



प्रधान आयुक्त का कार्यालय, सीमा शुल्क, अहमदाबाद

“सीमा शुल्क भवन, पहली मंजिल, पुराने हाईकोर्ट के सामने, नवरंगपुरा, अहमदाबाद – 380 009.

दूरभाष : (079) 2754 4630 E-mail: cus-ahmd-adj@gov.in फैक्स : (079) 2754 2343

PREAMBLE

A	फाइल संख्या/ File No.	:	VIII/10-28/SVPIA-A/O&A/HQ/2024-25
B	कारण बताओ नोटिस संख्या - तारीख / Show Cause Notice No. and Date	:	VIII/10-28/SVPIA-A/O&A/HQ/2024-25 dated 09.05.2024
C	मूल आदेश संख्या/ Order-In-Original No.	:	102/ADC/VM/O&A/2024-25
D	आदेश तिथि/ Date of Order-In-Original	:	19.07.2024
E	जारी करनेकी तारीख/ Date of Issue	:	19.07.2024
F	द्वारापारित/ Passed By	:	Vishal Malani, Additional Commissioner, Customs, Ahmedabad.
G	आयातक का नाम औरपता / Name and Address of Importer / Passenger	:	“Whom so ever it may concern” (1) To be pasted on the Notice Board of Custom House, Navrangpura, Ahmedabad – 380 009. (2) To be pasted on the Notice Board of Customs, SVPI Airport, Ahmedabad.
(1)	यह प्रति व्यक्ति के उपयोग के लिए निःशुल्क प्रदान किया जाता है जिन्हे यह जारी किया जाता है।		
(2)	कोई भी व्यक्ति इस आदेश से स्वयं को असंतुष्ट पाता है तो वह इस आदेश के विरुद्ध अपील इस आदेश की प्राप्त किया तारीख के ६० दिनों के भीतर आयुक्त कार्यालय, सीमा शुल्क (अपील), ४वीं मंजिल, हुडको भवन, ईश्वर भुवन मार्ग, नवरंगपुरा, अहमदाबाद में कर सकता है।		
(3)	अपील के साथ केवल पांच (5.00) रुपये पे न्यायलय 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 साथकेवल पांच (5.00) रुपये पे न्यायलय शुल्क टिकिट लगा होना चाहिए।		
(4)	इस आदेश के विरुद्ध अपील करने इच्छुक व्यक्ति को ७.५% अधिकतम १० करोड़ शुल्क हम करना होगा जहां शुल्क या डियूटी 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, १९६२ के धरा १२९ के प्रावधानों का अनुपालन नहीं करने के लिए अपील को खारिज कर दिया जायेगा।		

Brief facts of the case :

Two black coloured plastic wrapped capsule shape items were found by Shri Jignesh K Parmar, BVG Staff. (AEP No. AMD0240511) (Mobile No. 9727432565), who is engaged to clean toilets, situated at near baggage Belt No.6 at SVPI Airport, Ahmedabad, informed to Batch officer, Customs, SVPIA, Ahmedabad. Subsequently, the said Batch Officer informed this to the Officers of Customs, AIU, SVPIA, Ahmedabad for further investigation.

2. As the Information received, Shri Himanshu Garg, Deputy Commissioner, Shri Rakesh Kumar, Shri Suresh Allena, Shri Ravi Shankar Kumar, all three Superintendents of AIU, SVPI Airport, Ahmedabad and Shri Sumit Saxena, Inspector of Customs, SVPI Airport, Ahmedabad along with two panchas entered in the men's toilet which was totally/ completely vacant. The officers also took assistance of Shri Jignesh K. Parmar, BVG cleaning staff present at the spot on duty. In presence of the panchas the AIU officers and BVG staff Shri Jignesh K. Parmar, emptied the garbage bins kept inside the toilets cabin and also looked for any suspicious item inside the toilets at various spots. During the said search, two black coloured capsules were found lying behind the toilet seat cover of one of the toilet cabin by the BVG staff viz. Shri Jignesh K. Parmar. The same was handed over to the AIU officers.

3. Then the AIU officers came back to the AIU office located at the baggage Belt No.1 and 2 Arrival Hall of Terminal 2, SVPI Airport, Ahmedabad. The AIU officers noticed that the capsule were inexplicably heavy and informed to panchas, it appears that the capsules contains some semi solid material which appears to be suspicious. Hence, the AIU officers called the Govt. Approved Valuer, Shri Kartikey Soni for testing of the said suspicious capsules. In reply the Govt. approved Valuer informed that the procedure of the testing is only possible at his workshop only as the gold is extracted from the semi-solid substance by melting it and he has given address of his workshop.

4. Thereafter, at around 11.30 AM on 14.12.2023, the AIU officers and panchas leave the Airport premises and reached the premises of

Govt. approved Valuer viz. Shri Kartikey Soni located at 301, Golden Signature, Behind Ratnam Complex, Nr. National Handloom, C.G. Road, Ahmedabad 380006. Shri Kartikey Soni, Government Approved Valuer, after examining the said capsules put on the weighing scale and informed that the capsules wrapped with black coloured adhesive tape is having gross weight of 432.830 grams.



5. Thereafter, the Govt. Approved Valuer removes the covering from the said capsules containing semi-solid substances and lead us to furnace which is nearby. Here, Shri Kartikey Soni starts the process of melting to convert semi solid substance to gold bar. So, he kept the capsules into furnace and upon heating the same, it turns into liquid material. Here, Shri Kartikey Soni informed that during this process of heating, the chemical substance evaporates and the metal portion is only left in the furnace. The said substance in liquid state is now taken out of furnace and poured in a bar shaped plate and after cooling for some time it turned into yellow coloured solid metal in form of bar. After completion of the procedure, Shri Kartikey Soni kept on weighing scale and informed that the gold bar derived from the semi solid substance comes to **381.490** grams and having purity of 999.00 (24 Kt.).



Shri Kartikey Soni, the Government Approved Valuer submitted Valuation Report (Annexure - A) Certification no. 985/2023-24 dated 14.12.2023 (**RUD-2**) the details of which are as under:

Sr. No	Details of Items	PCS	Gross Weight in Grams	Net Weight in Grams	Purity	Market value (Rs)	Tariff Value (Rs)
1	GOLD BAR 999.0"	1	432.830	381.490	999.0 24Kt	24,60,611	21,19,318

6. As per the said Valuation Report, the Market Value of the said gold bar totally weighing **381.490** grams, having purity 999.0 (24Kt) is **Rs.24,60,611/-** (Rupees Twenty-Four Lakhs Sixty Thousand Six Hundred Eleven only) and total Tariff Value is **Rs.21,19,318/-** (Rupees Twenty One Lakhs, Nineteen Thousand, Three Hundred and Eighteen only), which has been calculated as per the Notification No. 89/2023-Customs (N.T.) dated 28-11-2023 (gold) and Notification No. 90/2023- Customs (N. T.) dated 07-12-2023 (exchange rate).

7. As the said Gold Bar found behind the seat cover of toilets situated at near baggage belt No. 6, Terminal -2, SVPIA Ahmedabad, it is not possible to identify as to who is the owner of the said gold bar and therefore as there was no claimant for the said Gold Bar and unable to identify any proper and legitimate claimant of the same and therefore the recovered **Gold Bar is termed as 'Unclaimed'**.

8. The recovered gold Bar totally weighing 381.490 Grams found to be "Unclaimed" and recovered without any legitimate Import documents inside the Customs Area, therefore, the same falls under the category of Smuggled Goods and stands liable for confiscation under the Customs Act, 1962. The Market value of the said gold Bar totally weighing 381.490 grams having purity 999 is Rs.24,60,611/- (Rupees Twenty-Four Lakhs, Sixty Thousand Six Hundred Eleven only) and Tariff Value is Rs.21,19,318/- (Rupees Twenty-One Lakhs, Nineteen Thousand, Three Hundred and Eighteen only), and the black tapes are placed under seizure under the reasonable belief that the subject unclaimed Gold is liable for confiscation under the Customs Act, 1962.

9. The Baggage Rules, 1998, as amended, states that gold or silver in any form, other than ornaments is not allowed free of duty. In the instant case, the Gold Bar derived from the semi-solid substance (02 capsules) totally weighing 381.490 Grams having purity of 24 KT/999.0 were recovered from the toilet cabin at Terminal -2, SVPIA Ahmedabad on 14.12.2023. It is more than the permissible limit allowed to a passenger under the Baggage Rules, and for these reasons alone it cannot be considered as a bonafide baggage under the Customs Baggage Rules 1998. According to Section 77 of the Customs Act, 1962, the owner of any baggage, for the purpose of clearing it, is required to make a declaration of its contents to the proper officer. In the instant case, no passenger had declared the said Gold Bar weighing 381.490 Grams having purity of 24 KT/999.0 because of malafide intention and thereby contravened the provision of Section 77 of the Customs Act, 1962. It therefore, appears that the said one Gold bar weighing 381.490 Grams having purity of 24 KT/999.0 derived from the capsules consisting gold and chemical mix paste weighing 432.830 grams is attempted to be smuggled into India with an intention to clear the same without discharging duty payable thereon. It, therefore, appears that said gold bar totally weighing 381.490 Grams having purity of 24 KT/999.0 is liable for confiscation under the provision of Section 111(d) of the Customs Act, 1962. Consequently, the said one Gold bar totally weighing 381.490 Grams having purity of 24 KT/999.0 and Market value of Rs.24,60,611/- (Rupees Twenty Four Lakhs, Sixty Thousand Six Hundred Eleven only) and total Tariff Value is Rs.21,19,318/- (Rupees Twenty One Lakhs, Nineteen Thousand, Three Hundred and Eighteen only), found behind the seat cover of toilet at Terminal -2, SVPIA Ahmedabad was placed under seizure vide Panchnama dated 14.12.2023 by the AIU Officers of Customs under the reasonable belief that the subject Unclaimed Gold is liable for confiscation.

10. In view of the above, the Noticee(s) i.e. unknown passenger(s)/ person(s) who is/ are claiming the ownership of the said gold, is/ were called upon to show cause in writing to the Additional Commissioner of Customs, having his office located at 2nd Floor, 'Custom House'

Building, Near All India Radio, Navrangpura, Ahmedabad-380 009, as to why:

- (i) The One Gold Bar weighing 381.490 Grams having purity 24KT /999.0 and having Tariff Value of Rs.21,19,318/- (Rupees Twenty One Lakhs Nineteen Thousand Three Hundred Eighteen Only) and Market Value of Rs.24,60,611/- (Rupees Twenty Four Lakhs Sixty Thousand Six Hundred and Eleven only) derived from the semi solid substance consisting of Gold & Chemical mix totally weighing 432.83 grams concealed in the form of capsule covered with black adhesive tapes which was found near seat situated at Opp. Baggage belt No. 6, Terminal-2 , SVPI, Airport, Ahmedabad placed under seizure under Panchnama proceedings dated 14.12.2023 and Seizure Memo Order dated 14.12.2023, should not be confiscated under the provision of Section 111(d), 111(f), 111(i), 111(j), 111(l) and 111(m), of the Customs Act, 1962;
- (ii) Penalty should not be imposed upon the unknown passenger(s)/ person(s) who is/are claiming the ownership of the said gold, under Sections 112 of the Customs Act, 1962, for the omissions and commissions mentioned hereinabove.

Defense reply and record of personal hearing: -

11. The noticee i.e. unknown person(s)/ passenger(s)/ original importer or any other claimant has not submitted any written submission to the Show Cause Notice issued.

12. The noticee i.e. unknown person(s)/ passenger(s) / original importer or any other claimant has not appeared for personal hearing granted to them on 09.07.2024; 11.07.2024 and 15.07.2024. The letter for personal hearing were served by way of placing on the Notice Board of Customs House Building and SVPI Airport.

Discussion and Findings:

13. I have carefully gone through the facts of this case. Further, after granting sufficient opportunities to be heard in person, no one came forward to claim the goods and did not appear in personal hearing as well as filed any written reply to the Show Cause Notice. I therefore proceed to decide the instant case on the basis of evidences and documents available on record.

14. In the instant case, I find that the main issues that are to be decided is whether the Gold totally weighing 381.490 grams, having Tariff Value of Rs.21,19,318/- (Rupees Twenty-One Lakhs Nineteen Thousand Three Hundred Eighteen Only) and Market Value of Rs.24,60,611/- (Rupees Twenty-Four Lakhs Sixty Thousand Six Hundred Eleven Only) derived from gold paste weighing 432.83 grams recovered from unknown person(s)/passenger(s), which were seized vide Seizure Order/Memo under Panchnama proceedings both dated 14.12.2023 on the reasonable belief that the said goods were smuggled into India, are liable for confiscation under Section 111 of the Customs Act, 1962 (hereinafter referred to as 'the Act') or not; and whether the unknown person(s)/passenger(s) is liable for penalty under the provisions of Section 112 of the Act.

15. I find that the Panchnama clearly draws out the fact that two black coloured plastic wrapped capsule shape items were found by Shri Jignesh K Parmar, BVG Staff. (AEP No. AMD0240511) (Mobile No. 9727432565), who is engaged to clean toilets, situated at near baggage Belt No.6 at SVPI Airport, Ahmedabad, informed to Batch officer, Customs, SVPIA, Ahmedabad. Subsequently, the said Batch Officer informed this to the Officers of Customs, AIU, SVPIA, Ahmedabad for further investigation. As the Information received, the officers of AIU, Customs, SVPI Airport, Ahmedabad along with two Panchas entered in the men's toilet which was totally/ completely vacant. The officers also took assistance of Shri Jignesh K. Parmar, BVG cleaning staff present at the spot on duty. In presence of the Panchas the AIU officers and BVG staff Shri Jignesh K. Parmar, emptied

the garbage bins kept inside the toilets cabin and also looked for any suspicious item inside the toilets at various spots. During the said search, two black coloured capsules were found lying behind the toilet seat cover of one of the toilet cabin by the BVG staff viz. Shri Jignesh K. Parmar. The same was handed over to the AIU officers.

16. I also find that the government approved valuer weighed the said goods/ material and weight of the said goods was found to be 432.83 grams. It is also on record that the Govt. Approved Valuer extracted gold bar from the said gold paste & chemical mix and after completing, purifying and testing process, the Government Approved valuer certified that, the said gold bar is weighing 381.490 grams of 24 Kt./ 999.0 purity gold having market value of Rs.24,60,611/- (Rupees Twenty-Four Lakhs Sixty Thousand Six Hundred Eleven Only) and Tariff Value of Rs.21,19,318/- (Rupees Twenty-One Lakhs Nineteen Thousand Three Hundred Eighteen Only), which were seized vide Seizure Memo/ Order under Panchnama proceedings both dated 14.12.2023, in the presence of the Panchas.

17. I also find that unknown passenger(s)/ importer, has neither questioned the manner of the Panchnama proceedings nor controverted the facts detailed in the Panchnama. Every procedure conducted during the Panchnama by the Officers was well documented and made in the presence of the Panchas. It is found that the unknown passenger had concealed/ hidden black coloured plastic wrapped capsule shaped items, which contained the semi-solid substance, from which 381.490 Grams gold was extracted. The gold was recovered from the toilet, near baggage belt No. 6, with an intent to clear it illicitly and evade payment of Customs duty and thereby, contravening the provisions of the Customs Act, 1962 and the Rules and Regulations made under it.

18. I find that, the gold bar recovered after purifying the said semi solid substance weighing 432.83 grams consisting of Gold & Chemical mix, weighing 381.490 Grams is of 999.0/24 Kt. Purity. Further, I find

that the unknown passenger has improperly imported the said gold, by concealing/ hiding it behind the toilet seat cover recovered from the toilet, which contained the semi-solid substance, from which 381.490 Grams gold was extracted. By such an act of improperly importation/ smuggling of gold, the unknown passenger has contravened the provisions of Para 2.26 of the Foreign Trade Policy 2015-20 and section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 read with Section 3(2) and 3(3) of the Foreign Trade (Development and Regulation) Act, 1992 further read in conjunction with Section 11(3) of the Customs Act, 1962 and the relevant provisions of the Baggage Rules, 2016, Customs Baggage Declaration Regulations, 2013 and Notification No. 50/2017-Customs dated 30.06.2017 as amended.

19. From the facts discussed above, it is proved that all the above acts of contravention on the part of the said unknown passenger (s)/ original importer has rendered the said gold weighing 381.490 grams of 24 Kt/999.00 purity having tariff value of Rs.21,19,318/- and market Value of Rs.24,60,611/- placed under seizure under Panchnama dated 14.12.2023, liable for confiscation under the provisions of Section 111(d), 111(i), 111(j) and 111(m) of the Customs Act, 1962. By using the modus of concealment of the said gold, it is observed that the unknown passenger(s)/importer(s) was fully aware that the goods are offending in nature on its import. It is seen that the unknown passenger(s)/ importer(s) has involved himself in carrying, keeping, concealing, and has dealt with the impugned gold in a manner which he knew were liable to confiscation under the Act. It therefore, proves that the unknown passenger has committed an offence of the nature described in Section 112 (a) & 112 (b) of the Customs Act, 1962 making him liable for penalty under Sections 112(a)(i) of the Customs Act, 1962.

20. I find that the said 01 gold bar of 24 Kt., totally weighing 381.490 grams derived from gold paste carried and concealed/ hidden, weighing 432.83 grams recovered from the toilet, as discussed above, was to smuggle without declaring it to Customs authorities and by this act, the unknown passenger(s)/ importer(s) or any other claimant has held the said goods liable for confiscation. I, therefore, refrain from

using my discretion to give an option to redeem the gold on payment of redemption fine, as envisaged under Section 125 of the Customs Act, 1962.

21. Given the facts of the present case before me, the said 01 gold bar of 24 Kt., totally weighing 381.490 grams, concealed/ hidden, in form of semi-solid substance, recovered from the toilet, by the unknown passenger is therefore liable to be confiscated absolutely. I therefore hold in unequivocal terms that the said 01 gold bar of 24 Kt., totally weighing 381.490 grams placed under seizure would be liable to absolute confiscation under Section 111(d), 111(i), 111(j) and 111(m) of the Customs, Act, 1962.

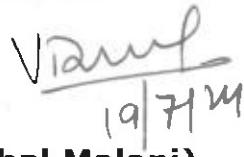
22. The act of concealing/ hiding the gold, with intention to smuggle the same into India by evading Customs Duty has also rendered the unknown passenger(s)/ importer(s) or any other claimant liable for penalty under Section 112 of the Customs Act, 1962. However, since the passenger/ owner of the imported impugned gold is not known and nobody else has come forward to claim the impugned gold/ goods, I desist from imposing personal penalty under the provisions of Section 112 of the Act on unknown passenger/ person in this case.

23. Accordingly, I pass the following Order.

ORDER

i. I order absolute confiscation of 1 Gold Bar of 24 Kt./999 purity gold, totally weighing **381.490 grams**, having Market Value of **Rs.24,60,611/-** (Rupees Twenty-Four Lakhs Sixty Thousand Six Hundred Eleven Only) and Tariff Value of **Rs.21,19,318/-** (Rupees Twenty-one Lakhs Nineteen Thousand Three Hundred Eighteen Only), recovered for the toilet, near Baggage Belt No. 6, which was used by the passengers and airport staff, under the provisions of Sections 111(d), 111(l) and 111 (j) of the Customs Act, 1962;

24. Accordingly, the Show Cause Notice No. VIII/10-28/SVPIA-A/O&A/HQ/2024-25 dated 09.05.2024 stands disposed of.


19/7/24
(Vishal Malani)
Additional Commissioner
Customs, Ahmedabad

DIN : 20240771MN0000712952
F. No. VIII/10-28/SVPIA-A/O&A/HQ/2023-24 Date : 19.07.2024
O/C

To,

"Whom so ever it may concern"

- 1) To be pasted on the Notice Board of Customs House, Navrangpura, Ahmedabad-380009;
- 2) To be pasted on the Notice Board of Customs, SVPI Airport, Ahmedabad.

Copy to:-

- (i) The Principal Commissioner of Customs, Ahmedabad.
(Kind Attn: RRA Section).
- (ii) The Deputy Commissioner of Customs (AIU), SVPIA, Ahmedabad.
- (iii) The Deputy Commissioner of Customs (Task Force), Ahmedabad.
- (iv) The System In-Charge, Customs, HQ., Ahmedabad for uploading on the official web-site.
- (v) Guard File.

RECEIVED *1st*

CUSTOMS (HQ), AHMEDABAD
DATE : 22-7-24
SIGN. : <i>Joshi</i>
NAME : _____

19/7/2024

19/7/2024