



प्रधान आयुक्तका कार्यालय, सीमाशुल्क, अहमदाबाद

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SHOW CAUSE NOTICE

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

Shri Aamirbhi Yusufbhai Patel (DOB 08.12.1995), (hereinafter referred to as "the passenger/ Noticee"), holding an Indian Passport Number M5521705, residing at Vankarvas Tandalja Gam, Vadodara, Pin - 390012, arrived by Spice jet Flight No. SG 16 from Dubai to Ahmedabad on 25.01.2024 at Sardar Vallabhbhai Patel International Airport (SVPIA), Terminal-2, Ahmedabad. On the basis of suspicious movement, the passenger was intercepted by the Air Intelligence Unit (AIU) officers, SVPIA, Customs, Ahmedabad while the passenger was attempting to exit through green channel without making any declaration to Customs, under Panchnama proceedings dated 25.01.2024 **(RUD – 01)** in presence of two independent witnesses for passenger's personal search and examination of his baggage. The passenger was carrying a black colour Trolley Bag and a black colour duffle bag as his Checked-in baggage.

2. The officers asked the passenger whether he was carrying any contraband/ dutiable goods in person or in baggage to which he denied. The officers informed the passenger that he would be conducting his personal search and detailed examination of his baggage. The officers offered their personal search to the passenger, but the passenger denied the same politely. Then the officers asked the passenger whether he wanted to be checked in presence of the Executive Magistrate or the Superintendent (Gazetted officer) of Customs, in reply to which the passenger in presence of two independent witnesses gave his consent to be searched in presence of the Superintendent of Customs. The passenger was asked to walk through the Door Frame Metal Detector (DFMD) machine after removing all the metallic objects he was wearing on his body/ clothes. Thereafter the passenger, removed the metallic substances from his body such as mobile, purse

etc., and kept it in a tray placed on the table there and after that he was asked to pass through the Door Frame Metal Detector (DFMD) machine and while he passed through the DFMD Machine, no beep sound is heard indicating that nothing is objectionable/ dutiable on his body/ clothes. Then, the officer scanned the checked in baggage and hand baggage of the passenger, Shri Aamirbhai Yusufbhai Patel in the X-Ray baggage scanning machine, which is installed near Green Channel at Arrival Hall, Terminal II, SVPI Airport, Ahmedabad, a dark black yellow image in the bottom of his duffle bag appeared on the scanning machine. On further examination of his duffle bag, the officers find four wet brown coloured chart paper which is unusually heavy. The AIU officers in presence of the panchas and the said passenger find yellow coloured paste spread between the two layers of said brown coloured chart paper. On being asked, the passenger tells the officers that the said yellow coloured paste spread between two layers of brown chart paper is gold paste with chemical mix.

The officers informed the panchas and passenger that the said semi solid substance comprising of gold and chemical mix, is required to be confirmed and also to be ascertained its purity and weight. For the same, Shri Kartikey Vasantrai Soni, the Government Approved Valuer was contacted, who informed that the facility to extract the gold from such semi solid substance comprising of gold and chemical mix and to ascertain purity and weight of the same, is available at his shop only. Accordingly, the officers, the panchas and the passenger visited his shop situated at 301, Golden Signature, Behind Ratnam Complex, Nr. National Handloom, C.G. Road, Ahmedabad-380006 in Government vehicle. Shri Kartikey Vasantrai Soni, the Government Approved Valuer weighed the said four wet brown coloured chart paper of semi solid substance comprising of gold and chemical mix on his weighing scale and informed that it was weighing 872.200 grams. The photograph of the same is as under :



2.2 Thereafter, the Government approved valuer Shri Kartikey Vasantrai Soni started the process of converting the said semi solid substances into solid gold. After completion of the procedure, Government Approved Valuer informed that 1 Gold bar weighing **270.94** grams having purity 999.0/24 Kt. is derived from the 872.200 grams of semi solid substance containing gold paste and chemical mix. After testing the said gold bar, the Government Approved Valuer confirms that it is pure gold. Shri Soni Kartikey Vasantrai vide certificate dated 25.01.2024 certifies that the extracted gold bar is having purity 999.0/24kt, tariff value of **Rs.15,08,437/-** and Market value of **Rs.17,44,583/-**. The value of the gold bar has been calculated as per the Notification No. 02/2024-Customs (N.T.) dated 15.01.2024 (gold) and Notification No. 04/2024-Customs (N.T.) dated 18.01.2024 (exchange rate). The details of item recovered from the passenger are as under:

S. No.	Details of items	Net weight in grams	Purity	Market value (Rs.)	Tariff value (Rs.)
1	1 Gold Bar	270.94	999.0/ 24 Kt.	15,08,437/-	17,44,583/-

2.3 The method of purifying, testing and valuation used by Shri Kartikey Vasantrai Soni was done in presence of the independent panchas, the passenger and the officers. All were satisfied and agreed with the testing and Valuation Certificate given by Shri Kartikey Vasantrai Soni and in token of the same, the Panchas and the passenger put their dated signature on the said valuation certificate. The following documents produced by the passenger were withdrawn under the Panchnama dated 25.01.2024.

- i) Copy of Passport No. M5521705 issued at Ahmedabad on 30.01.2015 valid up to 29.01.2025.
- ii) Boarding pass of Spice Jet Flight No. SG 16, from Dubai to Ahmedabad dated 25.01.2024.

3. Accordingly, gold bar having purity 999.0/24 Kt. weighing 270.940 grams, derived from the semi solid substance comprising of gold and chemical mix recovered from Shri Aamirbhi Yusufbhai Patel was seized vide Panchnama dated 25.01.2024, under the provisions of the Customs Act, 1962, on the reasonable belief that the said gold bar was smuggled into India by the said passenger with an intention to evade payment of Customs duty and accordingly the same was liable for confiscation under the Customs Act, 1962 read with Rules and Regulation made thereunder.

A statement of Shri Aamirbhi Yusufbhai Patel was recorded on 25.01.2024, under Section 108 of the Customs Act, 1962 (**RUD-03**), wherein he inter alia stated that -

- (i) he is engaged in the work of agriculture;
- (ii) he went to Dubai on 18.01.2023 and returned back on 25.01.2024 by Spicejet Flight No. SG 16 from Dubai to Ahmedabad; that he had never indulged in any smuggling activity in the past and this was first time he had carried gold;
- (iii) Besides his savings, he borrowed some money from his friend residing at Dubai to purchase the said gold. The gold in Dubai is cheaper than India so he purchased gold to make some money by selling it in India; he purchased the gold in paste form spread between the layers of brown chart paper, so that it could not identified easily by Customs Authorities and will be safe to carry gold from Dubai to India;
- (iv) he had been present during the entire course of the Panchnama dated 25.01.2024 and he confirmed the events narrated in the said panchnama drawn on 25.01.2024 at Terminal-2, SVPI Airport, Ahmedabad;

- (v) he was aware that smuggling of gold without payment of Customs duty is an offence; he was well aware of the gold concealed between the layers of 04 brown chart paper containing gold and chemical mix in semi-solid form but he did not make any declarations in this regard with an intention to smuggle the same without payment of Customs duty.

4. The above said gold bar weighing 270.940 grams recovered from the said passenger was allegedly attempted to be smuggled into India with an intent to evade payment of Customs duty by way of concealing the same in the form of semi solid substance comprising of gold and chemical mix, which is clear violation of the provisions of the Customs Act, 1962. Thus, on a reasonable belief that the gold bar weighing 270.940 grams is attempted to be smuggled by the said passenger, liable for confiscation as per the provisions of Section 111 of the Customs Act, 1962. Hence, the above said gold bar weighing 270.940 grams derived from the above said semi solid gold paste with chemical mix, was placed under seizure under the provision of Section 110 and Section 119 of the Customs Act, 1962 vide Seizure memo Order dated 25.01.2024 (**RUD - 04**).

5. **RELEVANT LEGAL PROVISIONS:**

A. **THE CUSTOMS ACT, 1962:**

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

(22) "goods" includes—

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

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

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

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

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

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

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

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

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

- (d) any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;
- (f) any dutiable or prohibited goods required to be mentioned under the regulations in an arrival manifest or import manifest or import report which are not so mentioned;
- (i) any dutiable or prohibited goods found concealed in any manner in any package either before or after the unloading thereof;
- (j) any dutiable or prohibited goods removed or attempted to be removed from a customs area or a warehouse without the permission of the proper officer or contrary to the terms of such permission;
- (l) any dutiable or prohibited goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77;
- (m) any goods which do not correspond in respect of value or in any other particular with the entry made under this Act or in the case of baggage with the declaration made under section 77 in respect thereof, or in the case of goods under transshipment, with the declaration for transshipment referred to in the proviso to sub-section (1) of section 54;"

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

- (a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under Section 111, or abets the doing or omission of such an act, or
- (b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harboring, keeping, concealing, selling or purchasing or in any manner dealing with any goods which he know or has reason to believe are liable to confiscation under Section 111, shall be liable to penalty.

VII) Section 119 in the Customs Act, 1962 :

119. Confiscation of goods used for concealing smuggled goods.—Any goods used for concealing smuggled goods shall also be

liable to confiscation.

B. THE FOREIGN TRADE (DEVELOPMENT AND REGULATION) ACT, 1992:

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

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

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

C. THE CUSTOMS BAGGAGE DECLARATIONS REGULATIONS, 2013:

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

Contravention and violation of law:

6. It therefore appears that:

(a) The passenger Shri Aamirbhi Yusufbhai Patel had dealt with and knowingly indulged himself in the instant case of smuggling of gold into India. The passenger had improperly imported gold weighing 270.940 grams having purity 999.0/24 Kt. derived from semi solid gold paste and having Tariff value of Rs.15,08,437/- and Market value of Rs.17,44,583/-. The said semi solid gold paste was concealed in 04 brown chart papers containing gold and chemical mix in semi-solid form and not declared to the Customs. The passenger opted green channel to exit the Airport with deliberate intention to evade the payment of Customs Duty and fraudulently circumventing the restrictions and prohibitions imposed under the Customs Act 1962 and other allied Acts, Rules and Regulations. Thus, the element of mens rea appears to have been established beyond doubt. Therefore, the improperly imported gold bar

weighing 270.940 grams of purity 999.0/24 Kt. by Shri Aamirbhi Yusufbhai Patel by way of concealment and without declaring it to the Customs on arrival in India cannot be treated as bonafide household goods or personal effects. The passenger has thus contravened the Foreign Trade Policy 2015-20 and Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 read with Section 3(2) and 3(3) of the Foreign Trade (Development and Regulation) Act, 1992.

(b) By not declaring the value, quantity and description of the goods imported by him, the said passenger violated the provision of Baggage Rules, 2016, read with the Section 77 of the Customs Act, 1962 read with Regulation 3 of Customs Baggage Declaration Regulations, 2013.

(c) The improperly imported gold by the passenger found concealed in brown chart paper containing gold and chemical mix in semi-solid form, without declaring it to the Customs is thus liable for confiscation under Section 111(d), 111(f), 111(i), 111(j), 111(l) and 111(m) read with Section 2 (22), (33), (39) of the Customs Act, 1962 and further read in conjunction with Section 11(3) of Customs Act, 1962.

(d) As per Section 119 of the Customs Act, 1962 any goods used for concealing smuggled goods shall also be liable for confiscation.

(e) Shri Aamirbhi Yusufbhai Patel by his above-described acts of omission and commission on his part has rendered himself liable to penalty under Section 112 of the Customs Act, 1962.

(f) As per Section 123 of the Customs Act 1962, the burden of proving that the gold bar weighing 270.940 grams of purity 999.0/24 Kt. and having Tariff value of Rs.15,08,437/- and Market value of Rs.17,44,583/-, derived from semi solid gold paste concealed between 04 brown chart papers containing gold and chemical mix in semi-solid form, without declaring it to the Customs, is not smuggled goods, is upon the passenger.

7. Now, therefore, **Shri Aamirbhi Yusufbhai Patel**, holding an Indian Passport Number M5521705, residing at Vankarvas Tandalja Gam, Vadodara, Pin - 390012, is hereby called upon to show cause in writing to the Additional Commissioner of Customs, Ahmedabad having his office at 2nd Floor, Customs House, Opp. Old High Court, Navrangpura, Ahmedabad-380009, as to why:

(i) One Gold Bar weighing **270.940** grams having purity 999.0/24 Kt. and having Tariff value of **Rs.15,08,437/-** and Market value of **Rs.17,44,583/-** derived from semi solid gold paste concealed between 04 brown chart papers containing gold and chemical mix in semi-solid form by the passenger and placed under seizure under panchnama proceedings dated 25.01.2024 and Seizure Memo Order dated 25.01.2024, 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 passenger, under Section 112 of the Customs Act, 1962, for the omissions and commissions mentioned hereinabove.


8. Shri Aamirbhi Yusufbhai Patel is further required to state specifically in the written reply as to whether he wishes to be heard in person before the case is adjudicated. If no specific mention is made about this in the written reply, it shall be presumed that he does not wish to be heard in person. He should produce at the time of showing cause, all the evidences which he intends to rely upon in defense.

9. Shri Aamirbhi Yusufbhai Patel is further required to note that the reply should reach within **30 (thirty) days** or within such extended period as may be allowed by the adjudicating authority. If no cause is shown against the action proposed above within 30 days from the receipt of this show cause notice or if anyone does not appear before the adjudicating authority as and when the case is posted for hearing, the case is liable to be decided ex-parte on the basis of facts and evidences available on record.

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

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

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


29/5/24
(Vishal Malani)
Additional Commissioner
Customs, Ahmedabad

DIN: 20240571MN000000F45D
F. No. VIII/10-36/SVPIA-C/O&A/HQ/2024-25 Date: 29.05.2024

BY SPEED POST

To,
Shri Aamirbhi Yusufbhai Patel,
Vankarvas Tandalja Gam,
Vadodara, Pin-390012.

- Copy to:
- (i) The Deputy/Assistant Commissioner of Customs (AIU), SVPI Airport, Ahmedabad.
 - (ii) The System In-Charge, Customs, HQ., Ahmedabad for uploading on the official web-site.
 - (iii) Guard File.

Annexure 'A'

List of documents relied upon in the show cause notice issued to Shri Aamirbhi Yusufbhai Patel, Vankarvas, Tandalja Gam, Vadodara, Pin -390012.

Sr. No	Document	Remarks
1	Panchnama drawn on 25.01.2024 at SVP International Airport, Ahmedabad	Copy enclosed
2.	Valuation certificate dated 25.01.2024 issued by Shri Karitkey Soni, Government Approved Valuer.	Copy enclosed
3.	Statement dated 25.01.2024 of Shri Aamirbhi Yusufbhai Patel	Copy enclosed
4.	Seizure memo Order dated 25.01.2024 issued under Section 110(1) & (3) of the Customs Act, 1962 in respect of the gold bar weighing 270.940 grams along with its packing material.	Copy enclosed