OIO No:113/ADC/SRV/O&A/HQ/2026-27
F. No: VIII/10-22/SVPIA-D/O&A/HQ/2026-27

प्रधान आयुक्त का कार्यालय, सीमा शुल्क, अहमदाबाद

"सीमाशुल्कभवन", पहलीमंजिल, पुरानेहाईकोर्टकेसामने, नवरंगपुरा, अहमदाबाद – 380009.

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DIN: 20261171MN0000E8C1C0

PREAMBLE

A	फ़ाइलसंख्या/ File No.	:	VIII/10-22/SVPIA-D/O&A/HQ/2026-27
B	कारणबताओनोटिससंख्या–तारीख / Show Cause Notice No. and Date	:	VIII/10-22/SVPIA-D/O&A/HQ/2026-27 dated 25.08.2026
C	मूलआदेशसंख्या/ Order-In-Original No.	:	**113/ADC/SRV/O&A/HQ/2026-27**
D	आदेशतिथि/ Date of Order-In-Original	:	**23.11.2026**
E	जारीकरनेकीतारीख/ Date of Issue	:	**23.11.2026**
F	द्वारापारित/ Passed By	:	**Shree Ram Vishnoi**, Additional Commissioner, Customs, Ahmedabad
G	आयातककानामऔरपता / Name and Address of Importer / Passenger	:	1. **Shri Nirmalkumar Jayantibhai Tandel,** Jivanjyot Faliya, Kakwadi Danti, Valsad, Gujarat, 396385 E-mail: nirmaltandel2329@gmail.com 2. **Shri Valand Priyankkumar Narendrabhai,** 0, Valand, faliyu, Kakachiya,Mahisagar, Gujarat, 389230 E-mail: valandpriyank790@gmail.com 3. **Shri Valand Hirenkumar Narendrabhai,** 153, muvada faliyu, Kakachiya, Mahisagar, Gujarat, 389230 E-mail: hk1758603@gmail.com

(1)	यह प्रति उन व्यक्तियों के उपयोग के लिए निःशुल्क प्रदान की जाती है जिन्हे 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 ड्यूटी और जुर्माना विवाद में है या जुर्माना जहां इस तरह की दंड विवाद में है और अपील के साथ इस तरह के भुगतान का प्रमाण पेश करने में असफल रहने पर सीमा शुल्क अधिनियम, 1962 की धारा 129 के प्रावधानों का अनुपालन नहीं करने के लिए अपील को खारिज कर दिया जायेगा।

Brief facts of the case:

On the basis of the specific information regarding a passenger who was planning to depart by Air Asia Flight no FD145 from Ahmedabad to Don Mueang on 05.03.2026 and waiting at departure hall of SVPI Airport. The officers of Air Intelligence Unit (AIU), SVPIA, Customs Ahmedabad, therefore intercepted a male passenger named **Shri Nirmalkumar Jayantibhai Tandel** (D.O.B. 17.11.1999) (hereinafter referred to as the said "passenger/Noticee"), residing at Jivanjyot Faliya, Kakwadi Danti, Valsad, Gujarat, 396385 (address as per passport), holding an Indian Passport No. S3770815, who was about to fly to Don Mueang from Ahmedabad (AMD) on 05.03.2026 via Air Asia flight no. FD145, from departure hall of the Terminal-2 of SVPIA, Ahmedabad, without making any declaration to the Customs authority. The proceedings relating to his personal search and examination of his baggage was conducted in presence of two independent witnesses, and the proceedings thereof were recorded under the Panchnama dated 05/06.03.2026**.**

2. The Customs officers introduced themselves to the said passenger by showing their identity cards and enquired whether he was carrying any foreign currency or any restricted, prohibited, or contraband goods under the provisions of the Customs Act, 1962, to which he replied in the negative. Thereafter, the officers requested the passenger to accompany them to the Customs office situated in the Departure Hall, Ground Floor, Terminal-2 of the airport, and informed him that they intended to conduct his personal search as well as the search of his baggage. The passenger was informed of his right to be searched before a Gazetted Officer or a Magistrate, upon which he opted to be searched before a Gazetted Officer. Prior to conducting the search, the AIU officers offered themselves for personal search, which the passenger declined, stating that he had full faith in the officers. The Customs officers further enquired whether the passenger had anything to declare before Customs, to which he again replied in the negative.

2.1 During a search of the baggage belonging to the passenger, Shri Nirmalkumar Jayantibhai Tandel, AIU officers examined one small, rose-gold-coloured trolley bag. The search resulted in the recovery of 353 US Dollar notes of $100 denomination each, total amounting to $35,300. The said currency notes were found concealed inside the baggage in four separate bundles. Photos showing the foreign currency notes recovered from the possession of Shri Nirmalkumar Jayantibhai Tandel is as under:-



2.2 Thereafter, the AIU officers asked Shri Nirmalkumar Jayantibhai Tandel to remove all the metallic objects on his body and put them in tray placed over there. Then the passenger was requested to pass through the DFMD Machine installed near the AIU Office. While passing through the DFMD machine no beep sound was heard indicating that nothing objectionable items were concealed on his person.

2.3 Thereafter, the Customs officers further informed the passenger that a detailed search and the preparation of an inventory were required to be conducted inside the AIU Office, situated at the Arrival Hall of Terminal-2, SVPI Airport. Accordingly, the passenger was requested to carry his baggage to the said office in an intact condition.

2.4 On reaching the AIU Office at the Terminal-2 building, the officers, in the presence of the passenger and the independent panchas, started the counting of the recovered foreign currency notes

and prepared a detailed inventory of the same. During the counting process, it was verified that 353 USD notes of $100 denomination each, totaling $35,300, had been recovered from the baggage of the said passenger. The AIU Officers informed the passenger Shri Nirmalkumar Tandel as well as the Panchas that the then value of foreign currency in Indian Rupees applying the Exchange rate as per Notification No. 09/2026 w.e.f. 20.02.2026 issued by the CBIC for 35300 USD was Rs. 31,84,060/- (Rs. Thirty-One Lakh Eighty-Four Thousand Sixty Only). The details of the same are as:-

Denomination of Foreign Currency seized from Shri Nirmalkumar Jayantibhai Tandel Panchnama dated 05/06.03.2026 while departing via Air Asia flight no. FD145 on 05.03.2026 from Ahmedabad to Don Mueang holding Indian Passport No. S3770815.						
Sl. No.	Foreign Currency	Foreign Currency Notes (Denomination)	Number of Notes	Exchange Rate of one unit of foreign currency equivalent to Indian Rupees as per Noti.No. 09.2026-Customs (N.T.) dtd.20.02.2026 (taken as per exported goods)	Value equivalent to Indian Currency (taken as per exported goods)	Recovered from
1	US Dollar	100	353	90.20	31,84,060/-	Rose gold colour small trolley bag
				Grand Total	**31,84,060/-**	

The Custom officers asked the said passenger whether he has any receipt of purchase of foreign currency to which he said he did not have any receipt of purchase of foreign currency.

2.5. Further, below mentioned documents were withdrawn from the passenger Shri Nirmalkumar Jayantibhai Tandel for further investigation which were as:-: -

I. Boarding pass of FD145 (Seat No. 29E) from Ahmedabad to Don Mueang dated 16.11.2025.

II. Copy of Passport No. S3770815 issued at Surat on 04.07.2018 valid up to 03.07.2028.

III. Copy of Aadhar Card No. 800193755429 of Shri Nirmalkumar Jayantibhai Tandel.

3. SEIZURE OF FOREIGN CURRENCY: -

3.1 The aforementioned foreign currency recovered from the passenger Shri Nirmalkumar Tandel amounting to 35300 US Dollars which is equivalent to Indian rupees to Rs. 31,84,060/- was carried by him in concealed manner and without declaring the same before Customs Authorities at SVPI Airport, Ahmedabad while attempting to fly to Don Mueang from SVPI Airport, Ahmedabad by Air Asia flight no. FD145 on 05.03.2026. The passenger admitted in his statement that he had not declared the currency and was carrying the same as per instructions of one Shri Priyank. Therefore, it appeared that the foreign currency was found in violation of provisions of Section 77 of Customs Act, 1962 read with Customs Baggage Rules, 2026 and contrary to the prohibition imposed in terms of Notification No. FEMA-6-(R)/RB-2015 dated 29/12/2015 [Foreign Exchange Management (Export and Import Currency) Regulations, 2015 read with provisions of the FEMA, 1999 and the Customs Act, 1962.

3.2 In view of above, the said foreign currency appeared to be falling under the category of 'prohibited goods' in terms of Section 2(33) of Customs Act, 1962 and the act on the part of the said passenger was covered under the definition of 'smuggling' in terms of Section 2(39) of Customs Act, 1962. From above, it further appeared that the subject foreign currency was rendered liable for confiscation under the provisions of Section 113 (d), 113 (e) and 113 (h) of the Customs Act, 1962. Accordingly, the said foreign currency recovered from the passenger Shri Nirmalkumar Jayantibhai Tandel was placed under

seizure vide Seizure Memo/Order dated 06.03.2026 issued under the provisions of Section 110(1) and Section 110(3) of the Customs Act, 1962. The foreign currency recovered from Shri Nirmalkumar Tandel amounting to 35300 US Dollars which is equivalent to Indian rupees to **Rs. 31,84,060/- (Rs. Thirty-One lakhs Eighty-Four Thousand Sixty only)** was seized under the provisions of Section 110 of the Customs Act, 1962 and seized foreign currency notes were packed in a transparent plastic box and sealed with the lac seal in presence of the Panchas as well as Shri Nirmalkumar Tandel. The seized currency notes were handed over to the Warehouse In-charge, SVPI Airport, Customs Ahmedabad vide **Ware House Entry No**. **7959 dated 06.03.2026**.

STATEMENT OF KEY PERSONS:-

4. STATEMENT OF PASSENGER SHRI NIRMALKUMAR JAYANTIBHAI TANDEL: -

Statement of the passenger Shri Nirmalkumar Jayantibhai Tandel was recorded on 06.03.2026 under Section 108 of the Customs Act, 1962, before the Superintendent of Customs (AIU), SVPI Airport, Ahmedabad, in connection with the attempted smuggling/illegal export of foreign currency through SVPI Airport, Ahmedabad on 06.03.2026 wherein he interalia stated that:-

- he is presently unemployed and searching for job.
- the said Foreign Currency of 35300 USD, was handed over to him by Shri Priyank and instructed him to hand over the same to Shri Hiren in Bangkok. Further he stated that Mobile number of Shri Hiren i.e., 9904834437. He stated that he will get USD 300 after handing over the currency in Bangkok.
- he had been instructed by Shri Priyank and he was not aware about the seller/supplier and source of payment of the said foreign currency recovered from his baggage. He didn't have any transaction related to this foreign currency.

- he is unaware about the residential address of Shri Priyank and provided the mobile number of Shri Priyank i.e 9099834437.
- he had attempted to illegally export the said foreign currency to Bangkok. Therefore, he had not disclosed and declared the foreign currency before the Customs Authorities as per prescribed law/regulation which was concealed in his rose gold colour trolley bag to smuggle/ illegally export the same out of India.
- He perused the Panchnama dated 05/06.03.2026 and affixed his dated signature thereon in token of having accepted the contents and proceedings recorded therein. Further he was scheduled to return on 08.03.2026 for which there was no instruction given by Shri Priyank.
- he is holding bank accounts with Bank of Baroda having bank account number 15948100000285.

5. Shri Nirmal Jayantibhai Tandel in his statement revealed the mobile number of Shri Priyank (Mobile No. 9099834437) who handed over the said foreign currency. Accordingly, letter dated 04.06.2026 was issued to Nodal Officer, telecom operator Viz., Jio/Reliance retail Limited requesting them to provide Customer Application Form (CAF) alongwith KYC documents for the above-mentioned mobile number. In response, Nodal officer, Jio/Reliance retail Limited send the copy of KYC details along with copy of Aadhar of Shri Valand Ashsihkumar Mohanbhai to whom the said number was allotted. Accordingly, a summons dated 13.06.2026 was issued to the address mentioned in the KYC details. In response to summons, Shri Valand Priyankkumar Narendrabhai appeared before the Customs officers on 20.06.2026 for recording of the statement. Accordingly, statement of Shri Valand Priyankkumar Narendrabhai was recorded under Section 108 of Customs Act, 1962 on 20.06.2026 wherein he inter alia stated that Mobile number 9099834437 pertain to me. Approximately five years ago, he purchased this

SIM card. However, due to the non-availability of his document at that time, he requested his friend, Shri Valand Ashishkumar Mohanbhai to provide his document for the issuance of the SIM card. However, the SIM card has been used and operated exclusively by him since its issuance. He further stated that:-

- he has been acquainted with Shri Nirmalkumar Jayantibhai Tandel since 2024. His brother, Shri Hiren was working with Shri Nirmalkumar Jayantibhai Tandel and his brother introduced to Shri Nirmalkumar Jayantibhai Tandel;
- he has not instructed Shri Nirmalkumar Jayantibhai Tandel to travel Bangkok on 05.03.2026. Further, he has not given any amount of foreign currency to Shri Nirmalkumar Jayantibhai Tandel.
- there was no such transaction in his bank account with Shri Nirmalkumar Jayantibhai Tandel
- he was not aware of the reasons why Shri Nirmalkumar Jayantibhai Tandel has dragged his name into claiming ownership, either directly or indirectly. He has no objection if the department disposes of the seized foreign currency recovered from Shri Nirmalkumar Jayantibhai Tandel under Panchnama dated 05/06.03.2026;
- he didn't arrange or pay the Air ticket of Shri Nirmalkumar Jayantibhai Tandel for their travelling to Bangkok on 05.03.2026.

- he has travelled to Don Mueang and Bangkok approximately 4 to 5 times in total. He visited Don Mueang and Bangkok to meet his brother Shri Hiren as earlier his brother was working in Don Mueang as a Manager in food related company. His last visit to Don Mueang was around four months ago and his last visit to Bangkok was approximately nine months ago. He inter alia stated that he has not visited any country other than the United Arab Emirates (UAE) and Thailand.

6. Further Statement of Shri Valand Hirenkkumar Narendrabhai was recorded under Section 108 of the Customs Act, 1962 on 26.06.2026, wherein he, inter alia, stated that he was acquainted with Shri Nirmalkumar Jayantibhai Tandel since 2022. He was earlier working with Shri Nirmalkumar Jayantibhai Tandel in Arab & India Spices L.L.C. at Ajman, Don Mueang and he was living together in same flat in Don Mueang. He further stated that

- he heard through his brother Shri Priyank that foreign currency case was booked against Shri Nirmalkumar Jayantibhai Tandel on 06.03.2026 at SVPI, Airport Ahmedabad.
- he has neither requested nor directed Shri Nirmalkumar he stated that he has never received any foreign currency from Shri Nirmalkumar Jayantibhai Tandel. Therefore, there was no such transaction in his bank account with Shri Nirmalkumar Jayantibhai Tandel.
- he was not aware of the reason why Shri Nirmalkumar Jayantibhai Tandel has dragged his name into claiming ownership, either directly or indirectly. He inter alia stated that he has no objection if the department disposes of the seized foreign currency recovered from Shri Nirmalkumar Jayantibhai Tandel under Panchnama dated 05/06.03.2026.
- he stated that from 24.02.2026 to 08.03.2026 he was in Bangkok. He inter alia stated that he arranged his travel ticket and other expenses from his savings and he was visiting different countries for tourism only.
- Shri Priyank/ Valand Priyankkumar Narendrabhai is his brother and his mobile number is 9099834437.He is residing with him at 0, Valand faliyu, Kakachiya, Mahisagar, Gujarat, 389230.
- On being enquired to show the whatsapp chat or any other App conversation held between him and Shri Nirmalkumar Jayantibhai Tandel he stated that he had recently changed his phone because his old phone was damaged and in his new

phone there was no chat available with Shri Nirmalkumar Jayantibhai Tandel.

7. RELEVANT LEGAL PROVISIONS:

A. THE CUSTOM ACT, 1962:

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

SECTION 2(22): "goods" includes
(a) vessels, aircrafts and vehicles; (b) stores; (c) baggage; (d) currency and negotiable instruments; and (e) any other kind of movable property;

SECTION 2(33): "prohibited goods" means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with;

SECTION 2(39): "smuggling", in relation to any goods, means any act or omission which will render such goods liable to confiscation under section 111 or section 113;

Section 11H(a): *"illegal export" means the export of any goods in contravention of the provisions of this Act or any other law for the time being in force;*

Section 11(3): *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.*

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.

Section 110:- *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.*

Section 113: Confiscation of goods attempted to be improperly exported, etc.—

The following export goods shall be liable to confiscation: —
(d) *any goods attempted to be exported or brought within the limits of any Customs area for the purpose of being exported, contrary to any prohibition imposed by or under the Act or any other law for the time being in force;*
(e) *any goods found concealed in a package which is brought within the limits of a Customs area for the purpose of exportation;*
(h) *any 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;*

SECTION 114: ***Penalty for attempt to export goods improperly, etc.***
.–Any person who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 113, or abets the doing or omission of such an act, shall be liable,-

(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty [not exceeding three times the value of the goods as declared by the exporter or the value as determined under this Act] whichever is the greater;;

Section 117: *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 four lakh rupees.*

Section 118. Confiscation of packages and their contents.—
(b) Where any goods are brought in a package within the limits of a customs area for the purpose of exportation and are liable to confiscation, the package and any other goods contained therein shall also be liable to confiscation.

Section 119: *Confiscation of goods used for concealing smuggled goods— Any goods used for concealing smuggled goods shall also be liable to confiscation. Explanation: In this section, "goods" do not include a conveyance used as a means of transport.*

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

(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.

B. <u>THE FOREIGN EXCHANGE MANAGEMENT ACT, 1999;</u>

SECTION 2. Definitions. -*In this Act, unless the context otherwise requires, -*
(m) "foreign currency" means any currency other than Indian currency;

<u>Section 3:</u> ***Dealing in foreign exchange, etc****.—Save as otherwise provided in this Act, rules or regulations made thereunder, or with the general or special permission of the Reserve Bank, no person shall—*
(a) deal in or transfer any foreign exchange or foreign security to any person not being an authorized person.

C. *FOREIGN EXCHANGE MANAGEMENT (EXPORT AND IMPORT OF CURRENCY) REGULATIONS, 2015*

(Notification No. FEMA-6(R)/RB-2015 dated 29/12/2015):

REGULATION 5: Prohibition on export and import of foreign currency:
Except as otherwise provided in these regulations, no person shall, without the general or special permission of the Reserve Bank, export or send out of India, or import or bring into India, any foreign currency.

REGULATION 7: ***Export of foreign exchange and currency notes:*** *-*

(1) An authorized person may send out of India foreign currency acquired in normal course of business,

(2) Any person may take or send out of India, -

a. *Cheques drawn on foreign currency account maintained in accordance with Foreign Exchange Management (Foreign Currency Accounts by a person resident in India) Regulations, 2000;*

b. *foreign exchange obtained by him by drawl from an authorized person in accordance with the provisions of the Act or the rules or regulations or directions made or issued thereunder ;*

c. *currency in the safes of vessels or aircrafts which has been brought into India or which has been taken on board a vessel or aircraft with the permission of the Reserve Bank;*

(3) Any person may take out of India, -

a. *foreign exchange possessed by him in accordance with the Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulations, 2015;*

b. *unspent foreign exchange brought back by him to India while returning from travel abroad and retained in accordance with the Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulations, 2015;*

(4) Any person resident outside India may take out of India unspent foreign exchange not exceeding the amount brought in by him and declared in accordance with the proviso to clause (b) of Regulation 6, on his arrival in India.

D. FOREIGN TRADE POLICY 2023:

As per Para 2.45- Export of Passenger Baggage

(a) Bona-fide personal baggage may be exported either along with passenger or, if unaccompanied, within one year before or after passenger's departure from India. However, items mentioned as restricted in ITC (HS) shall require an Authorisation. Government of India officials proceeding abroad on official postings shall, however, be permitted to carry along with their personal baggage, food items (free,

restricted or prohibited) strictly for their personal consumption. The Provisions of the Para shall be subject to Baggage Rules issued under Customs Act, 1962.

E. THE BAGGAGE RULES, 2026:

Rule 8: Currency— *The import and export of currency under these rules shall be governed in accordance with the provisions of the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015, and the notifications issued thereunder.*

VIOLATIONS & CONTRAVENTION OF VARIOUS PROVISIONS AND ROLE PLAYED BY THE CONCERNED PERSONS

8. From facts and evidence gathered, both oral and documentary, available on record, it appears that the passenger Shri Nirmalkumar Jayantibhai Tandel, had attempted to smuggle out the aforesaid foreign currency clandestinely without making a mandatory declaration before the Customs Authority and thereby rendered the said foreign currency in total of 35300 USD, with a market value equivalent to Rs. 31,84,060/- (Rupees Thirty-One Lakh Eighty-Four Thousand Sixty only), liable for confiscation under Section 113 of the Customs Act, 1962 and therefore the same was placed under seizure vide Order dated 06.03.2026 issued under the Provisions of Section 110(1) and (3) of the Customs Act, 1962. Further, from the statement of passenger Shri Nirmalkumar Tandel, it appears that the export of foreign currency was planned by Valand Priyankkumar Narendrabvhai, who instructed him to hand over the same to Shri Valand Hirenkkumar Narendrabhai in Bangkok.

8.1 From the facts narrated in foregoing paras, it appears that the foreign currency was being carried by the said passenger in concealed manner and without declaring the same before Customs Authorities at SVPI Airport, Ahmedabad while he was attempting to fly to Don Mueang from Ahmedabad by Air Asia Flight No. FD145 dated 05.03.2026. Further, he failed to produce any legitimate document of procurement of the said currency through authorized person. Thus, the aforementioned foreign currency brought by him at SVPI Airport,

Ahmedabad while flying to Don Mueang from Ahmedabad by Air Asia Flight No. FD145 dated 05.03.2026 appears to be in contrary to the prohibition imposed in terms of Regulation 5 and Regulation 7 of the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015, issued by the Reserve Bank of India under Notification No. FEMA 6(R)/RB 2015 dated 29.12.2015 read with provisions of the FEMA,1999 violating the provisions of Section 77 of the Customs Act, 1962 read with Rule 8 of the Customs Baggage Rules, 2026. Therefore, the said foreign currency appears to be falling under the category of 'prohibited goods' in terms of Section 2(33) of Customs Act, 1962 and the act on the part of the said passenger is covered under the definition of 'smuggling' in terms of Section 2(39) of Customs Act, 1962. From above, it appears that the subject foreign currency is liable for confiscation under the provisions of Section 113 (d), 113(e) and 113 (h) of the Customs Act, 1962.

8.2 Shri Nirmalkumar Jayantibhai Tandel had neither voluntarily come forward to declare before the Customs Authority about possession of the said foreign currency, nor had any document evidencing a legitimate procurement of the said foreign currency and it came to light only after by the officers of Air Intelligence Unit (AIU), SVPIA, Customs Ahmedabad intercepted him while he was attempting to fly to Don Mueang. It appears that this act of the passenger establishes his mens-rea beyond any doubt that he tried to smuggle out the said foreign currency out of India in illegal and malafide manner.

8.3 Shri Nirmalkumar Jayantibhai Tandel was fully aware that carrying foreign currency under concealment in huge amount without any legitimate documents and without declaring it before Customs is an offence under the provisions of the Customs Act, 1962 read with FEMA, 1999 and Foreign Exchange Management Regulations, 2015. Further, he neither filed any Declaration Form for declaring foreign

currency to Customs, nor produced any legitimate documents regarding procurement of foreign currency from any authorized currency exchanger. He was fully aware that his act of smuggling the currency out of India without making a truthful declaration rendered the said foreign currency liable for seizure and confiscation under the relevant provisions of the Customs Act, 1962. From above, it appears that the said passenger act as a carrier and had deliberately not declared the said foreign currency before the Customs Authorities on his departure from SVPI Airport, Ahmedabad, in order to clear the same clandestinely out of India.

8.4 As per Section 123 of Customs Act 1962, the burden of proving that the said seized foreign currency in total of 35300 USD equivalent to Indian Currency of Rs. 31,84,060/- which was concealed inside his rose gold colour trolley bag and recovered from Shri Nirmalkumar Jayantibhai Tandel while he was attempting to fly to Don Mueang from Ahmedabad by Air Asia Flight No. FD145 dated 05.03.2026 are not smuggled goods, is upon Shri Nirmalkumar Jayantibhai Tandel, who is the Noticee in this case.

8.5 In view of the above, it appears that the smuggled foreign currency amounting to 35300 (353*100) US Dollars which is equivalent to Indian rupees to Rs. 31,84,060/- (Rs. Thirty one lakhs Eighty-Four Thousand Sixty only), by Shri Nirmalkumar Jayantibhai Tandel, found concealed inside his trolley bag, for the purpose of the smuggling/illegal export without declaring it to the Customs, have been thus rendered liable for confiscation under Sections **113(d), 113(e), and 113(h)** of the Customs Act, 1962, read with Regulation 5 and Regulation 7 of the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015 issued by the Reserve Bank of India under Notification No. FEMA 6(R)/RB 2015 dated 29.12.2015, and Rule 8 of the Customs Baggage Rules, 2026. Accordingly, it appears that Shri Nirmalkumar Jayantibhai Tandel, by his acts and omissions, has rendered himself liable for penal action

under the provisions of Section 114(i) and 117 of the Customs Act, 1962, for having concerned himself in dealing with smuggled goods i.e Foreign Currency.

8.6 Shri Nirmalkumar Jayantibhai Tandel stated in his statement dated 06.03.2026 that Sh. Priyank/Shri Valand Priyankkumar Narendrabhai handed over the said seized currency with an instruction to deliver the same to Shri Valand Hirenkumar Narendrabhai at Don Mueang, Bangkok and for doing that he would get 300 USD.

8.7 From the evidences gathered, both oral and documentary, available on record, Shri Priyank/ Shri Valand Priyankbhai Narendrabhai, played a central and conscious role in the attempting of smuggling of foreign currency in total of 35300 USD equivalent to Indian Currency of Rs. 31,84,060/-. Shri Priyank Valand is known to Shri Nirmal Tandel and had lured Shri Nirmal Tandel with monetary benefits to smuggle out the foreign currency from India in collusion with his brother Shri Hiren valand who was already present in Bangkok at the material time and was ultimately receiver of said foreign currency. Shri Priyank Valand has arranged trips of Shri Nirmal Tandel and on his direction Shri Nirmal Tandel Concealed and carried the said foreign currency in his baggage and was attempting to smuggle out without declaration before the Customs authorities with clear intent to circumvent the policy restriction imposed by the DGFT/RBI/Customs Act, 1962. From the call records of Shri Nirmal Tandel, it appears that Shri Valand Priyankkumar Narendrabhai was in regular touch with Shri Nirmal Tandel. He was directly involved in handing over the said foreign currency to the carrier, Shri Nirmal Tandel, with full knowledge that the currency was being smuggled out of India.

8.8. Shri Priyank/ Shri Valand Priyankkumar Narendrabhai has failed to discharge his onus in terms of Section 123 of the Customs Act, 1962. His actions clearly demonstrate conscious involvement

in smuggling of foreign currency, in violation of the Foreign Trade Policy 2015 20, the Foreign Trade (Development and Regulation) Act, 1992, the Baggage Rules, 2026, and relevant Customs Notifications. By procuring, distributing, and attempting to illegally export foreign currency, Shri Priyank/ Shri Valand Priyankkumar Narendrabhai rendered the seized foreign currency liable for confiscation under Sections 113(d), 113(e) and 113(h) of the Customs Act, 1962 and himself liable to penal action under Section 114(i) and 117 of the Customs Act, 1962 for abetting improper exportation of smuggled goods.

8.9 The evidences available on record in the form of Panchnama dated 05/06.03.2026, statements of Shri Nirmal Tandel, Shri Priyank Valand and Shri Hiren Valand recorded under Section 108 of the Customs Act, 1962, and other contemporaneous records, it appears that Shri Hiren Valand is known to Shri Nirmal Tandel and both of them works together in Arab & India Spices LLC at Ajman, Dubai. The role of Shri Hiren Valand is specific, as he was going to receive the said foreign currency from Shri Nirmal Tandel at Bangkok on the instruction of Shri Valand Priyank. He also acted as the international link and the intended receiver in Bangkok.

8.10 Shri Valand Hirenkumar Narendrabhai has failed to discharge his onus in terms of Section 123 of the Customs Act, 1962. By his deliberate acts and omissions, Shri Valand Hirenkumar Narendrabhai rendered the seized foreign currency liable for confiscation under Sections 113(d), 113(e) and 113(h) of the Customs Act, 1962 and himself liable to penal action under Section 114(i) of the Customs Act, 1962 for abetting improper exportation of smuggled goods. Shri Hiren Valand is also liable to Penalty under Section 117 of Customs Act, 1962 for non-compliance and for not providing his Bank Statements during investigation in spite of

assuring to provide the same, in his statement recorded under Section 108 of Customs Act, 1962 on 26.06.2026.

9. Accordingly, a Show Cause Notice No. VIII/10-22/SVPIA-D/O&A/HQ/2026-27 dated- 25.08.2026 was issued to **(1). Shri Nirmalkumar Jayantibhai Tandel**, residing at Jivanjyot Faliya, Kakwadi Danti, Valsad, Gujarat -396385, **(2). Shri Valand Priyankkumar Narendrabhai** residing at 0, Valand, faliyu, Kakachiya, Mahisagar, Gujarat, 389230 and **(3) Shri Valand Hirenkumar Narendrabhai**, residing at 153, muvada faliyu, Kakachiya, Mahisagar, Gujarat, 389230, as to why:

i. The aforementioned foreign currency amounting to **35300** (353*100) US Dollars which is equivalent to Indian rupees to **Rs. 31,84,060/- (Rs. Thirty-One lakhs and Eighty Four thousand and Sixty only)**, attempted to smuggle out of India by Shri Nirmalkumar Jayantibhai Tandel way of concealment, contrary to the prohibition imposed in terms of Notification No. FEMA-6-(R)/RB-2015 dated 29/12/2015 [Foreign Exchange Management (Export and Import Currency) Regulations, 2015 read with Customs Act, 1962 and Baggage Rules, 2026 which were seized during Panchnama dated 05/06.03.2026 vide Seizure Memo dated 06.03.2026, should not be confiscated under Section 113(d), 113(e) & 113(h) of the Customs Act, 1962 read with the FEMA Regulations and Rule 8 of the Baggage Rules, 2026;

ii. Penalty under Section 114(i) of the Customs Act, 1962 should not be imposed upon them for the omissions and commissions mentioned hereinabove.

iii. Penalty under Section 117 of the Customs Act, 1962 should not be imposed upon them for the omissions and commissions mentioned hereinabove.

Defense reply and record of personal hearing:

10. Defense Reply of Noticee No. 1 i.e **Shri Nirmalkumar Jayantibhai Tandel** - The noticee vide letter dated 05.10.2026 submitted his written submission wherein he denies the allegations, averments, inferences and proposals contained in the SCN, except to the extent expressly admitted herein. He submitted that the seized foreign currency belongs to him and he was not acting as carrier, agent or representative of any other person in respect of said currency. He further submitted that the statement purportedly recorded under Section 108 of the Customs Act, 1962 was not voluntary. He alleged that he was pressurized, intimidated and threaten by the Customs officers and was compelled to sign the statement as recorded and prepared by the officers. He submitted that immediately thereafter, he filed a retraction on 28.03.2026, specifically disputing the correctness and voluntariness of the statement recorded during Customs proceeding. The said retraction was made at the earliest available opportunity and clearly demonstrates that the content of statement was not voluntary and therefore, the said statement cannot be treated as voluntary admission. The content of the Show Cause Notice based upon such statement therefore deserve to be considered with the due caution and in light of the retraction dated 28.03.2026. He further contended that the allegations regarding his alleged role, intention and knowledge cannot be established merely on the basis of disputed and retracted statement. The department is required to establish the allegation against him on the basis of independent and reliable material. He further submitted that he is a young person and was unemployed at the relevant time and has no previous Customs Case or offence. He further submitted that in light of his submission, the proposed penalties under Section 114(i) and Section 117 are not justified and deserve to be dropped and accordingly prayed to release the seized foreign currency of USD 35300 and to drop the penalties. He further prayed to take on record the retraction dated 28.03.2026 and to grant an opportunity of personal hearing in the matter.

10.1 Defense Reply of Noticee No. 2 i.e **Shri Priyankkumar Narendrabhai Valand**:- The noticee vide letter dated 05.10.2026 submitted

his written submission wherein he denies the allegations, averments, inferences and proposals contained in the SCN, except to the extent expressly admitted herein. He denied the allegation as false, baseless and unsupported by cogent or independent evidences. He submitted that he has no connection or involvement in alleged attempt to export USD 35040. His limited role was only to drop Ms. Roshni Sanjaybhai Tandel and Shri Nirmalkumar at SVPIA at their request. He neither instructed them to travel to Bangkok nor handed over or arranged any foreign currency. There is no independent or corroborative evidence connecting him with the seized currency. No foreign currency, incriminating documents or other objectionable material was recovered from his person, residence or possession. He further contended that there is no bank transaction or financial dealing between him and Shri Nirmalkumar or Ms. Roshni relating to procurement, financing or transfer of the seized currency. The allegation against him is based upon the initial statement of Ms. Roshni, however in her subsequent statement dated 15.04.2026 she stated that she had made allegation against him due to stress, anxiety and fear of consequences. She further cleared that he had neither pressurized nor allured her to change her statement. The said statement is a material piece of evidence and deserves due consideration. In his statement dated 20.06.2026, he categorically denied of handing over the foreign currency or instructed them to travel to Bangkok and also denied of arranging or paying for their air ticket. He further submitted that the Mobile number 9099834437 which was used by him does not by itself establishes his involvement in the alleged attempt of export of foreign currency, likewise mere acquaintances or communication with the concerned persons cannot establish conscious participation or abetment. He specifically mentioned that he had no knowledge regarding the seized currency and had no ownership, possession, title or financial interest therein. He further alleged that in the present matter there is no material/evidences establishing his involvement or abetment in any such act and penalty under Section 114(i) applies where a person does or omits to do an act which renders the goods liable to confiscation or abets such act . Merely presence at Airport, acquaintances

with the persons concerned or dropping them at Airport cannot, in absence of evidences of conscious knowledge and intentional participation in improper export. Also, penalty under Section 117 is not sustainable merely on the basis of suspicion, conjecture or uncorroborated allegation. No specific contravention attributable to him has been established. He again confirmed and submitted that he has no claim, ownership or interest whatsoever in the seized currency and has no objection to Department dealing with seized currency in accordance with law. He prayed to drop the proceeding initiated against him, to drop the penalties proposed against him in Section 114(i) and Section 117 of Customs Act, 1962 and to exonerated him from all allegations made against him. He further prayed to consider his statement and documents while adjudicating the Show Cause Notice and request for personal hearing in the matter.

10.2 Defense Reply of Noticee No. 2 i.e **Shri Hirenkumar Narendrabhai Valand**:- The noticee vide letter dated 05.10.2026 submitted his written submission wherein he denies the allegations, averments, inferences and proposals contained in the SCN, except to the extent expressly admitted herein. He submitted that the allegations are based on assumptions and are not supported by any direct evidence establishing his involvement in the alleged attempt of export of foreign currency. He denied the allegation of intended receiver of foreign currency at Bangkok. He never requested or directed Shri Nirmalkumar Tandel and Ms. Roshni Sanjaybhai Tandel to travel to Bangkok on 05.03.2026 and had never received or agreed to receive any foreign currency from them and same was stated in his statement recorded on 26.06.2026. The fact of acquaintances with Ms. Roshni and Shri Nirmalkumar or had earlier worked with Shri Nirmalkumar does not establish any involvement in the alleged transaction. Mere acquaintance or previous employment relationship cannot, by itself, establish knowledge, possession, ownership or abetment in export of foreign currency. The allegation of “international link” or “intended receiver” at Bangkok is not supported by any independent documentary evidence. No foreign currency was recovered from his possession, nor he claimed any ownership on seized foreign currency. He confirmed that he was in Bangkok from 24.02.2026 to

08.03.2026 and his travel and other expenses were borne by him from his personal savings and the purpose of his travel was tourism. Mere his presence at Bangkok during the relevant period by itself, cannot establish that he was present there to receive the seized currency. He denied the allegation of deliberately acted or omitted to act so as to render the foreign currency liable for confiscation. There is no material showing that he procured, possessed, handled, financed, instructed or attempted to export the seized currency. The allegation of abetment under Section 114(i) is therefore denied. His statement itself clearly recorded that he never received any foreign currency from Ms. Roshani or Shri Nirmalkumar and there was no corresponding transaction in his bank account with them. He also denied the allegation under Section 117 of Customs Act, 1962. He appeared before Customs Authority and tendered his statement under section 108 of Customs Act, 1962. The mere allegation regarding non production of bank statement, without establishing any deliberate or wilful contravention attributable to him cannot, itself establish the alleged role in the attempted export of foreign currency. He reserves his right to produce the relevant bank statement /documentary material, if required. He has no objection to the Department dealing with seized foreign currency in accordance with law, as he never claimed any right, title, ownership or possession over the said currency. He prayed to drop the allegations against him, to drop the penalty under Section 114(i) and Section 117 of Customs Act, 1962, to consider his statement dated 26.06.2026 and to provide an opportunity of personal hearing.

11. To follow the principal of natural justice, personal hearing in the matter were fixed on 13.10.2026 & 26.10.2026. The letters for personal hearings were issued to all three noticees at their recorded address, as well as copies were also emailed to the provided email ID of the noticees. In response to the personal hearing scheduled on 13.10.2026, the authorized representative requested for adjournment. Thereafter, Shri Shubham Jhajharia, Advocate and Authorized Representative, on behalf all three noticees appeared for personal hearing on 26.10.2026 through video

conferencing. He re-iterates the written submissions all dated 05.10.2026 in respect of all noticees. He admitted and did not dispute the fact of the seizure of currency from the possession of Shri Nirmalkumar Tandel and Miss Roshani Tandel. He further submitted that the seized currency belonged to his clients, Shri Nirmalkumar Tandel and Miss Roshani Tandel, who had accumulated and saved the amount for their personal use. He clarified that his other two clients, Shri Priyankkumar Valand and Shri Hirenkumar Valand, had no connection whatsoever with the said currency, He further submitted that currency does not fall under the category of prohibited goods, therefore, requested to release the same upon payment of a reasonable redemption fine and a minimum penalty.

Regarding the allegations levelled against Shri Priyankkumar Valand and Shri Hirenkumar Valand, the Authorised Representative stated that apart from the statements recorded, there is no independent or corroborative evidence on record to establish any link between his clients and the seized currency. On being specifically queried as to why Shri Nirmalkumar Tandel and Miss Roshani Tandel had implicated his other clients in their respective statements, or whether any prior personal rivalry existed between them, he stated that the statements of Shri Nirmalkumar Tandel and Miss Roshani Tandel was recorded under pressure/coercion to wrongly implicate his other clients and the said statements were immediately retracted, he has further submitted that the officers has wrongly implicated his other two clients for reasons best known to them in the statements when they have failed to collect any material evidence showing any direct or indirect connection with the seized currency, he further added that, the department has failed to show any monetary transaction between Shri Nirmalkumar Tandel, Miss Roshani Tandel and his two other clients, and whereas Nirmalkumar Tandel and Miss Roshani Tandel has claimed the ownership of the currency.

Discussion and Findings:

12. I have carefully gone through the case records, the Show Cause Notice, the documents relied upon therein, the statements of the noticees

and written submissions as well as submission made during the personal hearing. Further, sufficient opportunities of being heard were provided to all the noticees in accordance with the principles of natural justice.

13. The sole issue for consideration in the present proceedings is whether the foreign currency comprising 35,300 USD (353x100), equivalent to Rs. 31,84,060 seized under Section 110 of the Customs Act, 1962, vide Panchnama dated 05/06.03.2026, is liable for confiscation under the Customs Act, 1962, for being attempted to be exported out of India in contravention of Notification No. FEMA 6 (R)/RB-2015 and the Baggage Rules, 2026 or otherwise and further, whether the noticees, Shri Nirmalkumar Jayantibhai Tandel, Shri Priyankkumar Narendrabhai Valand and Shri Hirenkumar Narendrabhai Valand, are liable for personal penalties under Section 114 and Section 117 of the Customs Act, 1962 or otherwise.

14. Before discussing the merits of allegations leveled in the impugned Show Cause Notice (SCN), it is imperative to address the prelimanry contention raised by Shri Nirmalkumar Tandel in his written submission dated 05.10.2026 as well as by his authorized representative during the Personal Hearing on 26.10.2026 wherein it has alleged that his statement dated 06.03.2026 was involuntary, recorded under pressure, intimidation, and threat by the Customs Officers, and that he was compelled to sign a statement pre-prepared by the department. He further contended that he filed a retraction on 28.03.2026, specifically disputing the correctness and voluntariness of the statement recorded during the customs proceedings, and therefore, the said statement cannot be treated as a voluntary admission.

In this regard, I find that Shri Nirmalkumar Tandel had explicitly admitted in his statement dated 06.03.2026 that the same was given voluntarily, as per his own narration, and without any inducement, threat, coercion, or improper means. Furthermore, the contents of the said

statement were explained to Shri Nirmalkumar Tandel in the vernacular language, and only after verifying the correctness of the recorded facts he appended his dated signature in a full and conscious state of mind. The Latin maxim *"Verba volant, scripta manent"* meaning *"spoken words may fly away, but written words remain"* is aptly applicable here.

He also confirmed the correctness of the contents of the Panchnama dated 05/06.03.2026, accepting that he was present throughout the entire proceeding and had signed the document after verifying its accuracy. It is a well-settled legal expectation that if a noticee alleges a statement was obtained under coercion, threat, or undue influence, a retraction must be made immediately, or at least within a reasonable timeframe, backed by supporting documentary evidence. In the present case, although Shri Nirmalkumar Tandel claimed in his written submission that he had filed a retraction on 28.03.2026, I find from the case records that no physical copy or acknowledgment of any such retraction was ever submitted to the competent authority. The noticee has merely made a bare assertion in his latest submission without producing any proof of filing or acknowledgement. This glaring omission renders his claim unconvincing and appears to be a deliberate attempt to mislead the adjudicating authority.

On being specifically asked about where they have submitted the claimed retraction letter dated 28.03.2026, vide mail dated 17.11.2026, the Authorized Representative submitted an authorization letter dated 28.03.2026 signed by Shri Nirmalkumar Tandel in favour of Shri Shubham Jhajharia, alongside two appended communications, a request letter for the waiver of the SCN and a purported letter of retraction. On going through the documents submitted by the authorized representative, firstly I have noticed that the authorization letter produced by the counsel features only a generic, undated round stamp of the Air Intelligence Unit (AIU) office. It completely lacks the mandatory date, running serial number, or signature of the receiving officer. More damagingly, the authorization letter contains absolutely no mention or reference to the simultaneous submission of a retraction letter. A cross-verification with the official Inward Register of the

department for the relevant period confirms that no entry stands recorded for any such retraction text. This strongly indicates that the generic office stamp was obtained solely for the submission of the authorization letter on an entirely different date, and that the retraction was never legally or physically placed before the department.

Assuming *arguendo* (assuming for the sake of argument) that both letters were forwarded concurrently with the authorization, their contents are irreconcilably self-contradictory. In the first letter (Waiver Request), the Noticee explicitly declares that the officers of the department had patiently explained the relevant provisions of the Customs Act, 1962, to him, and that after fully comprehending the legal mechanics, he was voluntarily requesting a complete waiver of the Show Cause Notice. He further recorded his unconditional willingness to pay the applicable assessed duties and penalties to facilitate the release of the currency. Conversely, in the second letter (Purported Retraction), the Noticee adopts an entirely conflicting defense, asserting that he is undereducated, entirely unable to read, write, or comprehend the English language, and belongs to an impoverished socio-economic background. He goes on to claim that the hidden USD 35,300 constituted his personal savings which he was transporting to Bangkok to purchase goods for commencing his business in India, and that his Section 108 statement was extracted through institutional fear, mental pressure, and raw coercion without being translated into a known language.

The Noticee cannot be permitted to blow hot and cold at the same moment. He cannot validly argue in one breath that he fully understood the intricate statutory provisions of the Customs Act, 1962, to request waiver of SCN, and simultaneously contend in a parallel letter that he was an illiterate victim who signed highly technical documents under blind fear without understanding their implications. These profound contradictions render both documents legally unconvincing and completely unsafe to rely upon. They represent a calculated, simulated, and *ex-post facto* legal strategy designed to derail the adjudication process.

The contention that the statement was forcefully obtained is clearly an afterthought and a strategic move designed to derail the adjudication process. If coercion or pressure had truly been applied, the noticee should have raised an objection instantly before the Gazetted Officer and refused to endorse the recorded statement, rather than remaining silent until the purported retraction date of 28.03.2026. Conversely, the fact that Shri Nirmalkumar Tandel consistently provided detailed, specific, and self-incriminating information strongly indicates that the statement was made voluntarily.

I find that Shri Nirmalkumar Tandel has completely failed to furnish any credible documentary evidence to substantiate his allegations of duress. It is a settled principle of law that the retraction of a statement recorded under Section 108 of the Customs Act, 1962, must be backed by cogent evidence to prove that it was obtained under pressure or inducement. The law presumes a statement made under Section 108 to be voluntary unless compelling evidence to the contrary is presented; an individual is under no legal obligation to endorse a recorded statement if it is truly being obtained through coercion. Furthermore, during the recording of his statement, Shri Nirmalkumar Tandel provided intricate personal information, family details, his travel history, and details about his profession that could only have emanated from his personal knowledge and could not have been invented by the officer, which strongly reinforces the voluntary nature of the document. There is absolutely nothing on record to cast the slightest doubt on the voluntariness of the statement dated 06.03.2026.

In light of the above, the allegations of pressure, duress, and coercion raised by Shri Nirmalkumar Tandel are dismissed as an afterthought, motivated entirely by a desire to extricate himself from the legal consequences of his own admissions. The detailed, sequential admissions made by the noticee are fully supported by the contemporaneous Panchnama, which records the actual physical recovery of the undeclared foreign currency in the presence of independent witnesses. Even if I were to temporarily entertain the noticee's uncorroborated claim of retraction, he

has still totally failed to submit any evidence regarding the legitimate procurement or source of the seized foreign currency. Therefore, his retraction is legally untenable and cannot be accepted as a valid ground to discard the evidentiary value of his detailed confession. The comprehensive, consistent, and corroborated nature of his admissions, coupled with the lack of a prompt retraction or any supporting proof for his claims, leads to the inescapable conclusion that his statement dated 06.03.2026 was entirely voluntary and remains fully admissible under Section 108 of the Customs Act, 1962. Finally, it is a well-established principle that the mere fact that a statement is subsequently retracted does not diminish its inherent evidentiary value when it is duly corroborated by physical recoveries. 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 a 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) 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."***

(v) 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, misdeclared or undervalued.

(vi) 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 "ln 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."

(vii) 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.

(viii) 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)

(ix) 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**.

15. I find that the legal provisions for Importation and exportation of foreign currency are very clear and does not leave any scope for any ambiguity. If the whole set of incidents is examined, first it is seen that the noticee Shri Nirmalkumar Tandel was about to fly to Don Mueang (Bangkok) from Ahmedabad (AMD) on 05.03.2026 via Air Asia Flight No. FD-145, from the departure hall of the Terminal-2 of SVPIA, Ahmedabad, without making any declaration to the Customs authority. The noticee Shri Nirmalkumar

Tandel was intercepted by the Customs officials in presence of two independent panchas while he was in waiting area and was about to fly. Thus, being an international passenger, the noticee was bound by the Baggage Rules, 2026 framed under the Customs Act, 1962. There cannot be any denial for the applicability of Baggage Rules, 2026 in respect of the passenger. Rule 8 of the Baggage Rules, 2026 Stipulates as under: -

Rule 8. Currency. *-*

The import and export of currency under these rules shall be governed in accordance with the provisions of the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015, and the notifications issued thereunder.

I find that Rule 8 of the Baggage Rules, 2026 is about import and export of currency and it lays down that the import or export of currency is governed by the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015 and notifications issued there under. Thus, I find that there cannot be any denial in respect of the fact that regulations and notifications framed under the said Foreign Exchange Management (Export and Import of Currency) Regulations, 2015 were applicable to the noticee as he was primarily bound to follow Baggage Rules, 2026 as amended.

15.1. Regulation 5 and 7 of the Foreign Exchange Management (Export and Import of Currency) Regulation, 2015 states that no foreign currency can be sent out of Indian and brought into India without permission of RBI. The relevant provisions read as follow: -

Regulation 5. Prohibition on export and import of foreign currency: *-*

Except as otherwise provided in these regulations, no person shall, without the general or special permission of the Reserve Bank, export or send out of India, or import or bring into India, any foreign currency.

Regulation 7: Export of foreign exchange and currency notes:

(1) An authorised person may send out of India foreign currency acquired in normal course of business,

(2)Any person may take or send out of India, -

a. Cheques drawn on foreign currency account maintained in accordance with Foreign Exchange Management (Foreign Currency Accounts by a person resident in India) Regulations, 2000;

b. foreign exchange obtained by him by drawal from an authorised person in accordance with the provisions of the Act or the rules or regulations or directions made or issued thereunder;

c. currency in the safes of vessels or aircrafts which has been brought into India or which has been taken on board a vessel or aircraft with the permission of the Reserve Bank;

(3) Any person may take out of India, -
a. foreign exchange possessed by him in accordance with the Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulations, 2015;

b. unspent foreign exchange brought back by him to India while returning from travel abroad and retained in accordance with the Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulations, 2015;

(4) Any person resident outside India may take out of India unspent foreign exchange not exceeding the amount brought in by him and declared in accordance with the proviso to clause (b) of Regulation 6, on his arrival in India.

Thus, on a cumulative reading of the above referred regulations it is clear that there is a stringent condition is imposed under the Regulations with regard to export or import of foreign currency and in terms of Regulation 5, a prohibition of export and import of foreign currency except as provided under the regulations. It is observed that the noticee did not make the statutory declaration before Customs authorities since the Forex (35300 USD (353x100)) carried by Shri Nirmalkumar Tandel was much higher than the prescribed limit under the FEMA 1999 as amended read with the Foreign Exchange Management (Export and Import of Currency) Regulation, 2015 and the provisions of Customs Act, 1962. Regulation 5 of the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015, clearly stipulates that in the absence of general or

specific permission from the RBI, such currency acquires the nature of **prohibited goods**. Therefore, the noticee as a matter of right is not entitled to import or export in manner as he wishes without complying with the provisions of the regulations.

16. I note that Regulation 5, read with Regulation 7 of the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015, explicitly **"prohibits"** the **export and import of any foreign currency** without the general or special permission of the Reserve Bank of India (RBI). In the present case, the noticee, Shri Nirmalkumar Tandel, has failed to produce any documentary evidence from an authorized authority to establish that he was granted special/general permission by the RBI to export the foreign currency recovered from his possession. Shri Nirmalkumar Tandel failed to declare the foreign currency in the prescribed format or file the statutory declaration required to prove that the funds were being carried legally. Furthermore, as admitted in his voluntary statement, the noticee deliberately concealed the said foreign currency inside his trolley bag to evade detection by the Customs officers. These acts of omission and commission constitute a clear violation of Rule 8 of the Baggage Rules, 2026 read with Regulations 5 and 7 of the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015. In fact, the authorized representative of the noticee during the personal hearing explicitly admitted the fact of physical carriage of the foreign currency by Shri Nirmalkumar Tandel and did not dispute this finding.

I find that Regulation 5 of the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015, imposes a blanket statutory prohibition on the export of foreign currency out of India, subject only to strict, conditional exceptions. Any attempt to export currency in commercial volumes without authorization violates these statutory conditions and contravenes the law. Secondly, the jurisdictional bridge between the external regulations and Customs authority is securely anchored within the Customs Act, 1962, itself. Section 2(33) of the Act

defines "prohibited goods" as any goods whose import or export is restricted or prohibited under the Act or *"any other law for the time being in force"*. Further, Rule 8 of the Baggage Rules, 2026, explicitly mandates that the import and export of currency under these rules shall be governed in accordance with the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015, and the notifications issued thereunder.

Therefore, an unauthorized export in contrary to prohibition imposed under FEMA, 1999 and by RBI automatically satisfies the definition of "**prohibited goods**" under the Customs Act. This makes the currency fully liable to confiscation under Section 113(d) (bringing goods within limits of Customs and contrary to any Prohibition), Section 113(e) (concealment) and Section 113(h) (unreported baggage excess), fully triggering the penal consequences of Section 114 of Customs Act, 1962.

17. Further, the Authorized Representative during the personal hearing mentioned that the seized currency did not fall under the Category of "Contraband /Prohibited Goods". In this regard, I find that Section 2(22) of Customs Act, 1962 defines the term "goods" and include at Section 2(22)(d) of the Customs Act, 1962 the *"currency and negotiable instruments"*. In terms of 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. I note that Regulation 5, read with Regulation 7 of the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015, explicitly **"prohibits"** the **export and import of any foreign currency** without the general or special permission of the Reserve Bank of India (RBI). From the records on file, it is crystal clear that Shri Nirmalkumar Tandel has not any general or specific permission with him for the seized currency, which clearly makes the seized currency as "Prohibited Goods". The effect of interpretation of

the words prohibited goods considered in Om Prakash Bhatia Vs. Commissioner of Customs, New Delhi (2003(6) SSC 161) and in the said judgment the supreme court held as follows:-

> *"From the aforesaid definition, it can be stated that (a) if there is any prohibition on import or export of the 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 means that if the conditions prescribed for import or export of goods in not complied with, it would be considered to be prohibited goods"*

Further, in case of Malabar Diamond Gallery P. Ltd. Vs ADG, DRI, Chennai [2016(341) ELT65(Mad.)], the Hon'ble Madras High Court (i.e the Hon'ble jurisdictional 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 proportion of the judgments and regulations stated above, I find that the seized currency brought in customs area for export out from India by the noticee Shri Nirmalkumar Tandel is **"prohibited goods"** under the definition of Section 2(33) of the Customs Act, 1962 and same is liable for confiscation in terms of Section 113 of Customs Act,

1962. Therefore, I rejected the contention of noticee as the same merits no credence.

18. Shri Nirmalkumar Tandel, through his written submission, claimed that the seized foreign currency belonged to him and that he was not acting as a carrier, agent, or representative of any other person. Furthermore, during the personal hearing, his authorized representative claimed that the currency belonged exclusively to his client, who had accumulated and saved the amount for personal use.

Firstly, this subsequent claim of ownership is completely demolished by the noticee's own voluntary statement tendered under Section 108 of the Customs Act, 1962, on 06.03.2026, wherein he categorically admitted that he was carrying the currency without any legitimate documents entirely on the instructions of Shri Priyankkumar Valand, who handed over the currency and bore his travel expenses. I find that in his voluntary statement; he explicitly confirmed that the said currency did not belong to him and was given to him solely for the purpose of smuggling it out of India. Therefore, the shifting stances in the noticee's submission and his sudden claim of ownership are nothing but a clear afterthought, entirely unsupported by any documentary evidence.

The noticee’s defense severely lacks credibility, as he has failed to produce a single piece of documentary evidence such as a legitimate source of money, authorized foreign exchange receipts, or relevant banking transactions to substantiate how an unemployed youth could accumulate such a massive commercial volume of foreign currency. Furthermore, even if his version of acquiring and saving the currency were to be accepted for the sake of argument, it would constitute a blatant, independent violation of Regulation 3 of the Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulations, 2015, which strictly prohibits resident Indians from retaining foreign currency notes exceeding an aggregate cap of USD 2,000. Additionally, Regulation 7 of the Foreign Exchange Management (Realization, Repatriation and Surrender of Foreign Exchange) Regulations, 2015,

issued vide Notification No. FEMA 9(R)/2015-RB dated 29.12.2015, unequivocally mandates that every resident individual in India must surrender to an authorized person any foreign exchange received, realized, unspent, or unused whether in the form of currency notes, coins, or travelers' cheques within a period of 180 days from the date of its receipt, realization, purchase, acquisition, or from the date of return to India, as the case may be.

Since the noticee did not possess any general or special permission from the Reserve Bank of India (RBI) and actively attempted to take the currency out of the country without making the mandatory declaration to Customs at the point of departure, he has flagrantly violated the restrictions imposed under the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015, read with Rule 8 of the Baggage Rules, 2026. Here, I place reliance upon the landmark judgment of the Hon'ble High Court of Madras in *Commissioner of Customs (AIR), Chennai Vs. Veeracchi Vithayaphalert* [2014 (303) ELT 49 (Mad.)], which upheld the absolute confiscation of foreign currency under identical circumstances of non-declaration and reversed the Hon'ble Tribunal's lenient order [2005 (186) ELT 296 (Tri. Chennai)].

18.1 It is an undisputed fact on record, corroborated by the Panchnama dated 05/06.03.2026 and admitted by Noticee Shri Nirmalkumar Tandel in his statement dated 06.03.2026 as well as his written reply, that 353 US Dollar notes totaling USD 35300 (equivalent to Rs. 31,84,060/-) were recovered from his trolley bag while he was attempting to depart for Don Mueang (Bangkok) via Air Asia Flight No. FD145. Furthermore, it is established that when specifically questioned by Customs officers prior to the baggage search, Noticee Shri Nirmalkumar Tandel replied in the negative and failed to make a mandatory declaration of the baggage contents under Section 77 of the Customs Act, 1962. Further, I note that while it is an undisputed position of law that foreign currency is not notified under Section 123(2) of the Customs Act, 1962, the non-applicability of Section 123 does not absolve the Noticee from explaining

the lawful acquisition and possession of undeclared, concealed foreign currency recovered from his baggage at the time of international departure. Unlike cases involving the seizure of town-recovered goods where the Department must prove smuggled import, the present case pertains to an attempted illegal export intercepted at the Customs frontier.

The Department has duly discharged its initial burden of proof by establishing, through corroborated Panchnama proceedings and voluntary statement recorded under Section 108 of the Customs Act, 1962, that the noticee attempted to take out of India foreign currency exceeding the permissible limits prescribed under the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015, without making any declaration before the Proper Officer as mandated under Section 77 of the Act. Under Section 2(33) of the Customs Act, 1962, any goods attempted to be exported in contravention of any prohibition or restriction imposed under the Act or any other law for the time being in force (including FEMA, 1999) acquire the character of "prohibited goods," rendering them liable to confiscation under Section 113(d),113(e) and 113(h) of the Act.

Once the Department established physical concealment of USD 35300 inside his baggage and non-declaration at the airport, the factual and evidentiary onus squarely shifted onto the Noticee, as the manner and source of acquiring the currency were facts especially within his exclusive knowledge. Despite claiming the ownership on foreign currency, he completely failed to produce bank statements, income tax returns, authorized dealer receipts, or any proof regarding the source of funds. A bald assertion by an admitted unemployed young individual that he accumulated Rs. 31,84,060/- in US Dollar cash through "personal savings" without any banking trail is wholly implausible and unsubstantiated. Guided by settled jurisprudence, I hold that the evidentiary onus shifted onto the Noticee to produce legitimate documentation (such as bank withdrawal slips, RBI permissions, or authorized dealer receipts) to prove lawful possession and compliance

with the Foreign Exchange Management Act, 1999 and provisions of Customs Act, 1962. By failing to submit any legitimate documents, the Noticee has completely failed to discharge this onus. Consequently, the seized foreign currency of USD 35300 (valued at Rs. 31,84,060/-) is held to be legally liable for absolute confiscation under Sections 113(d), 113(e), and 113(h) of the Customs Act, 1962.

19. I further find that the noticee, Shri Nirmalkumar Tandel, neither voluntarily came forward to declare the possession of the said foreign currency to Customs nor possessed any document evidencing its legitimate procurement at the time of interception. Rather, the illicit carriage of currency was unearthed only after he was systematically intercepted and searched by the AIU officers. The noticee, in his voluntary statement, explicitly admitted to the possession, carriage, concealment, non-declaration, and recovery of the foreign currency, which carries absolute evidentiary value under Section 108 of the Customs Act, 1962. The fact that the seized foreign currency was deliberately concealed inside his trolley bag conclusively establishes his mens rea and express intention to hoodwink the Customs authorities. By failing to declare these goods, the noticee flagrantly contravened Section 77 of the Customs Act, 1962, and failed to fulfill the statutory conditions governing the export of foreign currency. Given that the noticee was entirely ineligible to export such a substantial quantity of undeclared foreign currency, the seized currency cannot be treated as "bona fide baggage" under Section 79 of the Customs Act, 1962, read with Section 11 thereof. Consequently, this illicit attempt to export foreign currency out of India in direct violation of the Customs Act, 1962, read with the Foreign Exchange Management Act (FEMA), 1999, and the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015, renders the currency "prohibited goods" under the law. Therefore, I hold that the covert actions of the noticee squarely constitute an act of "smuggling" as defined under Section 2(39) of the Customs Act, 1962, thereby rendering the seized foreign currency

legally liable for absolute confiscation under Sections 113 of Customs Act, 1962.

20. I further find that Section 77 of the Customs Act, 1962, explicitly stipulates that the owner of any baggage shall, for the purpose of clearing it, make a true declaration of its contents to the proper officer. Furthermore, as per the Customs Baggage (Declaration and Processing) Regulations, 2026 (issued vide Notification No. 15/2026-Customs (N.T.) dated 01.02.2026), it is mandatory for all passengers carrying any dutiable or prohibited goods to declare their accompanied baggage under Section 77. The noticee's argument entirely overlooks Regulation 5 of the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015, which strictly prohibits the export or import of any foreign currency without the specific or general permission of the Reserve Bank of India (RBI).

Crucially, even if the noticee's shifting version of acquiring the foreign currency were to be accepted for the sake of argument, his possession remains flagrantly illegal under Regulation 7 of the Foreign Exchange Management (Realisation, Repatriation and Surrender of Foreign Exchange) Regulations, 2015 (notified vide Notification No. FEMA 9(R)/2015-RB dated 29.12.2015). This statutory regulation unequivocally mandates that every resident individual in India must surrender any received, realized, unspent, or unused foreign exchange whether in the form of currency notes, coins, or travelers' cheques to an authorized person within a strict period of 180 days from the date of its acquisition, receipt, or realization.

Despite these binding statutory obligations, the noticee has miserably failed to produce a single piece of documentary evidence demonstrating compliance, nor has he submitted the mandatory surrender certificates issued by an authorized dealer. In the complete absence of contemporaneous records, purchase invoices, or independent corroborative trails, the noticee's assertion that the seized foreign

currency represents legitimately accumulated wealth is entirely devoid of evidentiary value and fails to inspire any confidence. Consequently, this plea is exposed as a transparent afterthought advanced post-seizure solely to construct an ex-post facto explanation for illicit possession, and it is hereby rejected.

21. Once the seized goods are held to be liable for confiscation, the next question before me to decide is whether to allow the release of the impugned goods on Redemption Fine or order for absolute confiscation of the same. The provisions related to redemption of confiscated goods are stipulated in Section 125 of the Customs Act, 1962; sub-section (1) of the said section 125 says that

> *"Option to pay fine in lieu of confiscation. - (1) whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods or, where such owner is not known, the person from whose possession, or custody such goods have been seized, an option to pay in lieu of confiscation such fine as the said officer thinks fit. It is, amply clear from the said Section that, where the confiscated goods are not prohibited for import or export, the Adjudicating Authority is under obligation to release the same. However, in those cases where the confiscated goods are prohibited for import or export, discretion has been vested in the Adjudicating Authority to decide the issue on the basis of the facts and circumstances involved.*

The authorized representative of noticee Shri Nirmalkumar Tandel during personal hearing contended that currency does not warrants absolute confiscation and requested to release the currency on redemption fine and penalty.

21.1. A plain reading of the section 125 shows that the Adjudicating Authority is bound to give an option of redemption when goods are not subjected to any prohibition. There is no bar on the Adjudicating Authority allowing redemption of prohibited goods on merit. This exercise of discretion will depend on the nature of the goods and the nature of the prohibition. For instance, spurious drugs, arms, ammunition, hazardous goods, contaminated flora or fauna, food which does not meet the food safety standards, etc. are harmful to the society if allowed to find their way into the domestic market. On the other hand, release of certain goods on redemption fine, even though the same becomes prohibited as conditions of import/export have not been satisfied, may not be harmful to the society at large. The import/export of Currency are governed by the procedure laid down as per Customs Act, 1962 and FTP 2015-20 as amended vide FTP 2023; from the above cited legal provisions, it is construed that section 125 of Customs Act, 1962 provides that in case of goods other than prohibited goods, the adjudicating authority has to give an option of redemption of the goods on fine in lieu of confiscation and in cases where goods become prohibited by way of some conditions which are not followed in the manner as required, the adjudicating authority may allow redemption of the confiscated goods in that cases also.

In light of the landmark judgment of the Hon'ble Supreme Court in *Om Prakash Bhatia v. Commissioner of Customs*, I find that the said currency carried by Shri Nirmalkumar Tandel squarely falls under the definition of "Prohibited Goods". It is a settled position of law, laid down by the Hon'ble Supreme Court in the case of Garg Wollen Mills (P) Ltd Vs. Additional Collector Customs, New Delhi [1998 (104) ELT 306(S.C)] *that the option to release 'Prohibited goods' on redemption fine is discretionary*. In the case of Raj Grow Impex (Supra), the Hon'ble Supreme Court has held that *"that when it comes to discretion, the exercise thereof has to be guided by law; has to be according to the rules of reason and justice; has to be based on relevant consideration.*". Hon'ble Delhi High Court has, in case of Raju Sharma [2020(372) ELT 249 (Del.)] held that *"Exercise of discretion by judicial, or quasi-judicial authorities, merits*

interferences only where the exercise is perverse or tainted by the patent illegality, or is tainted by oblique motive." This position was further reinforced by the Hon'ble Delhi High Court in its consolidated order dated 21.08.2023 in W.P. (C) No. 8902/2021 (and connected matters), wherein it held that *"an infraction of any condition attached to the import or export of goods brings those goods within the ambit of Section 2(33) of the Act, thereby making their redemption and release subject to the discretionary power of the Adjudicating Officer*."

21.2. In the instant case, the noticee Shri Nirmalkumar Tandel failed to declare the foreign currency of 35300 USD (353x100) which was then equivalent to Indian **Rs.31,84,060/-**, as mandated under Section 77 of the Customs Act, 1962, which were concealed by the noticee in his luggage bag, hence, the goods are liable for confiscation. Also, the noticee, Shri Nirmalkumar Tandel, carried the seized amount of 35300 USD (353x100), equivalent to Indian **Rs.31,84,060/-** without any such general or specific permission. Furthermore, it is pertinent to note that foreign currency cannot be imported or exported without the general or special permission of the Reserve Bank of India (RBI) or an authorized agency. Additionally, he failed to produce legitimate documents verifying the purchase of this foreign currency, offering only a vague explanation that the amount was acquired without explaining the source of money. Therefore, keeping in view the binding judicial pronouncements cited above, the intentional nature of the concealment, and the overall facts and circumstances of the case, ***I am not inclined to exercise my statutory discretion to grant an option to redeem the seized foreign currency on payment of a redemption fine as envisaged under Section 125 of the Act.*** Further, to support my view, I also relied upon the following judgment which are as :-

21.2.1. In case of Rayavarapu Sri Devi vs. Principal Commissioner of Customs (Adjudication-Air), Chennai (2024) 25 Centax 254 (Mad.)/2025 (392) E.L.T. 72 (Mad.) [19-02-2024], Hon'ble High Court of Madras clearly

held that carrying of foreign currency in contradiction of any regulation. Para 33 to 37 of the said order is as:-

> ***33.*** *Only an authorised person is entitled to send foreign currency acquired in the normal course of business. Any person other than the authorised person may send out of Indian Foreign Exchange obtained by drawl from an authorised person in accordance with the provisions of the Act or Rules or direction made or issued thereunder.*
>
> ***34.*** *Foreign Trade (Development and Regulation) Act, 1992 r/w Foreign Trade (Regulation) Rules, 1993 read with The Foreign Trade Policy 2015-2020 and the provisions of the Foreign Exchange Management Act, 1999 read with The Foreign Exchange Management (Export and Import of Currency) Regulations, 2015 thus contain restriction on import and export of foreign currency.*
>
> ***35.*** *Section 125 of the Customs Act, 1962 gives a discretion to the Adjudicating Authority to impose fine in lieu of confiscation. There is no doubt that the currency that was attempted to be exported out of country without proper declaration by the petitioner was liable for the confiscation under the provisions of the Customs Act, 1962 and the provisions of the regulations mentioned above framed under the provisions of the Foreign Exchange Management Act, 1999.*
>
> ***36.*** *Therefore, without doubt, it is clear that import or export of foreign currency is prohibited if it is in contradiction of the above Regulation.*
>
> ***37.*** *If import or export of "goods" is prohibited either under the provisions of the Customs Act, 1962, or under any other law time being in force, such goods can be ordered to be confiscated under Section 112 & Section 113 of the Customs Act, 1962.*

21.2.2 In case of Arun Kumar vs. Commissioner of Customs (Preventive), Lucknow (2023) 9 Centax 299 (Tri.-All)/2023 (386) E.L.T. 449 (Tri.-All) [07-08-2023], Hon'ble CESTAT, Regional Bench, Allahabad held that importation of currencies has been made without any declaration to the Customs or any authority the same will be prohibited

and would be liable for absolute confiscation under section 111(d) of Customs Act. The relevant paras of the said order are as:-

> ***4.8*** *The Regulation 6 and RBI Circular referred above do permit the importation of the Foreign Currency, the said importation is subject to restrictions to the extent that the appellant was required to make declaration of the Currency which he carries if the same is in excess of US$ 5000/- or equivalent. Appellant has failed to make any such declaration, and hence these currencies have been imported in contravention of the provisions of Regulation 6 read with RBI Circular and have to be held confiscable under section 111 (d) holding the same to be prohibited.*
>
> ***4.9*** *Thus in respect of the currency which is above the value of US $ 5,000/- or equivalent needs to be confiscated by the Authorities. As importation of such currencies has been made without any declaration to the Customs or any authority the same will be prohibited and would be liable for absolute confiscation under section 111(d) of Customs Act.*
>
> ***4.10*** *As the total value of seized Foreign Currency imported in one go exceeds the value of US$ 5000/- the entire currency becomes liable for confiscation. However, currency up to US $ 5,000 (US Dollars Five Thousand only) should have been allowed for redemption under section 125 (2) of the Customs Act.*

21.2.3 Further, Hon'ble Commissioner (Appeals), New Delhi in the matter of Shri Julius Ikebude (2003 (154) E.L.T. 762 (Commr. Appl.)) clearly held that *"Non-declaration of foreign currency at the time of arrival to the proper officer of customs at the Currency Declaration Counter - In accordance with the proviso to Regulation 6(3) of the Foreign Exchange Management (Export & Import of Currency) Regulations, 2000, issued under clause (9) of sub-section (3) of Section 6 of FEMA, 1999 declaration of foreign currency before the customs officer is mandatory and by not doing so, the import of foreign currency is hit by Section 11 ibid - Violation of Section 77 of the Customs Act, 1962 - Statute has not restricted the power to order absolute confiscation of goods under the provisions of Customs Act, as confiscation ipso facto includes absolute confiscation and therefore no infirmity in the order of absolute confiscation passed by the Adjudicating Authority - Section 111(m) ibid."*

21.2.4 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.

21.2.5 The Hon'ble High Court of Bombay in the matter of Fayaz Gulam Godil Vs. Union of India 2016 (338) E.L.T. 42 (Bom.) held-

> *"9. On the other hand, in this case we find that the contentions as raised before us were specifically raised duly noted and considered by the Tribunal. The Tribunal found that once this is an admitted case of illegal export of foreign currency from India by concealing the same in baggage and considering the substantial quantum of currency seized, the discretion ought not be exercised so as to allow release of the same by paying redemption fine, then, this is not a case of any perversity or an error of law apparent on the face of the record. Rather, this is a case where the prohibited act was rightly dealt with. This is not a case where any other provision but Section 113 could be applied. In the facts peculiar to this case, the invocation and application of Section 113 also was permissible. The other appeal, namely, Central Excise Appeal No. 75 of 2015 impugns only the imposition of penalty. For the reasons indicated above, that also fails. Additionally, we find that the penalties were rightly imposed on the appellants. Their complicity and involvement in the illegal act is established."*

21.2.6. The Hon'ble CESTAT, West Zonal Bench, Mumbai in the matter of Suresh Gangaram Hole Vs. Commissioner of Customs, Airport, Mumbai 2015 (327) E.L.T. 555 (Tri. - Mumbai) has held- *"Illegal export of currency is an offence under Foreign Exchange Management Act, 1999 (FEMA) and violation of Reserve Bank of India (RBI) guidelines and as such, impugned currency are 'prohibited goods' as defined in Customs Act, 1962, liable to absolute confiscation."*

The said judgment of Hon'ble Tribunal is again affirmed by Hon'ble High Court of Bombay in Suresh Gangaram Hole vs. Commissioner of Customs, Mumbai 2018 (362) E.L.T. 210 (Bom.)

22. Considering the facts of the present case before me and the judgements and rulings cited above, the said foreign currency 35300 USD (353x100), equivalent to Indian **Rs.31,84,060 (Rupees Thirty-One Lakh Eighty-Four Thousand Sixty only)**, carried by Shri Nirmalkumar Tandel is therefore liable to be confiscated absolutely. **I therefore hold in unequivocal terms that the said seized foreign currency equivalent to Rs. 31,84,060/-, placed under seizure is liable to absolute confiscation under Section 113(d), 113(e) & 113(h) of the Customs Act, 1962 read with Regulation 5 and Regulation 7 of the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015, and Rule 8 of the Baggage Rules, 2026.**

23. I find that the noticee, Shri Nirmalkumar Tandel, in his submission has prayed for setting aside the proposed confiscation under Section 113 of the Customs Act, 1962, as well as the proposed penalties under Sections 114 and 117 of the Act. However, the deliberate manner of concealment clearly establishes that Shri Nirmalkumar Tandel attempted to smuggle the seized foreign currency specifically to evade detection by the Customs authorities. Furthermore, no evidence regarding the legitimate procurement or legal source of this currency was produced either at the time of interception or during the subsequent stages of the investigation. Crucially, the other two noticees, namely Shri Priyankkumar Valand and Shri Hirenkumar Valand, have not claimed any link with the seized currency and have completely disowned the funds, stating that the said currency does not belong to them in any manner. They have categorically maintained that they neither claim ownership of the currency nor did they supply it.

In this context, I find that the noticee, Shri Nirmalkumar Tandel, has continuously adopted a shifting, deeply contradictory, and evasive stance throughout the course of these proceedings. In his initial statement dated 06.03.2026, he explicitly admitted that the said foreign currency was handed over to him by Shri Priyankkumar Valand to carry out of the country for subsequent handover to Shri Hirenkumar Valand, who was already present in Bangkok at the material time. He also confirmed that he was to receive a payout of USD 300 for doing the job of carrying the currency. Conversely, in his latest written submission as well as during the personal hearing, he has claimed absolute ownership of the foreign currency, stating that the said funds were accumulated from his personal savings for personal use.

This oscillating trajectory moving from an initial, fact-specific confession that the currency did not belong to him to a sudden claim of personal ownership in his written reply unequivocally demonstrates that his defenses are a calculated afterthought, systematically deployed at different stages to evade legal accountability and circumvent the statutory penalties under the Act. He has merely altered his stance without producing any supporting documents to establish that the currency was legally procured. He has completely failed to discharge the statutory burden of proof, as he has provided no supportive documentation to prove that the seized currency was legitimately purchased and was not meant for smuggling. Therefore, I find and hold that his acts of omission and commission have directly rendered the seized foreign currency, equivalent to Rs. 31,84,060/-, liable to absolute confiscation under Sections 113(d), 113(e), and 113(h) of the Customs Act, 1962.

24. Based on the foregoing discussion, and upon a holistic evaluation of the submissions made by Noticee No. 1, Shri Nirmalkumar Tandel, alongside the relevant provisions of the Customs Act, 1962, read with the Foreign Exchange Management Act (FEMA), 1999, and the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015, I find that the Noticee has failed to submit any valid documentary evidence in

his defence. Merely claiming ownership of the seized currency without producing any supporting documents appears to be a calculated attempt to derail the investigation and evade the clutches of the law. The Noticee has completely failed to produce any legitimate documents to justify his physical possession and attempted export of the currency, thereby failing to discharge the evidentiary onus cast upon him to establish lawful acquisition and compliance with FEMA, 1999.

Section 114 of the Customs Act, 1962, mandates the imposition of a financial penalty on any person who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under Section 113, or abets the doing or omission of such an act. In determining the appropriate quantum of penalty in the instant case, I place reliance upon the landmark observations of the Hon'ble Supreme Court in the case 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 present case, the breach is neither technical nor venial. For the export of "prohibited goods" (which this currency represents due to the lack of RBI permissions and absolute concealment), Section 114(i) authorizes a penalty not exceeding three times the value of the goods as declared by the exporter or determined by the proper officer. The noticee, Shri Nirmalkumar Tandel, actively engaged in physical acts designed to export the currency illegally. These intentional actions directly caused the goods to become liable for absolute confiscation under Sections 113(d), 113(e), and 113(h) of the Customs Act, 1962. His acts of omission and commission conclusively establish full personal liability for substantial penalties under Section 114(i) of the Act.

25. I find that Section 117 of the Customs Act, 1962 provides for the imposition of a penalty on any person who contravenes any provision of the Act, or abets such contravention, or fails to comply with any provision of the Act with which it is his duty to comply, where no express penalty is provided elsewhere for such contravention or failure. The maximum penalty prescribed under Section 117, which was originally Rs. 1,00,000/-, was enhanced to Rs. 4,00,000/- with effect from 01.08.2019.

The findings recorded in the foregoing paragraphs conclusively establish that the noticee committed distinct and independent contraventions of the provisions of the Customs Act, 1962, apart from rendering the seized foreign currency liable to confiscation. His acts and omissions demonstrate a conscious disregard for the statutory obligations cast upon him under the Act and the regulatory framework governing the export of foreign exchange. I find that the noticee failed to produce any contemporaneous documentary evidence including banking records, authorized dealer documents, purchase receipts, accounting logs, or any other financial records to establish the lawful acquisition, possession, accounting, and intended export of the foreign currency in question. Such failure constitutes a separate and distinct breach of the statutory obligations under the Customs Act, 1962, and the applicable regulatory framework.

Further, Shri Nirmalkumar Tandel has unequivocally admitted that he was physically carrying the impugned foreign currency out of India. The role of Shri Nirmalkumar Tandel was not that of an innocent passenger, but of an active participant in an unauthorized export of foreign currency. The aforesaid violations are independent statutory defaults and are not merely incidental to the confiscation of the seized currency. They constitute separate failures to comply with mandatory obligations imposed under the Customs Act, 1962, for which no specific penal provision has been provided elsewhere in the Act. Consequently, the legal ingredients of Section 117 stand fully attracted.

Accordingly, I hold that this is a fit case for the invocation of the provisions of Section 117 of the Customs Act, 1962, against Shri Nirmalkumar Tandel. Having regard to the nature and gravity of the contraventions, the conscious manner in which they were committed, and the complete absence of any bona fide explanation or supporting documentary evidence, I hold that Shri Nirmalkumar Tandel is fully liable to a personal penalty under Section 117 of the Customs Act, 1962.

26. I shall now proceed to examine the allegations leveled against the noticee, Shri Priyankkumar Valand, in light of his written submission.

26.1 I have carefully examined the role attributed to Noticee No. 2, Shri Priyankkumar Valand, in the light of the allegations made in the Show Cause Notice, his statement recorded during the investigation, and the subsequent defenses raised in his written submission.

The record indicates that the name of Shri Priyankkumar Valand originally emerged from the initial inculpatory statement dated 06.03.2026 tendered under Section 108 of the Customs Act, 1962, by noticee, Shri Nirmalkumar Tandel. In that statement, Shri Nirmalkumar Tandel explicitly alleged that the seized foreign currency, amounting to USD 35,300 (equivalent to Rs.31,84,060/-), was handed over to him by Shri Priyankkumar Valand. He further alleged that his travel expenses were entirely borne by Shri Priyankkumar, and that he was promised a monetary consideration of USD 300 for transporting the currency to Bangkok for subsequent delivery to Shri Hirenkumar Valand (brother of Noticee Shri Priyankkumar Valand), who was present in Bangkok at the material time.

Acting on these details and the mobile number (9099834437) provided by Shri Nirmalkumar Tandel, the investigation requisitioned the Customer Application Form (CAF) and KYC documents from the telecom operator. Although the SIM card was registered in the name of a third party, Shri Valand Ashishkumar Mohanbhai, the investigation revealed

that the number was being exclusively operated by Shri Priyankkumar Valand. Consequently, a summons dated 13.06.2026 was issued, pursuant to which Shri Priyankkumar Valand appeared before the investigating officers on 20.06.2026 to record his statement under Section 108 of the Act.

26.2 In his statement, Shri Priyankkumar Valand categorically denied handing over the seized currency or issuing any smuggling instructions. He acknowledged his acquaintance with Shri Nirmalkumar Tandel since 2024 through his brother, noting they had worked together in the same firm. He explained his presence at the airport by stating that he had merely driven Shri Nirmalkumar Tandel and Ms. Roshani Tandel to SVPIA, Ahmedabad, as a courtesy, following a specific request from Miss Roshani's brother. I note that during the statement, Shri Priyankkumar Valand produced his banking transcripts covering the preceding twelve months to demonstrate financial transparency before investigating officer, however, I note that nothing put forth by the investigation.

I further find that this exculpatory stand is maintained by Noticee Shri Priyankkumar Valand in his written submission dated 05.10.2026. He reiterated that he holds no claim, title, or ownership over the seized USD 35,300 and argued that the department's case against him relies solely on suspicion and uncorroborated assertions. He further pointed out that while his name was initially cited by both passengers, namely Shri Nirmalkumar Tandel and Ms. Roshani Tandel, on 06.03.2026, Ms. Roshani Tandel subsequently tendered a clarifying statement on 15.04.2026. In that subsequent statement, she explicitly absolved Shri Priyankkumar Valand of any wrongdoing, stating that the currency belonged to her personal savings accumulated over time, and that her initial allegations were a product of extreme stress, anxiety, and fear of immediate legal consequences. She further confirmed that Shri Priyankkumar Valand had neither coerced nor induced her to clarify her stance.

26.3 Upon a holistic evaluation of the case records, I find that apart from the initial statements dated 06.03.2026, the department has failed to unearth any independent, tangible, or corroborative evidence to anchor the charge of abetment against Shri Priyankkumar Valand. The investigation has not produced any independent documentary trails, digital evidence, or unexplained financial fluctuations in the one-year bank statement provided by the noticee to prove that he procured, funded, or distributed the seized currency.

It is a well-settled principle of law that statements recorded under Section 108 are admissible and have evidentiary value under law. The noticee Shri Nirmalkumar Tandel during his statement dated 06.03.2026 explicitly named Shri Priyankkumar Valand as the supplier who handed over the USD 35,300 and financed his travel. However, during the course of the adjudication proceedings, Shri Nirmalkumar Tandel filed a formal written submission dated 05.10.2026 that directly contradicted his initial statement. In his submission, Shri Nirmalkumar Tandel advanced a fundamentally conflicting claim, asserting absolute personal ownership over the seized foreign currency. By attempting to discharge the *onus probandi* (burden of proof) in this manner, he effectively sought to decouple Shri Priyankkumar Valand from the transaction. Yet, this claim of ownership lacks any *probative value* or supporting evidence. It was made without the production of bank invoices, legitimate cash withdrawal slips, or any substantive documentary trail to establish a lawful source of procurement. In the absence of such essential financial records, the claim remains a bare assertion, completely unsupported by the facts on record. Further, I find from the records that there is no evidence indicating any involvement of Shri Priyankkumar Valand in the smuggling of the foreign currency. It is a well-settled legal principle that mere presence at an airport departure terminal or social acquaintance cannot be equated with the precise legal standard required to prove a conscious meeting of minds or active abetment in a smuggling of foreign currency.

Given that the investigation has not brought forth any corroborative material to sustain the allegations, and noting that Noticee Shri

Priyankkumar Valand has disclaimed all interest in the seized currency and submitted an unconditional 'No Objection' to their disposal, the benefit of the doubt must legally extend to him. Accordingly, I hold that the charges of penalty under Sections 114(i) and 117 of the Customs Act, 1962, against Shri Priyankkumar Valand are not sustainable, and are hereby dropped.

27. I shall now proceed to examine the allegations leveled against the noticee, Shri Hirenkumar Valand, in light of his written submission.

27.1 I have carefully examined the role attributed to Noticee No. 3, Shri Hirenkumar Valand, in the light of the allegations made in the Show Cause Notice, his statement recorded under Section 108 of the Customs Act, 1962, and the subsequent defenses raised in his written submission dated 05.10.2026.

The department's case against Shri Hirenkumar Valand relies on the initial statement dated 06.03.2026 tendered by Shri Nirmalkumar Tandel, wherein it was alleged that Shri Hirenkumar Valand was the recipient of the smuggled foreign currency and the final link in the illicit transit chain at Bangkok, Thailand. Consequently, a summons was issued to Shri Hirenkumar Valand and his statement was recorded under Section 108 of the Customs Act, 1962, on 26.06.2026.

I find that in his statement, as well as in his written defense submission, Shri Hirenkumar Valand categorically denied the allegations of active abetment or conspiracy. He acknowledged his long-standing acquaintance with Shri Nirmalkumar Tandel since 2022, explaining that they had previously been employed together at *M/s. Arab & India Spices L.L.C.* in Ajman, UAE, and had cohabited in a shared flat at UAE. He strongly contended that mere historical acquaintance or past co-employment cannot be stretched to infer a mens-rea or a shared common intention to smuggle foreign currency. Regarding his travel timeline, he confirmed his presence in Bangkok from 24.02.2026 to 08.03.2026, but established that this visit was a bona fide personal holiday for the purpose

of tourism, entirely self-funded from his own legitimate personal savings. He explicitly stated that he had never directed or requested Shri Nirmalkumar Tandel to transport any currency and had no prior knowledge of the USD 35,300 found hidden in his baggage.

Upon an objective review of the evidence brought on record by the investigation, I find that the currency in question never departed the domestic shores of India and was intercepted in its entirety at SVPIA, Ahmedabad. Crucially, the department has not produced any independent, tangible corroboration such as data recovery of digital logs, WhatsApp conversations, or an unearthing of a money trail to prove that Shri Hirenkumar Valand actively planned, coordinated, or facilitated the procurement and physical movement of the seized currency. He has disclaimed any right, title, interest, or ownership over the seized USD 35,300 and has submitted an unconditional 'No Objection' to the department disposing of foreign currency in accordance with law. In the absence of an unbroken chain of evidence showing a prior meeting of minds, the charge of active abetment in a smuggling operation under Section 114(i) of the Act cannot legally be sustained against him, and he is entitled to the benefit of the doubt on this count.

27.2 It is a matter of record that during his examination on 26.06.2026, Shri Hirenkumar Valand explicitly assured the investigating officers that he would produce his personal bank account statements to substantiate his financial assertions and prove the legitimacy of his tourist travel expenses. Despite this solemn assurance and multiple subsequent opportunities, he deliberately failed to submit these essential financial records to the competent authority. In his written submission, he admits this omission by stating that he "reserves his right to produce the relevant bank statements" if required.

This explanation is entirely unacceptable and legally untenable. A statutory investigation under Section 108 is a judicial proceeding wherein every noticee is bound by law to state the truth and assist the

administration by producing contemporaneous records. The deliberate non-production of critical bank statements frustrates the truth-seeking process, directly misleads the investigative machinery, and constitutes a clear, contumacious breach of administrative discipline.

Section 117 of the Customs Act, 1962, operates as a residuary penalty section specifically enacted to penalize any person who contravenes the provisions of the Act or fails to comply with a statutory duty with which it was their obligation to comply, where no express penalty is provided elsewhere. The intentional non-cooperation and withholding of bank transcripts by Shri Hirenkumar Valand are a separate, distinct statutory default that is not incidental to the act of smuggling itself. Therefore, while he is exonerated from the charge of abetment under Section 114(i), the ingredients of Section 117 stand fully attracted against Shri Hirenkumar Valand for his willful non-compliance and defiance of the lawful directives issued by the proper officer.

28. Accordingly, I pass the following Order:

O R D E R

i.) I order **Absolute Confiscation** of the seized foreign currency, comprising 35300 USD (353x100), having a cumulative re-determined Indian currency of **Rs.31,84,060 (Rupees Thirty One Lakhs Eighty Four Thousand Sixty only)**, which was attempted to smuggle out of India by way of concealing the same in trolley bag by Shri Nirmalkumar Jayantibhai Tandel, contrary to the prohibition imposed in terms of Notification No. FEMA 6 (R)/RB-2015 dated 29/12/2015 [Foreign Exchange Management (Export and Import Currency) Regulations, 2015 read with Customs Act, 1962 and Baggage Rules, 2026 and were seized vide Panchnama dated 05/06.03.2026 and Seizure Memo dated 06.03.2026, under Sections 113(d), 113(e) and 113(h) of the Customs Act, 1962,

read with the FEMA Regulations, 2015 and Rule 8 of the Baggage Rules,2026.

ii.) I impose a penalty of **Rs. 10,00,000/- (Rupees Ten Lakh Only)** upon the Noticee, Shri Nirmalkumar Jayantibhai Tandel, under Section 114(i) of the Customs Act, 1962.

iii.) I impose a further penalty of **Rs. 2,00,000/- (Rupees Two Lakh Only)** upon the Noticee, Shri Nirmalkumar Jayantibhai Tandel, under Section 117 of the Customs Act, 1962.

iv.) I hereby drop the proposed penalty upon the Noticee, Shri Priyankkumar Narendrabhai Valand, under Section 114(i) of the Customs Act, 1962.

v.) I hereby drop the proposed penalty upon the Noticee, Shri Priyankkumar Narendrabhai Valand, under Section 117 of the Customs Act, 1962.

vi.) I hereby drop the proposed penalty upon the Noticee, Shri Hirenkumar Narendrabhai Valand, under Section 114(i) of the Customs Act, 1962.

vii.) I impose a further penalty of **Rs.1,00,000/- (Rupees One Lakh Only)** upon the Noticee, Shri Hirenkumar Narendrabhai Valand, under Section 117 of the Customs Act, 1962.

29. Accordingly, the Show Cause Notice No. VIII/10-22/SVPIA-D/O&A/HQ/2026-27 dated 25.08.2026 stands disposed of.

Digitally signed by SHREE RAM VISHNOI
Date: 23-11-2026 15:13:40

(Shree Ram Vishnoi)
Additional Commissioner
Customs, Ahmedabad

OIO No:113/ADC/SRV/O&A/HQ/2026-27
F. No: VIII/10-22/SVPIA-D/O&A/HQ/2026-27

F. No. VIII/10-22/SVPIA-D/O&A/HQ/2026-27 Date:23.11.2026

DIN: 20261171MN0000E8C1C0

By SPEED POST A.D.

To

1. **Shri Nirmalkumar Jayantibhai Tandel,**
   Jivanjyot Faliya, Kakwadi Danti,
   Valsad, Gujarat, 396385
   E-mail: nirmaltandel2329@gmail.com
2. **Shri Valand Priyankkumar Narendrabhai**
   0, Valand, faliyu, Kakachiya,
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3. **Shri Valand Hirenkumar Narendrabhai**
   153, muvada faliyu,
   Kakachiya, Mahisagar, Gujarat, 389230
   E-mail: hk1758603@gmail.com

Copy to :-

1. The Principal Commissioner of Customs, Ahmedabad (Kind Attn: RRA Section)
2. The Deputy Commissioner of Customs (AIU), SVPIA, Ahmedabad.
3. The Deputy Commissioner of Customs, SVPIA, Ahmedabad.
4. The Deputy Commissioner of Customs (Task Force), Ahmedabad.
5. The System In-Charge, Customs, HQ., Ahmedabad for uploading on the official web-site i.e. http://www.ahmedabadcustoms.gov.in.
6. Guard File.