gold jewellery. I further find that the invoice records the passenger's name as "Rohan Dinesh Gujathi" instead of "Gujarati." Further, it spells out the sales amount as "UAE Dirham Fifty-Two Thousand Nine Hundred Sixty-Nine and Seventy-Four Paise only," even though paise is an Indian unit of currency. It is noteworthy to mention that the correct subdivision for the UAE Dirham is '*fiils*'. This inconsistency seriously suggests possible tampering or an illegitimate issuance from a genuine U.A.E. establishment. Moreover, the passenger admitted paying for the gold through hawala, heightening concerns about the transaction's transparency and legality. In the absence of documentary proof specifically tying the gold belt buckle to the invoice, it is plausible that the gold was purchased in another form and later moulded into a belt buckle, rather than being originally acquired in that shape. Consequently, the authenticity of '*Invoice No. 418*' produced by the noticee through his defence submission is in serious doubt and does not conclusively establish a lawful or verifiable purchase of the seized item. In light of these concerns, the invoice's reliability is compromised, warranting further rigorous scrutiny. Given the foregoing discussion, I am of the considered view that the claim of a bona fide purchase by the noticee, remains questionable.

23. Further, the noticee, in his defence submission, had further submitted that he is the legal owner of the gold item seized and produced the copy of the invoice in this regard, as he was not aware of the Airport Rules and Import-export policy, the mistake was made by him. I have fairly considered the noticee's contention that he is the legal owner of the seized gold item, and I acknowledge this. However, mere assertion of ownership and ignorance of the law cannot absolve him from liability under the Customs Act, 1962. I note that the stated ignorance of applicable regulations does not negate the fundamental requirement that every passenger must truthfully declare any dutiable or prohibited goods upon arrival. The law imposes a clear obligation on all incoming passengers to disclose the import of gold or other precious metals above the prescribed free allowance. In this case, the passenger specifically denied carrying any items that warranted declaration, thus

failing to discharge his duty to truthfully declare. I reckon that while the noticee has produced a copy of an invoice, its mere existence does not automatically validate the permissibility of the goods' import under Indian customs law. The invoice, whether genuine or otherwise, must reflect that the gold item was imported through proper channels, bearing necessary endorsements (if any) regarding the nature and value of the goods in compliance with statutory requirements. No evidence has been provided to demonstrate that customs duties, if leviable, were duly paid or that the gold's import was sanctioned under the relevant Import Policy. I also find that the suspicious manner in which the gold was ingeniously concealed, in the form of a belt buckle, further undermines the noticee's claim of innocent oversight. This attempt at concealing high-value gold strongly suggests intent to evade appropriate customs duty and regulatory scrutiny, which is a punishable offense under the provisions of the Customs Act. In view of these factors, I believe that the noticee's plea of ignorance and production of a disputed invoice, without any corroborative evidence of lawful import, cannot be deemed sufficient to negate the allegation of smuggling. Accordingly, the contention of the noticee does not impress.

24. Further, I find that the argument put forth by the noticee regarding that this case is not of smuggling but non-declaration, and this mistake happened due to misunderstanding and not knowing the proceedings. It seems to me that the passenger's contention, asserting this case to be merely one of non-declaration rather than smuggling, is untenable in light of the attendant circumstances and legal provisions. At the time of arrival, the passenger was required under the Customs Act, 1962, and the prevailing Regulations to declare any dutiable goods in his possession. Despite this clear legal mandate, the passenger expressly denied carrying any such items and proceeded through the Green Channel without disclosure. Furthermore, the manner in which the gold was brought into the country, concealed as a belt buckle, suggests a deliberate attempt to evade detection. Merely attributing the omission to a "misunderstanding" overlooks both the objective fact that the item in question was not openly disclosed and the objective appearance of concealment. Further, I find that ignorance or lack of awareness regarding the proper customs procedure does not absolve the passenger from liability, as ignorance of the law is not a valid defense. The fact that the seized gold weighed 192.17 grams and tested to be 24 karat further reinforces the conclusion that the passenger was aware, or ought to have been aware, of his obligation to declare. Such high-value gold, concealed on person in a disguised form, cannot reasonably be categorized as a trivial oversight. Accordingly, the circumstances strongly indicate an intent to circumvent customs controls rather than a mere failure to declare due to confusion. Given these facts, I am satisfied to affirm that this incident constitutes a clear case of smuggling under the Customs Act, 1962 rather than a simple misdeclaration. Therefore, I am of the considered view that the reliance on an alleged misunderstanding cannot negate the essential elements that demonstrate willful concealment, non-disclosure, and an apparent intent to evade lawful duties. Hence, the contention of the noticee appears to be pointless.

25. Further, I note that the noticee, in his defence submission, has submitted that he is not a habitual offender, and no other case is registered against him. I find that the contention advanced by the noticee—namely, that he is not a habitual offender and has no prior cases registered against him, does not exonerate him from the alleged violation of customs laws. It is a settled principle under the Customs Act, 1962 that each instance of smuggling or attempted smuggling is independently prosecutable, irrespective of whether the noticee has any history of prior infractions. The Customs Act imposes strict liability for illicit importation of goods without proper declaration or payment of the requisite customs duties, and the absence of prior violations does not negate the gravity of a current offense. I find

that in the present case, the noticee was found in possession of 24 kt gold shaped as a belt buckle, weighing 192.170 grams, concealed in a manner designed to evade detection by the customs authorities. The officers, acting on credible information and in the presence of independent witnesses, intercepted the noticee at the Green Channel, conducted a methodical search, and discovered the aforementioned gold item. Such conduct falls squarely within the scope of “*smuggling*” under Section 2(39) of the Customs Act, 1962, read in conjunction with the relevant notification and tariff provisions. The mere fact that the noticee has not been previously penalized for similar conduct is immaterial to the determination of liability under the Act. It may be emphasized that the Customs Act does not require a showing of repetitive or habitual wrongdoing to justify seizure and confiscation of smuggled goods. The law’s primary objective is to prevent the evasion of duties and to protect the interests of lawful commerce. Consequently, the argument that the noticee is a first-time offender cannot annul the illegality of his actions or preclude the imposition of penalties where the facts and evidence so warrant. Consequently, the argument does not merit and therefore, is rejected.

26. Further, I find that the noticee, in his defence submission, has submitted that the seized quantity was bought for personal use, and the quantity is not commercial; the gold is not prohibited goods, so his request for the release of seized gold may be considered. My impression is that the request for release of the seized gold on the sole ground of “personal use” and the assertion that gold is not a prohibited item cannot, by itself, absolve the noticee from compliance with the applicable legal provisions under the Customs Act, 1962 and the relevant regulations governing baggage imports. While it is true that gold per se is not a prohibited commodity, its import is nonetheless subject to declaration requirements and payment of the requisite duties, as mandated under the Customs Act, 1962 and the Baggage Rules, 2016 in force. In the present matter, the noticee admittedly arrived from abroad and was found carrying a significant quantity of gold concealed and disguised as a belt buckle. No declaration of such gold, be it for “personal use” or otherwise, was made to the proper officer at the time of arrival. I further find that the fact that the item was discovered upon physical examination suggests an intention to evade declaration and possible duty liabilities. In accordance with Section 77 of the Customs Act, 1962, every passenger entering India is legally bound to declare all goods imported by him/her. I understand that concealment, or omission to declare, constitutes a violation of said provision. Even if the noticee contends that the gold was acquired lawfully and intended purely for personal use, such intention does not override the statutory requirement of declaring dutiable goods and remitting the prescribed customs duties. Pursuant to Section 110 of the Customs Act, 1962, seizure of goods is warranted when there exists a reasonable belief that they have been smuggled or are otherwise liable to confiscation. The concealment by way of disguise as a belt buckle, coupled with the noticee’s failure to declare the item, fully justifies such reasonable belief. Thus, notwithstanding the noticee’s claims regarding personal use and the non-prohibited nature of gold, the non-declaration and consequent evasion of duties render the gold liable to confiscation under the provisions of the Customs Act, 1962. Therefore, the request for unconditional release of the seized gold, absent any demonstrable compliance with the relevant customs formalities, is untenable.

27. Further, I find that the noticee, in his defence submission, has submitted that he is a law-abiding citizen and sole bread earner in his family with limited income; he is ready to pay penalty and duty in accordance with the Customs Act, 1962, and will not make any mistake of this type again. I fairly note noticee’s submission, it is pertinent to state that merely professing to be a law-abiding citizen does not absolve one from the liabilities and consequences arising under the Customs Act, 1962. The provisions of the said Customs Act are clear and unambiguous in holding any

individual responsible for the act of smuggling or attempting to smuggle dutiable goods into the country, irrespective of personal or financial circumstances. I appreciate noticee's willingness to pay the applicable duty and penalty is noted; such an offer does not negate the underlying contravention of the law. The Customs Act, 1962 imposes strict obligations on every traveller to declare dutiable items at the time of arrival. Failure to make a truthful declaration, coupled with the subsequent discovery of undeclared gold ingeniously concealed disguised as a belt buckle, demonstrates a deliberate attempt to evade lawful assessment and payment of duty. The issuance of a seizure order under Section 110 of the Customs Act, 1962 signifies that reasonable belief exists as to the smuggled character of the goods. I reckon that the noticee expresses regret and undertakes not to repeat such an act, but, the adjudicating authority is bound by statute to consider the gravity of the offence, the quantum of goods involved, and the related circumstances of concealment. These are the guiding factors while making a determination for the imposition of fines, penalties, and possible confiscation under Sections 111 and 112 of the Customs Act, 1962. It is significant to state that personal difficulties, while taken into limited consideration for the quantum of penalty, cannot serve to invalidate the seizure or exempt the noticee from liability. I am of the strong opinion that the noticee's personal plea, though sympathetically acknowledged, does not override the legal requirements or negate the commission of an offence under the Customs Act, 1962.

28. Further, I find that the noticee in his statement confessed to carrying gold disguised as a gold belt buckle on his person and attempted to remove the said gold from the Surat Airport without declaring it to the Customs Authorities and thereby has violated the provisions of para 2.27 of the Foreign Trade Policy 2023 and Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992. I note that as per Section 2(33), "prohibited goods" means any goods the import or export of which is subject to any prohibition under the Customs Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with. The improperly imported gold by the passenger without following the due process of law and without adhering to the conditions and procedures of import has thus acquired the nature of being prohibited goods in view of Section 2(33) of the Act. I further find that gold is not on the list of prohibited items, but the import of the same is controlled. The view taken by the **Hon'ble Supreme Court in the case of Om Prakash Bhatia**, in unambiguous terms, lays 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-fulfilment of such conditions will make the goods fall within the ambit of 'prohibited goods'. I would also like to derive support in favour of my stand from the Hon'ble Delhi High Court's views in the case of **Nidhi Kapoor v. Principal Commissioner and Additional Secretary to the Government of India & Ors.**, wherein the Hon'ble Delhi High Court addressed the classification of gold as "prohibited goods" under Section 2(33) of the Customs Act, 1962. The court held that an infraction of a condition for the import of goods would also fall within the ambit of [Section 2\(33\)](#) of the Act, and thus, their redemption and release would become subject to the discretionary power of the Adjudging Officer.

I further find it relevant at this juncture to highlight that the smuggling of gold is per se restricted by virtue of Section 111 of the Customs Act as well as in terms of various notifications issued under the FTDR Act and the RBI Act. It should be brought to attention that importation of gold into India is highly regulated, and bulk importation of gold could only be affected by the nominated banks, agencies or business houses in the manner laid down by various DGFT regulations as well as the RBI circulars or by the —eligible passengers in the manner provided by the

relevant Regulations discussed hereinabove. There is no gainsaying that one of the main objects of the Customs Act is to prohibit the smuggling of goods and sternly deal with the same, as could be plainly gathered on a conjoint reading of Sections 2(25), 11(2)(c), 111 and 112 of the Act. It would be relevant to refer to the case of **Commissioner of Customs (Preventive) v. M. Ambalal & Co.**, wherein it was categorically observed that the Customs Act "aims to counter the difficulties that have emerged over the years due to the changing economic and financial conditions; amongst them, it proposes to tackle the increasing problems of smuggling both in and out of the country. The Customs Act aims to deal with smuggled goods sternly and expeditiously and curb the dents in revenue that are thus caused. In order to deal with the menace of smuggling, the authorities are enabled to detect, conduct search and seizure, and, if necessary, confiscate such smuggled goods within the territory of India. (*emphasis supplied*)

In view of the discussions in the foregoing paragraphs, I find that non-fulfillment of the conditions has made the gold seized in the present case "prohibited goods" as the passenger trying to smuggle it was not an eligible passenger to bring it into India or import gold into India in baggage. Shri Rohan Dinesh Gujarati has confessed to carrying the said gold, keeping it undeclared to smuggle the same, and evading payment of customs duty. By using this modus, it is unequivocally proved that the goods are offending in nature and, therefore, prohibited for their importation. Thus, the passenger does not fulfill the conditions.

29. In view of the above discussions, I hold that the passenger, Shri Rohan Dinesh Gujarati, improperly imported gold of 24 carat disguised as a belt buckle with the intention of smuggling into India had kept the said gold weighing 192.170 grams carried by him undeclared to clear the same illicitly from Customs Airport and evade payment of Customs duty. Therefore, the said gold of 24 carats weighing 192.170 grams is liable for absolute confiscation. In this case, I am not inclined to use my discretion to give the option to redeem the said gold on payment of the redemption fine, as envisaged under Section 125 of the Act. To fortify my stand, I rely upon the following case laws/observations made by the Hon'ble Courts and other forums.

30. 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."

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

32. Further, I find that in a case decided by the Hon'ble High Court of Madras reported at 2016-TIOL-1664-HC-MAD-CUS in respect of *Malabar Diamond Gallery Pvt Ltd*, the Court, while holding gold jewellery as prohibited goods under Section 2(33) of the Customs Act, 1962 had recorded that "restriction" also means

prohibition. In Para 89 of the order, it was recorded as under;

89. *While considering a prayer for provisional release, pending adjudication, whether the authorities can wholly ignore all the above, 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).*

33. Further, 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 gram 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.

34. Further, in view of the discussion in the foregoing paras, it is evident that Shri Rohan Dinesh Gujarati, in his statement dated 07.04.2024, has confessed that he was aware that the import of gold without payment of Customs duty was an offence but he wanted to evade customs duty. Therefore, he had not declared the same to Customs Authorities with the sole intention of smuggling the gold into India. He has further confessed that he had not declared the gold disguised as a belt buckle to Customs authorities on arrival at Surat with the intention to evade the Customs Duty by way of smuggling the gold in question. Further, he had cleverly concealed the gold disguised as a belt buckle on his person. Further, after examining and testing, the government-approved valuer certified the gold as 192.170 grams. The market value of the said gold belt buckle was determined by the valuer at Rs. 14,06,684/- (Rupees Fourteen Lakh Six Thousand Six Hundred Eighty-Four only) and its tariff value Rs. 11,44,393/- (Rupees Eleven Lakh Forty-Four Thousand Three Hundred Ninety-Three only). The said gold was seized vide Seizure Order/Memo under Panchnama dated 07.04.2024 under the reasonable belief that the goods carried by the passenger appeared to be "smuggled goods" as defined under Section 2(39) of the Customs Act, 1962. Given the facts of the present case before me and the judgments and rulings cited above, I am decisively led to the conclusion that the said gold 24 carat, weighing 192.170 grams, is liable for absolute confiscation under Section 111(d), 111(i) and 111(j) of the Customs Act.

35. After carefully evaluating the material on records, I find that in the present case, the noticee was found in possession of a gold 24-carat concealing disguised as belt buckle weighing 192.170 grams, which was ingeniously concealed disguising as a belt buckle on the Pants worn by the passenger. He has also failed to declare the said gold to Customs authorities upon his arrival at the Customs area in the arrival

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hall of Surat Airport, thereby violating the statutory requirements envisaged under the Customs Act and other relevant provisions related to the legal importation of gold into India by a passenger. After a comprehensive and detailed review of the aforementioned, it is manifestly clear to me that such an act on the part of the passenger has rendered the goods liable for confiscation under Section 111 of the Act. It would be relevant to refer to Section 112(b)(i) of the Customs Act, 1962, which imposes penalties on any person who acquires, possesses, stores, sells, or transports goods that they know or have reason to believe are liable for confiscation under Section 111 of the Customs Act. In the instant case, I find that the deliberate act of concealing the gold ingeniously by the noticee unequivocally establishes his '***mens rea***' and demonstrates a wilful intent to evade Customs regulations, leaving no room for doubt regarding his knowledge and involvement in the attempted act of smuggling. I find it irrefutably established that his actions fall squarely within the ambit of Section 112(b)(i) of the Customs Act, attracting penal liability and confiscating smuggled goods. Accordingly, I hold the noticee liable for a penalty under the said provision of the Customs Act, 1962.

36. Accordingly, in the exercise of the powers vested in me as the Adjudicating Authority, I hereby issue the following order:

ORDER

- (i) I order **absolute confiscation** of the recovered **24-carat gold** weighing 192.170 grams having a market value of **Rs. 14,06,684/- (Rupees Fourteen Lakh Six Thousand Six Hundred Eighty-Four only)** under Section 111(d), 111(i) and 111(j) of the Customs Act, 1962.
- (ii) I impose a **penalty** of **Rs. 14,06,684/- (Rupees Fourteen Lakh Six Thousand Six Hundred Eighty-Four only)** upon Shri Rohan Dinesh Gujarati under Section 112(b)(i) of the Customs Act, 1962.

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

(Anunay Bhati)

Additional Commissioner,
Surat International Airport,
Customs, Surat

BY SPEED POST AD/E.MAIL/WEBSITE

F. No. VIII/26-03/AIU/CUS/2024-25

Date: 18.03.2025

DIN: 20250371MN000000D6AE

To,
Shri Rohan Dinesh Gujarati
S/o Shri Dineshbhai Madhabhai Gujarati,
63, Anmol Row House,
City Light Road, Mota Varachha,
Surat City, PIN-394101, Gujarat

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Copy to:

1. The Principal Commissioner of Customs, Ahmedabad. (Kind Attn: RRA Section).
2. The Deputy/Assistant Commissioner of Customs (TRC), Ahmedabad.
3. The Superintendent (Recovery), Customs, Surat International Airport, Surat.
4. The System In-Charge, Customs, H.Q., Ahmedabad, for uploading on the official website (via email).
5. Guard File