



**प्रधान आयुक्त का कार्यालय, सीमा शुल्क, अहमदाबाद**

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

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**DIN:20260171MN000000DBD3**

**PREAMBLE**

A	फ़ाइलसंख्या/ File No.	VIII/10-40/DRI/SVPIA/O&A/HQ/2025-26
B	कारण बताओ नोटिस संख्या-तारीख Show Cause Notice No. and Date	DRI/AZU/GI-02/ENQ-22/2025 Dt. 19.08.2025
C	मूल-आदेश संख्या / Order-In-Original No.	<b>196/ADC/SRV/O&amp;A/HQ/2025-26</b>
D	आदेश तिथि / Date of Order-In-Original	<b>15.01.2026</b>
I	जारी करने की तारीख / Date of Issue	<b>15.01.2026</b>
F	द्वारा पारित / Passed By	<b>Shree Ram Vishnoi,</b> Additional Commissioner, Customs, Ahmedabad
G	आयातक का नाम और पता / Name and Address of Importer / Noticee	<b>(i) Obaid Abdul Razzak Shaikh,</b> Resident of 145-Abeda Mansion, 3 <sup>rd</sup> Floor, Room No.-19, Samuel Street, P.O. Chinchbunder, Mumbai-400009 <b>(E-mail ID: <a href="mailto:obaidshaikh784@gmail.com">obaidshaikh784@gmail.com</a>)</b>  <b>(ii) Tabrez Akbarali Bana,</b> Resident of 19, Navroji, Hill Road, Baitul Habib Building, 1 <sup>st</sup> Floor, Room No.3, Dongri, Mumbai-400009 <b>(E-mail ID: <a href="mailto:tabrezbana@gmail.com">tabrezbana@gmail.com</a>)</b>  <b>(iii) Mohammed Farid Alamhusain Mirza,</b> Resident of 202-Rehab Building, Wing-A, Building -6/A, Golibar Road, Near Shivalik Venturs Substation, Santacruz East, VTC: Mumbai, PO: Santacruz (East), Mumbai Suburban- 400055, <b>(E-mail ID: <a href="mailto:faridmirza72110@gmail.com">faridmirza72110@gmail.com</a>)</b>  <b>(iv) Shri Irshadbhai @Dubai (+971524165040)</b> (To be served Through Notice Board)
(1)	यह प्रति व्यक्ति के उपयोग के लिए निःशुल्क प्रदान किया जाता है जिन्हें 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 प्राप्ति की तारीख के 60 दिनों के भीतर आयुक्त का कार्यालय, सीमा शुल्क) अपील(, 4वीं मंजिल, हुडको भवन, ईश्वर भुवन मार्ग, नवरंगपुरा, अहमदाबाद- 380014 में कर सकता है।	
(3)	अपील के साथ केवल पाँच रुपये) 5.00 रुपये (के न्यायालय शुल्क टिकट लगा होना चाहिए, और इसके साथ होना चाहिए:	
(i)	अपील की एक प्रति और	
(ii)	इस प्रति या इस आदेशकी कोई प्रति के साथ केवल पाँच रुपये) 5.00 रुपये (के न्यायालय शुल्क टिकट लगाहोना चाहिए।	
(4)	इस आदेश के विरुद्ध अपील करने के इच्छुक व्यक्तिको 7.5% (अधिकतम 10 करोड़ रुपये (शुल्क जमा करना होगा, जहां शुल्क या ड्यूटी और जुर्माना विवाद में हैं, याजुर्माना, जहां इस तरहकी दंड विवाद में है और अपील के साथ इस तरह के भुगतान का प्रमाण पेशकरने में असफल रहने पर, सीमाशुल्क अधिनियम, 1962के धारा 129 के प्रावधानों का अनुपालन न करने के लिए अपीलको खारिज कर दिया जाएगा ।	

**BRIEF FACTS OF THE CASE:**

Intelligence developed by the Directorate of Revenue Intelligence, Zonal Unit, Ahmedabad (hereinafter referred to as "DRI") indicated that gold was being smuggled into India from Dubai and clandestinely retrieved at Sardar Vallabhbhai Patel International (SVPI) Airport, Ahmedabad. The intelligence specifically indicated that three passengers, namely **(i) Shri Obaid Abdul Razzak Shaikh** (Seat No. 2D, PNR No. VUWZSL), **(ii) Shri Tabrez Akbarali Bana** (Seat No. 12C, PNR No. RS7GRR), and **(iii) Shri Mohammed Farid Alamhusain Mirza** (Seat No. 1B, PNR No. VVM5XI), travelling on Indigo Flight No. 6E381 arriving from Goa to Ahmedabad Domestic Airport around 15:10 hrs. on 25.02.2025, were suspected of smuggling gold concealed either in their baggage or over/in body.

**2.** Based on the said intelligence, a team of DRI officers along with independent Panchas approached to Shri Prakash Makwana, Assistant Manager Security, Indigo, SVPI (Domestic Terminal), and inquired about the scheduled landing of Indigo Flight No. 6E381. Shri Prakash Makwana, confirmed that the Indigo Flight No. 6E381 was about to land and would be stationed at bay No. 76 of Terminal-1.

**2.1.** Further, the DRI, Officers requested Shri Prakash Makwana, Assistant Manager Security to lead them towards the Air Craft and give necessary direction to the crew members to prevent disembarkation until the officers could verify the suspects.

**2.2.** The DRI officers, accompanied by Shri Prakash Makwana and Panchas, took the Indigo Passenger Bus to Bay No. 76 and boarded the aircraft (Indigo Flight No. 6E381 and requested the passengers to show their Boarding Passes. The DRI officers then identified all the three suspected passengers as per seat and PNR details. All three were then requested to collect their cabin baggage and accompany the officers for further examination.

**2.3.** Now, the DRI officers requested all the said three passengers to carry their baggage and requested them to cooperate with examination. The said three passengers collected their baggage from the flight and came with DRI Officers in the Passenger Bus. Inside the Passenger Bus, the DRI officers, in presence of Panch witnesses and Shri Prakash Makwana questioned the three individual passengers that if they had anything to declare or they were carrying dutiable or illegal things i.e. Foreign Origin Gold, Foreign Currency etc. In response, all three passengers denied carrying any such items or having anything to declare.

**2.4.** After that, in the Passenger Bus, the DRI officers in presence of the Panchas and Mr. Prakash Makwana asked Shri Obaid Abdul Razzak Shaikh to open his grey colour shoulder bag of "Winsor" brand to check and found that 10 strips of gold, coated with black Colour were kept/concealed in his grey colour shoulder bag of "Winsor" brand. Shri Obaid Abdul Razzak Shaikh accepted that he along with Shri Tabrez Akbarali Bana and Shri Mohammed Farid Alamhusain Mirza were involved in smuggling of these 10 strips of gold. Shri Tabrez Akbarali Bana and Shri Mohammed Farid Alamhusain Mirza also agreed/admitted that all of them were involved in this act of smuggling. After that the additional baggage including (i) a Black Trolley Bag of "SAIYIXIANGBAO" brand belonging to Shri Obaid Abdul Razzak Shaikh, (ii) Black Shoulder Bag of "LITRD" brand belonging to Shri Tabrez Akbarali Bana and (iii) Black Shoulder Bag of "B" brand belonging to Shri Mohammed Farid Alamhusain Mirza, were also examined and no contraband goods were found.

**2.5.** The DRI officers, Mr. Prakash Makwana and Panchas and all the three said passengers (Shri Obaid Abdul Razzak Shaikh, Shri Tabrez Akbarali Bana and Shri Mohammed Farid Alamhusain Mirza) went to Indigo Office at domestic Airport where the officer asked Shri Obaid Abdul Razzak Shaikh, whether they had got any invoice or any documents in proof of its (10 gold strips) purchase and legitimate import. In reply, Shri Obaid Abdul Razzak Shaikh informed the officers that he had no documents in token of its (10 gold strips) purchase and legitimate import, as it has been meant for smuggling. Further, upon asking, Shri Tabrez Akbarali Bana and Shri Mohammed Farid Alamhusain Mirza also stated that they neither had any invoice nor any legal documents in proof of its (10 gold strips) purchase and legitimate import.

**2.6.** Furthermore, on enquiry the said passengers informed that the said 10 strips of foreign origin gold were hidden below the seat of the aircraft of Indigo Flight No. 6E381 by Shri Irshad Bhai (contact no. +971524165040) in Dubai while the same flight was travelling from Dubai to Ahmedabad (Flight No.1478) and later converted into domestic i.e. from Ahmedabad to Goa (Flight No.6345) and then from Goa to Ahmedabad (Flight No.381) dated 25.02.2025 having the same aircraft type and registration number and Mr. Obaid Abdul Razzak Shaikh while boarding the aircraft at Goa, had recovered the hidden 10 strips of foreign origin gold and put the same in his grey colour shoulder bag of "Winsor" brand. On further enquiry, the passengers informed that the said 10 strips of foreign gold were hidden below the aircraft seat by one Shri Irshad Bhai (contact no. +971524165040) in Dubai and they (Shri Obaid Abdul Razzak Shaikh, Shri Tabrez Akbarali Bana and Shri Mohammed Farid Alamhusain Mirza) were instructed to retrieve the gold items while the said aircraft converts into domestic route from Goa to Ahmedabad, to escape from the scrutiny of the Customs Officers at the SVP International Airport, Ahmedabad. The image of the 10 gold strips is affixed below:



**2.7.** Further, the DRI officers, Panchas and the said three passengers went towards the Air Intelligence Unit, Customs, SVPI Airport, Terminal-2, Ahmedabad for further proceedings where the officers asked Shri Obaid Abdul Razzak Shaikh, Shri Tabrez Akbarali Bana and Shri Mohammed Farid Alamhusain Mirza whether they had any photo identity proof. Shri Obaid Abdul Razzak Shaikh, Shri Tabrez Akbarali Bana and Shri Mohammed Farid Alamhusain Mirza gave their Aadhar cards. The details of which are as under:  
*(The Aadhaar numbers have been shown as masked for the safety)*

Sr. No.	Name of the Passenger	Flight No.	date	Seat Number/ PNR No.	No. of checkin baggages accompanied /Hand bag	Aadhar Card No.

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1	Obaid Abdul Razzak Shaikh	Flight No. 6E381	25.02.2025	2D/VUWZSL	0/2	XXXXXX XX6190
2	Tabrez Akbarali Bana	Flight No. 6E381	25.02.2025	12C/RS7GRR	0/1	XXXXXX XX7859
3	Mohammed Farid Alamhusain Mirza	Flight No. 6E381	25.02.2025	1B/VVM5XI	0/1	XXXXXX XX0860

reason.)

**2.8.** Thereafter, the DRI officers informed all the three passengers namely Shri Obaid Abdul Razzak Shaikh, Shri Tabrez Akbarali Bana and Shri Mohammed Farid Alamhusain Mirza that their personal search would be conducted and if they had anything to declare, in reply to which they all denied. The officers also offered their personal search to all the three passengers namely Shri Obaid Abdul Razzak Shaikh, Shri Tabrez Akbarali Bana and Shri Mohammed Farid Alamhusain Mirza which they all politely declined. Now, the officers asked Shri Obaid Abdul Razzak Shaikh, Shri Tabrez Akbarali Bana and Shri Mohammed Farid Alamhusain Mirza whether they wanted to be searched in presence of an Executive Magistrate or a Gazetted Officer and also informed that Shri Mayur Joshi, Superintendent, AIU, Customs, is a Gazetted officer. In reply, Shri Obaid Abdul Razzak Shaikh, Shri Tabrez Akbarali Bana and Shri Mohammed Farid Alamhusain Mirza gave their consent to be searched in front of the Superintendent, AIU, Customs.

**2.9.** Now, the officers, in presence of the Panchas, asked Shri Obaid Abdul Razzak Shaikh, Shri Tabrez Akbarali Bana and Shri Mohammed Farid Alamhusain Mirza to pass one by one through the Door Frame Metal Detector (DFMD) Machine installed near the green channel in the Arrival Hall of Terminal-2 building, after removing all metallic objects from their bodies/clothes. Shri Obaid Abdul Razzak Shaikh, Shri Tabrez Akbarali Bana and Shri Mohammed Farid Alamhusain Mirza removed all the metallic objects such as mobile phone etc., and kept in a plastic tray and passed through the DFMD. However, no beep sound was heard.

**2.10.** Now personal search was carried out and the officers found nothing objectionable during the personal search of all the three passengers namely Shri Obaid Abdul Razzak Shaikh, Shri Tabrez Akbarali Bana and Shri Mohammed Farid Alamhusain Mirza.

**2.11.** Thereafter, in presence of the Panchas and all three passengers, the officer called Shri Soni Kartikey Vasantrai, Government Approved Valuer and informed him that the officers had recovered 10 gold strips and requested him to come to the Airport for testing, weighing and valuation of the said gold items.

**2.12.** After some time, one person arrived at SVPI Airport, Ahmedabad named Mr. Kartikey Vasantrai Soni, Government Approved Valuer. The officers then introduced him to the Panchas and to Shri Obaid Abdul Razzak Shaikh, Shri Tabrez Akbarali Bana and Shri Mohammed Farid Alamhusain Mirza as Mr. Kartikey Vasantrai Soni, Government Approved Valuer. The officers then handed over the above said 10 gold strips to Shri Soni Kartikey Vasantrai for the purpose of checking the weight of the gold strips, purity and valuation purpose.

**2.13.** After completion of the procedure of weighment and purity check in presence of Panchas and Shri Obaid Abdul Razzak Shaikh, Shri Tabrez Akbarali Bana and Shri Mohammed Farid Alamhusain Mirza, the Government Approved Valuer submits the report in (Annexure-A) vide Certificate no. 1665/2024-25 dated 25.02.2025 as per the Notification No. 10/2025-Customs (N.T.) dated

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14.02.2025 (gold) and Notification No. 19/2024-Customs (N.T.) dated 21.02.2025 (exchange rate). The same is reproduced as below.

Certificate No: 1665 / 2024-25 Date: 25.02.2025

SR. No.	Details of Items	PCS	Net Weight in Gram	Purity	Market value (Rs)	Tariff Value (Rs)
1	Strip Shape Gold Coated with Black Colour	1	263.200	999.0 24Kt	2353008	2166386
2	Strip Shape Gold Coated with Black Colour	1	262.400	999.0 24Kt	2345856	2159801
3	Strip Shape Gold Coated with Black Colour	1	263.100	999.0 24Kt	2352114	2165563
4	Strip Shape Gold Coated with Black Colour	1	260.900	999.0 24Kt	2332446	2147455
5	Strip Shape Gold Coated with Black Colour	1	116.600	999.0 24Kt	1042404	959729
6	Strip Shape Gold Coated with Black Colour	1	174.600	999.0 24Kt	1560924	1437124
7	Strip Shape Gold Coated with Black Colour	1	175.400	999.0 24Kt	1568076	1443709
8	Strip Shape Gold Coated with Black Colour	1	116.600	999.0 24Kt	1042404	959729
9	Strip Shape Gold Coated with Black Colour	1	116.600	999.0 24Kt	1042404	959729
10	Strip Shape Gold Coated with Black Colour	1	116.600	999.0 24Kt	1042404	959729
	<b>Total</b>	<b>10</b>	<b>1866.000</b>		<b>16682040</b>	<b>15358953</b>

**2.14.** Subsequently, as per the submission of report in (Annexure-A) vide Certificate no. 1665/2024-25 dated 25.02.2025 by Mr. Kartikey Vasantrai Soni, Government Approved Valuer, as per the Notification No. 10/2025Customs (N.T.) dated 14.02.2025 (gold) and Notification No. 19/2024Customs (N.T.) dated 21.02.2025 (exchange rate), the gold strips are having total weight of 1866.00 grams, purity of 999.9/24kt and market value @ Rs. 89400/- per 10 grams is Rs. **1,66,82,040/-** (Rupees One Crore Sixty-Six Lakh Eighty-Two Thousand and Forty only) and tariff value @ Rs. 82309.5 per 10 grams is Rs. **1,53,58,953/-** (Rupees One Crore Fifty-Three Lakh Fifty Eighty Thousand Nine Hundred and Fifty-Three only). The above said proceedings were recorded under Panchnama dated 25-26.02.2025.

### **3. SEIZURE OF THE ABOVE GOLD STRIPS RECOVERED:**

**3.1.** The 10 gold strips having total weight of 1866.00 grams, purity of 999.9/24kt and market value @ Rs. 89400/- per 10 grams, valued at **Rs.1,66,82,040/-** (Rupees One Crore Sixty-Six Lakh Eighty-Two Thousand Forty only) and tariff value @ Rs. 82309.5 per 10 grams, valued at **Rs.1,53,58,953/-** (Rupees One Crore Fifty-Three Lakh Fifty Eighty Thousand Nine Hundred Fifty-Three only) were brought into India in violation of provisions of Customs Act, 1962 and FTP and consequently tantamount to smuggling of gold and therefore the same appeared to be liable to confiscation under the provisions of Customs Act, 1962. Accordingly, the recovered 10 numbers of gold strips along with grey colour shoulder bag of "Winsor" brand used for concealment of the said gold strips by the above said 03 passengers, were placed under seizure vide seizure order under Section 110 under F. No. DRI/AZU/GI-02/ENQ-22/2025 dated 26.02.2025 and Panchnama dated 25-26.02.2025.

**3.2.** Further, the above seized 10 gold strips along with grey colour shoulder bag of "Winsor" brand used for concealment of gold strips were handed over to the Ware House In charge, SVPI Airport, Ahmedabad vide Ware House Entry No. 7237 dated 26.02.2025 and 7238 dated 26.02.2025 respectively for safe custody.

### **4. STATEMENT OF KEY PERSONS:**

**4.1.** Upon completion of the Panchnama proceedings at SVPI Airport,

Ahmedabad, summons dated 26.02.2025 were issued to Shri Obaid Abdul Razzak Shaikh, Shri Tabrez Akbarali Bana and Shri Mohammed Farid Alamhusain Mirza, for recording of their statements.

**4.2.** Consequent to the above summons, statement of Shri Obaid Abdul Razzak Shaikh, was recorded under Section 108 of the Customs Act, 1962 on 26.02.2025, wherein he interalia stated that:

- He confirmed that 10 strips of foreign origin gold/ of 1866.00 grams with purity 999.0 24Kt was recovered from his grey colour shoulder bag of “Winsor” brand, which he was carrying during his journey from Goa to Ahmedabad through Indigo Flight No. 6E381.
- He was shown the Panchnama dated 25-26-02.2025 drawn at SVPI Airport, Ahmedabad along with valuation certificate issued by Shri Soni Karthikey, Govt. Approved Valuer and stated that he agreed with the facts mentioned therein and he was present in the Indigo Flight 6E 381 on 25.02.2025 and further Panchnama proceedings were done as per the actual event in his presence.
- He agreed and stated that he had travelled through Indigo Flight 6E 381 from Goa to Ahmedabad on 25.02.2025.
- He stated that he was travelling along with other two passengers namely Tabrez Akbarali Bana Mohammed and Farid Alamhusain Mirza.
- He stated that he did not have any business in Goa or in Ahmedabad. He worked as a freelancer for earning.
- He stated that his seat number was 2D.
- He stated that he was friends with Shri Tabrez Akbarali Bana Mohammed and with Shri Farid Alamhusain Mirza for 5 to 6 years. He met Farid Alamhusain Mirza through Tabrez Akbarali Bana Mohammed.
- He stated that Tabrez Akbarali Bana Mohammed booked their tickets for the trip of Mumbai to Goa and Goa to Ahmedabad.
- He stated that he had to receive 10 gold strips which were hidden below the seats in flight number 6E 381 from Goa to Ahmedabad as informed by Irshad Bhai@Dubai.
- He stated that he was not carrying any Checked in Baggage but carrying one grey coloured shoulder bag of “Winsor” brand and a black coloured Trolley Bag of “SAIYIXIANGBAO” brand.
- He stated that he and Farid Alamhusain Mirza were sitting on 19 A and 19 C respectively. He further stated that that they exchanged their seats with a family.
- He stated above they had to receive 10 gold strips which were hidden below the seats in flight number 6E 381 from Goa to Ahmedabad as informed by Irshad Bhai@Dubai.
- He stated that the officers asked him to declare any illegal things i.e. foreign origin gold or foreign currency which he possessed. To which he completely denied.
- He stated that he himself was carrying the grey colour shoulder bag of “Winsor” brand from where 10 strips of gold (Coated with black colour) were found concealed and he himself, Tabrez Akbarali Bana Mohammed and Farid Alamhusain Mirza were involved in smuggling of said 10 strips of gold.

- He stated that Irshad Bhai@Dubai informed them that 10 gold strips which were hidden below the seats 19 A in flight number 6E 381 from Goa to Ahmedabad which was originally converted from international flight to domestic and therefore they exchanged their seats with 19 A and 19 C. He removed all the gold strips in Goa and kept in grey colour shoulder bag of "Winsor" brand.
- On being asked about the role of their co-passengers, he replied that they were working together for the above said act.
- He also stated that they had done these types of activities thrice in the past.
- He stated that he was not carrying any invoice of its purchase or any documents in proof of its legitimate import and further stated that he had no any invoices to submit.
- He stated that Shri Irshad Bhai@Dubai had sent the above-mentioned foreign origin gold.
- He stated that Shri Irshad Bhai@Dubai contacted Tabrez Akbarali Bana Mohammed for sending foreign origin gold.
- He stated that Shri Irshad Bhai@Dubai contacted Tabrez Akbarali Bana Mohammed and they were informed accordingly. He stated that he met Mr. Irshad bhai@Dubai tentatively in the month of December 2024, wherein he discussed about financial crunch against which Shri Irshad Bhai@Dubai offered him to earn money through Gold Smuggling. Further, Shri Irshad Bhai@Dubai informed that they might require to invest money attributed to gold Quantity. Shri Irshad Bhai had managed to send the Gold from Dubai in hidden manner and they collected the same from the said aircraft while the said aircraft got turn into domestic route by traveling through the said flight.
- He further stated that that he would get around 30 to 40 thousand per 1 KG of smuggled gold transaction in the above said manner. Shri Irshad also assured that he would manage to sell the said smuggled gold through his persons in India. On being asked he stated that he did not have further details of Mr. Irshad Bhai except his contact number i.e. +971524165040. He further added that he was tempted through the above offer and he shared the same to their friends Mr. Obaid Abdul Razzak Shaikh and Mohammed Farid Alamhusain Mirza, who also showed their willingness to join in the said activity of smuggling.
- On being asked about the location of gold strip inside the aircraft, he stated that it was informed by Shri Irshad Bhai@Dubai. Further, Shri Irshad Bhai@Dubai informed that his person had hidden the 10 strips of foreign origin gold. He stated that foreign origin gold was to be sold in free market and the money after deduction of the profits/percentage was to be received by Irshad Bhai@Dubai.
- He stated that he had given his consent to be checked before the Gazetted officer of Customs as he had full faith on the Customs and their officers.
- He stated that he was carrying 10 strips of foreign origin gold, he denied to the officer of having any dutiable to declare.
- He stated that he did not have any invoice of its purchase or any documents in proof of its legitimate import since it was brought with the clear intention of smuggling.

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- He stated that he used to work as a freelancer and earns around of Rs. 15000/- to 20,000/- per month. His last visit to Dubai was in 2022 just for tour.
- He stated that he travelled from Mumbai to Goa on 25.02.2025 through Air India Express and came to Ahmedabad on the same date i.e. 25.02.2025 from Goa to Ahmedabad Airport through Indigo Flight No.6E 381. During the journey from Goa to Ahmedabad, his seat no. was 2D however he managed to sit on 19A. He destroyed/deleted his air-ticket. He further stated that the boarding pass in original was already taken over from him during the course of Panchnama dated 25-26.02.2025.
- On being asked about the purpose of his journey, he stated that he had to receive 10 gold strips as informed by Irshad Bhai@Dubai which were hidden below the seats 19 A in flight number 6E 381 from Goa to Ahmedabad which was originally converted from international flight to domestic.
- He admitted that it is illegal to smuggle gold without declaring the same to the Customs authorities.
- He stated that he had been explained the provisions of Section 111 of the Customs Act, 1962 and after understanding the same he stated that the gold smuggling in any form is liable for confiscation under the provisions of Customs Act, 1962.
- Further, the Valuation Certificate No. 1665/2024-25 dated 25.02.2025 issued by Shri Soni Kartikey Vasantraai was shown to him by the officers and he agreed with the same. He further stated that in the said report, the details of gold recovered, its purity, market value, Tariff value of the gold seized, etc., had been mentioned and he agreed with the details given therein. He also agreed to the facts stated therein the report and confirmed the smuggled gold strips are of foreign origin.
- He further stated that he was shown the provisions under Section 123 of the Customs Act, 1962 which he read and understood the provisions provided therein.
- He agreed with the provisions under Section 123 of the Customs Act, 1962, and stated that he did not have any proof to prove that the gold seized were not smuggled. He further stated that he was not carrying any documents proving the legitimate import of the said gold strips as it was meant for smuggling only.
- He also agreed that the smuggled gold he brought from Goa which was foreign origin, is liable for confiscation under the provisions of Customs Act, 1962. Further, he agreed that as per Section 112 of the Customs Act, 1962, the 'smuggled goods, viz., foreign origin gold strips which were seized vide seizure memo dated 26.02.2025, is liable for confiscation as per Section 111 of the Customs Act, 1962 and penalty under Section 112 of the Customs Act, 1962. Therefore, in the individual capacity he had committed an offence punishable under Section 135 of the Customs Act 1962.

**4.3** Statement of Shri Tabrez Bana was recorded under Section 108 of the Customs Act, 1962 on 26.02.2025, wherein he interalia stated that:

- He was shown the Panchnama dated 25-26-02.2025 drawn at SVPI Airport, Ahmedabad along with valuation certificate issued by Shri Soni Karthikey and stated that he was present in the Indigo Flight 6E 381 on 25.2.2025 and further Panchnama proceedings were done as per the actual event occurred in his presence and he agreed with the facts mentioned in the said Panchnama.

- He stated that he had traveled through Indigo Flight 6E 381 for traveling from Goa to Ahmedabad on 25.2.2025.
- He stated that he agreed with the facts that 10-strip of gold coated with black colour totally weighing 1866 Grams with purity 999/24 KT were found by the officers from the shoulder bag of "Winsor" brand belonging to Shri Obaid Abdul Razzak Shaikh. He further stated that it was belonging to all the four persons i.e. himself, Mr. Obaid Abdul Razzak Shaikh, Mohammed Farid Alamhusain Mirza & Irshad Bhai, which was managed to be kept below the seat No. 19A by Shri Irshad, while the said aircraft traveled from Dubai to Ahmedabad on 25.2.2025 and collected by them from the seat while boarding at Goa and had been kept in the shoulder bag of "Winsor" brand belonging to Shri Obaid Abdul Razzak Shaikh. He further added that they were owning equal proportion of in the said seized quantity of gold.
- He stated that he was travelling with two other colleagues/friends namely Shri Obaid Abdul Razzak Shaikh and Shri Mohammed Farid Alamhusain Mirza. He further stated that he was carrying Black Shoulder Bag of "LITRD" brand only.
- He stated that he is from Mumbai and he travelled from Goa to Ahmedabad. However, he had no work either business or personal at Goa or Ahmedabad.
- He stated that his seat No. was 12C. Further, he stated that he traveled through seat No. 1B, which was originally allotted to Shri Mohammed Farid Alamhusain Mirza. Further, he added that Mohammed Farid Alamhusain Mirza was seated in the 19<sup>th</sup> row along with Shri Obaid Abdul Razzak Shaikh.
- He stated that tickets for him and his colleagues for journey from Mumbai to Goa (Air India Flight, which was scheduled to depart @5.10 AM on 25.2.2025 from Mumbai) was booked by him. However, for further journey i.e. from Goa to Ahmedabad, He transferred the amount for booking of two tickets (Two Persons) to Shri Mohammed Farid Alamhusain Mirza through his google pay account (UPI-ID: tabrezbana@okaxis; UPI TR.ID 542115109406) and asked him to book for him and Shri Obaid Abdul Razzak Shaikh. Further, he stated that he did not book their tickets directly as they were traveling from Goa to Ahmedabad for collecting the smuggled gold concealed in the aircraft and accordingly, it was decided to have separate PNR as part of their strategy. Accordingly, they both were asked to book their tickets.
- He stated that on 24.02.2025, their syndicate member namely Mr. Irshadbhai@Dubai had telephonically informed that he would manage to send the Gold in Strips form by way of concealment in any particular seat of Indigo Flight would arrives from Dubai on 25.2.2025 to Ahmedabad in the morning on 25.2.2025 and were asked to book air tickets from Goa to Ahmedabad to collect the said smuggled gold. Accordingly, specific flight number 6E 381 from Goa to Ahmedabad was chosen by them.
- He stated that he met Mr. Irshad Bhai @Dubai tentative in the month of December-2024, wherein discussed about their financial crunch against which Shri Irshad Bhai@Dubai informed that he can earn money through Gold Smuggling. Further, informed that he may require to invest money attributed to gold Quantity. Shri Irshadbhai would manage to send the Gold from Dubai in hidden manner and he was to collect the same from the said aircraft while it got turn into domestic route by traveling through the said flight. Shri Irshad Bhai@Dubai further informed that he may get around 1 to 1.5 lacs per 1 KG of smuggled gold transaction in the above

said manner. Shri Irshad also assured that he would manage to sell the said smuggled gold through their person in India. He further stated that he did not have further details about Mr. Irshad Bhai@Dubai except his contact number i.e. +971524165040 and further added that he was tempted through the above offer and he shared the same to his friends Mr. Obaid Abdul Razzak Shaikh, Mohammed Farid Alamhusain Mirza, who also showed their willingness to join in the said activity of smuggling. On being further asked, He was to pay Shri Irshad in advance than upon selling the said smuggle gold he would have to transfer their profit margin only and would credit the remaining amount in their account for the next purchase.

- He stated that he was not carrying any Checked in Baggage but carrying only hand bag.
- He stated that he himself, Mr. Obaid Abdul Razzak Shaikh, Mohammed Farid Alamhusain Mirza & Irshadbhai had equally invested in the said smuggled gold.
- He stated that the gold was brought for the sole intention of smuggling. Hence, no question arises to have legitimate import documents as well as purchase document. He further re-iterated that it was brought for the sole intention of smuggling.
- He stated that he agreed with the facts that the gold smuggled were hidden in the Air Craft came from Dubai on 25.2.2025 and to hide the same from the Customs Authority, it was not removed from the said flight and but it was chosen to be removed when the said air craft converted in the domestic route i.e. Goa to Ahmedabad.
- He stated that he did not have any invoice of its purchase or any documents in proof of its legitimate import since it was brought with the clear intention of smuggling and he further stated that it is illegal to smuggle gold without declaring the same to the Customs authorities.
- He stated that he had been explained the provisions of Section 111 of the Customs Act, 1962 and after understanding the same he stated that the said gold smuggled in any form is liable for confiscation under the provisions of Customs Act, 1962.
- He was shown the provisions of Section 123 of the Customs Act, 1962 and agreed that he did not have any proof to prove that the gold seized are not smuggled as he was not carrying any documents proving the legitimate import of the said gold strips as it was meant for smuggling only. He stated that and agreed that smuggled gold originally brought from Dubai byway of concealment is liable for confiscation under the provisions of Customs Act, 1962. Further, he agreed that as per Section 112 of the Customs Act, 1962, the 'smuggled goods, viz., foreign origin gold which were seized vide seizure memo dated 26.2.2025, is liable for confiscation as per Section 111 of the Customs Act, 1962 and penalty under Section 112 of the Customs Act, 1962.

Therefore, he, Mr. Obaid Abdul Razzak Shaikh, Mohammed Farid Alamhusain Mirza & Irshadbhai had committed an offence punishable under Section 135 of the Customs Act 1962.

**4.4** Statement of Shri Mohammed Farid Alamhusain Mirza was recorded under Section 108 of the Customs Act, 1962 on 26.02.2025, wherein he interalia stated that:

- He was shown the Panchnama of dated. 25-26.02.2025 drawn at the Arrival Hall of Terminal-2 and he further stated that he was present in the

Indigo Flight 6E 381 on 25.2.2025 and further Panchnama proceedings were done as per the actual event in his presence. He agreed with facts of valuation report and Panchnama dated 25.2.2025.

- He stated that he had traveled through Indigo Flight 6E 381 for traveling from Goa to Ahmedabad on 25.2.2025.
- He stated that he was travelling along with two other passengers namely Shri Obaid Shaikh and Tabrez Bana in the flight.
- He stated that they all met at Mumbai Airport before travelling to Goa. Thereafter, they all went to Goa in the Air India Flight.
- He stated that he was going to Goa to further travel from Goa to Ahmedabad as told by Shri Tabrez Bana. He used to work as a freelance job for mobile purchasing and selling. His seat number in Goa to Ahmedabad indigo flight was 1B.
- He stated that Shri Tabrez Bana had booked ticket for him from Mumbai to Goa. However, the ticket for Goa to Ahmedabad was booked by him but Shri Tabrez Bana paid for cost of the ticket.
- He stated that Shri Tabrez Bana told him to book that flight number 6E 381 from Goa to Ahmedabad. After reaching at Goa airport from Mumbai, He was told by Shri Tabrez Bana that gold is concealed at seat no. 19A of flight no. 6E 381 from Goa to Ahmedabad.
- He stated that he was not carrying any Checked in Baggage but carried only hand bag. During his journey, he was carrying Black Colour handbag.
- He stated that he along with his co-passengers travelled from Mumbai to Goa and then from Goa to Ahmedabad to remove gold from seat no. 19A of flight no. 6E 381 from Goa to Ahmedabad.
- He stated that he completely agreed that he clearly denied to declare any illegal thing such as foreign origin gold or foreign currency to the officers.
- He stated that Shri Obaid Shaikh was carrying the shoulder bag of "Winsor" brand at the time of travelling from Goa to Ahmedabad.
- He stated that he agreed with the facts that 10 strips of gold coated with black Colour were found in grey colour shoulder bag of "Winsor" brand belonging to Shri Obaid Abdul Razzak Shaikh.
- He stated that they got the gold under the seat no 19A of the flight number 6E381. This gold strips were left there under the seat by pasting it under the Velcro fabric of seat no 19 A. This gold strip was pasted by someone travelling from Dubai and further stated that Shri Obaid, he and Shri Tabrez all were tasked to remove the gold from the said seat and take it out of Airports to Mumbai. They were to get around 40 to 50 thousand rupees each from the profit. He was supposed to handover the gold strips to Shri Tabrez for further sale in Mumbai.
- He stated that he was not carrying any invoice of its purchase or any documents in proof of its legitimate import. He further stated that he did not have any invoices to submit.
- He stated that gold was sent by Shri Irshad bhai from Dubai. He never contacted him and also never met him. Shri Irshad Bhai contacted Shri Tabrez to inform about the gold and its location. He did not have Shri Irshad bhai's number. He further stated that Shri Irshad Bhai planned the journey and informed Shri Tabrez regarding the same and further Shri Irshad Bhai contacted Shri Tabrez to inform that he was sending the gold and also planned their journey.

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- He stated that he did not know who brought the gold strips in India. He also stated that the gold came in the same flight no 6E-381 in which they travelled from GOA to Ahmedabad.
- He stated the he had given his consent to be checked before the Gazetted officer of Customs as he had full faith on the Customs and their officers.
- He stated that his last visit to Dubai was in January before and his purpose of journey was purchasing Mobiles from Dubai and selling the same in Dubai market. He used to earn around 1000-1200 Dirham from purchase and sale.
- He stated that he himself managed for his VISA.
- He stated that he had been explained the provisions of Section 111 of the Customs Act, 1962 and after understanding the same, he stated that the said gold smuggled in any form is liable for confiscation under the provisions of Customs Act, 1962.
- He stated that he agreed with the valuation report dated 25.02.2025 submitted Shri Soni Karthikey, a Government Approved Valuer and stated that the details of the Gold recovered, its purity, market value, Tariff value of the gold seized, etc., has been mentioned and he agreed with the details given therein. He also agreed with the facts stated therein the report and confirm the smuggled gold strips were of foreign origin.
- He stated that he agreed with the provisions under Section 123 of the Customs Act, 1962 and stated that he did not have any proof to prove that the gold seized are not smuggled as he was not carrying any documents proving the legitimate import of the such 10 gold strips as it was meant for smuggling only.
- He also stated that the smuggled gold he brought from Goa, was of foreign origin and had been sent from Dubai, is liable for confiscation under the provisions of Customs Act, 1962. Further, he agreed that as per Section 112 of the Customs Act, 1962, the 'smuggled goods, viz., foreign origin gold which were seized vide seizure memo dated 26.02.2025 which is liable for confiscation as per Section 111 of the Customs Act, 1962 and penalty under Section 112 of the Customs Act, 1962. Therefore, he, along with his co-passengers namely Shri Obaid Shaikh and Shri Tabrez Bana had committed an offence punishable under Section 135 of the Customs Act 1962.

The details of the gold recovered from all 03 passengers are as under:

Sr. No.	Details of Items	Pcs	Net Weight in Grams	Purity	Market Value (Rs.)	Tariff Value (Rs.)
01.	Strips Shape Gold Coated with Black Colour	10	1866.0	299.0 24kt	16682040	15358953
	Total	10	1866.0	299.0 24kt	16682040	15358953

## **5. ARREST OF SHRI OBAID ABDUL RAZZAK SHAIKH, SHRI TABREZ AKBARALI BANA AND SHRI MOHAMMED FARID ALAMHUSAIN MIRZA:**

**5.1.** Based on the evidences gathered and the statements recorded as above, it appears that Shri Obaid Abdul Razzak Shaikh, Shri Tabrez Akbarali Bana and Shri Mohammed Farid Alamhusain Mirza have committed an offence punishable under Customs Act, 1962. It appears that they have smuggled total of 10 (ten) strips shape gold, having total weight of 1866.00 grams, purity of 999.0/24Kt and having total market value of Rs.1,66,82,040/- without declaration of the same to the Customs Authorities with a view to evading payment of Customs duty, the said gold attempted to be smuggled by them are liable to confiscation

under the provisions of Section 111 of the Customs Act, 1962. During the conducting personal search at the time of interception and subsequent investigation evidently led that all of three passengers in a very planned smuggling operation, in active connivance with Shri Obaid Abdul Razzak Shaikh and Shri Mohammed Farid Alamhusain Mirza, under the guidance of one Shri Irshad Bhai based in Dubai. The syndicate conspired to smuggle 10 strips of foreign-origin gold weighing 1866 grams, concealed under seat no. 19A of Indigo Flight 6E 381 during its international leg from Dubai to Ahmedabad on 25.02.2025, and to retrieve the same during the flight's domestic leg from Goa to Ahmedabad to evade Customs detection at the international arrival point. From the above, it evidently established that they have knowingly concerned themselves in an offence punishable under Section 135(1) of the Customs Act, 1962, as they had knowingly involved themselves in dealing/carrying with 1866.00 grams, purity of 999.0/24Kt and having total market value of Rs.1,66,82,040/- and concerned themselves in carrying, removing, depositing, harboring, keeping, concealing of smuggled Gold, which they knew and/or had reasons to believe that the same were liable to confiscation under Section 111 of the Customs Act, 1962. Hence, all three as Shri Obaid Abdul Razzak Shaikh, Shri Tabrez Akbarali Bana and Shri Mohammed Farid Alamhusain Mirza were arrested on 26.02.2025 at Ahmedabad under the provisions of Section 104 of the Customs Act, 1962 vide Arrest Memo dated 26.02.2024, after getting required order from the competent authority. They were further produced before the Hon'ble Court of ACMM, Ahmedabad, who ordered for their judicial custody.

## **6. FURTHER INVESTIGATION CONDUCTED:**

**6.1.** During the course of recording statements dated 26.02.2025 of Shri Obaid Abdul Razzak Shaikh, Shri Tabrez Akbarali Bana and Shri Mohammed Farid Alamhusain Mirza respectively, they inter-alia stated that all three passengers in a very planned smuggling operation, in active connivance with Shri Obaid Abdul Razzak Shaikh and Shri Mohammed Farid Alamhusain Mirza, under the guidance of one Shri Irshad Bhai based in Dubai, attempted to smuggle 10 strips of foreign-origin gold weighing 1866 grams, concealed under seat no. 19A of Indigo Flight 6E 381 during its international leg from Dubai to Ahmedabad on 25.02.2025, and to retrieve the same during the flight's domestic leg from Goa to Ahmedabad to evade Customs detection at the international arrival point.

**6.2.** Accordingly, Customer Application Form (CAF), Subscriber Data records (SDR), Call Data Records (CDR) and certificate with reference to Mobile No. 9372941706 (Reliance Jio), 9619710755 (Vodafone-Idea), 8828284414 (Airtel) and 8976330723 (Airtel) were obtained from the respective Nodal Officer, of Telecom Services.

**6.3.** On examination of the Subscriber Data records provided by the respective Telecom Services, Mob. No. 9619710755 belongs to Shri Tabrez Bana, Mob. No. 8828284414 belongs to Shri Mohammed Farid Alamhusain Mirza and the mobile No(s). 9372941706 belongs to Shri Afraz Ahmed Rais Patni and Mob. No. 8976330723 belongs to Shri Aayodhya Jaiswar s/o Shri Divakar Prasad Jaiswar.

It came to notice that mobile numbers 9372941706 and 8976330723 were actually being used by Shri Obaid Abdul Razzak Shaikh.

**6.4.** Accordingly, summons dated 30.05.2025, 18.06.2025 and 01.07.2025 were issued to Shri Afraz Ahmed Rais Patni s/o Rais Patni, 5, Tavawala Building, 4<sup>th</sup> Floor, Room No. 145, Dhobi Stret, Nr. Zakaria Masjid, Mumbai, Maharashtra-400003, holding the actual subscriber of Mob. No. 9372941706 and to Shri Aayodhya Jaiswar s/o Divakar Prasad J Haiswar, Lokmanya CHS, Room No. 194, AKG Nagar, 60 feet Road, Dharavi Mumbai, Maharashtra-400017, the actual

subscriber of Mob. No. 8976330723 to appear on 10.06.2025, 27.06.2025 and 08.07.2025 for recording the statements.

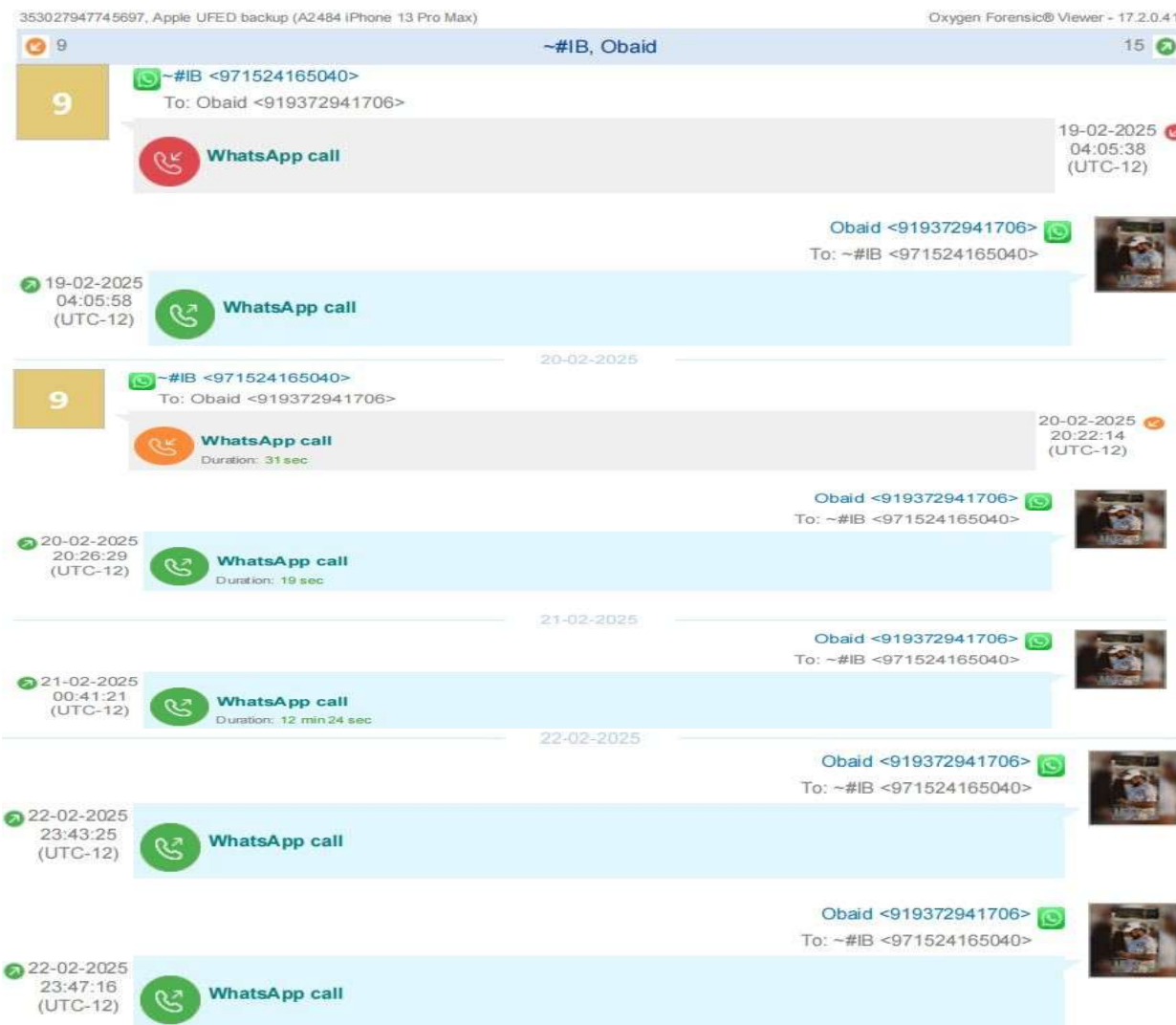
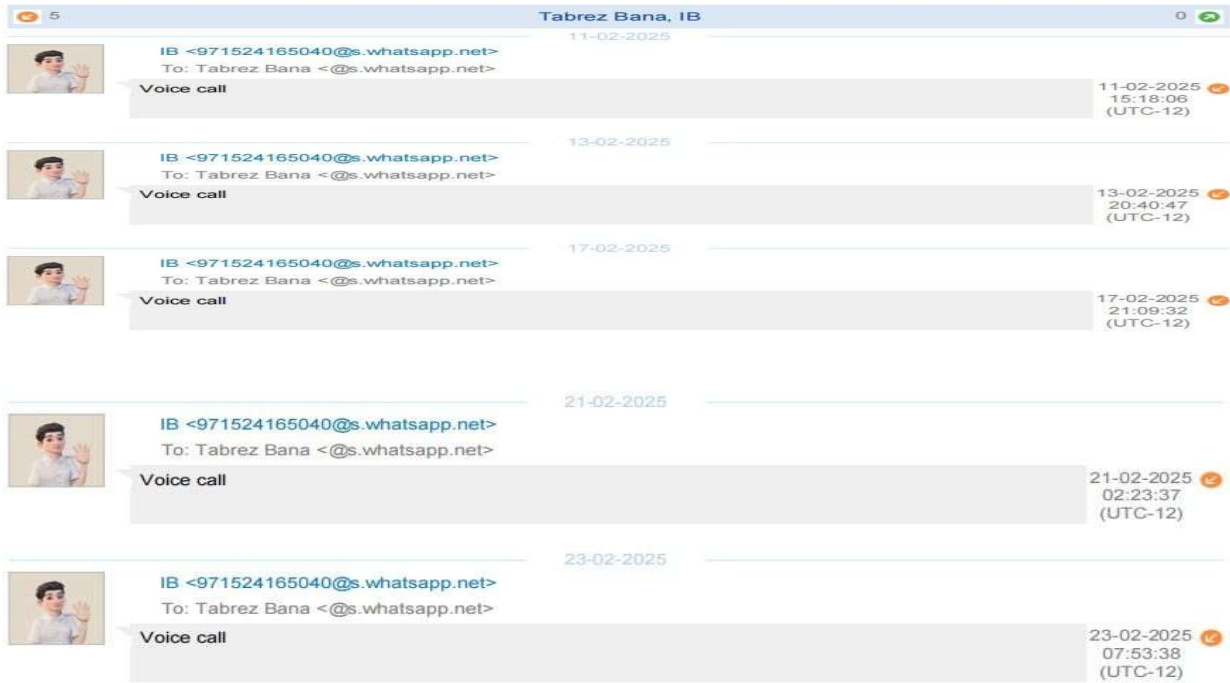
**6.4.1.** In response to the summons issued to Shri Aayodhya Jaiswar, S/o Divakar Prasad Jaiswar, residing at Lokmanya CHS, Room No. 194, AKG Nagar, 60 Feet Road, Dharavi, Mumbai, Maharashtra – 400017, the same was returned undelivered with the remark “Not Found.” Further, the summons issued to Shri Afraz Ahmed Rais Patni, S/o Rais Patni, at 5, Tavawala Building, 4th Floor, Room No. 145, Dhobi Street, Near Zakaria Masjid, Mumbai, Maharashtra – 400003, remained un-responded.

**6.4.2.** Since, mobile numbers 9372941706 and 8976330723 were actually being used by Shri Obaid Abdul Razzak Shaikh, Summons dated 05.08.2025, 12.08.2025 and 14.08.2025 were also issued to him via email as well as by post for clarification of the same, however, he chose to not to participate in the investigation.

## **7. FORENSIC EXAMINATION OF MOBILE PHONES OF SHRI OBAID ABDUL RAZZAK SHAIKH, SHRI TABREZ AKBARALI BANA AND SHRI MOHAMMED FARID ALAMHUSAIN MIRZA:**

**7.1.** During the course of their respective statements of the above persons, they had voluntarily submitted their mobile phones under their statements dated 26.02.2025 for further investigation. The said mobile phones were sent to National Forensic Sciences University, Gandhinagar, for forensic analysis and examination. National Forensic Sciences University, Gandhinagar vide their letter reference case no. DGGI-NFSU/DFL/2025/AZU/32 dated 19.05.2025 submitted/provided their report along with extracted data. NFSU also issued certificate under Section 63(4)(C) of Bhartiya Sakshya Adhiniyam, 2023 to this office in respect of above retrieval.

**7.2.** During the course of analysis of the extracted data from the mobile phones of all involved individuals, as provided by the National Forensic Sciences University (NFSU), Gandhinagar, no chat messages relevant to the present smuggling case were found. However, upon examination of the Samsung, Model No. SM-A156E/DS mobile phone belongs to Shri Tabrez Bana and iPhone 13 Pro Max, MLJD3J/A belongs to Obaid Abdul Razzak Shaikh, **it is observed that multiple voice calls had taken place among them and one Shri Irsadbhai@Dubai (contact no. +971524165040) saved as IB in their Mobiles**, in the month of February,2025 which are as under:



**7.2.1.** Further, during the course of analysis of extracted data of Mobile phones of Obaid Abdul Razzak Shaikh and Tabrez Akbarali Bana Mohammed and Farid Alamhusain Mirza various voice calls were found which co-relates/establishes their contacts with one another. Some images of voice calls are placed herewith:

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Furthermore, analysis of the Call Detail Records (CDRs) for the numbers 8828284414 (registered to Shri Mohammed Farid Alamhusain Mirza), 9619710755 (registered to Tabrez Akbarali Bana Mohammed) and 9372941706 (used by Obaid Abdul Razzak Shaikh) reveals active communication among the three individuals during the said period.

These evidences establish a link not only between Shri Mohammed Farid Alamhusain Mirza, Obaid Abdul Razzak Shaikh, and Tabrez Akbarali Bana Mohammed, but also indicates their connection with Shri Irshadbhai, currently based in Dubai.

**8.** Further, letters dated 05.03.2025, 01.04.2025, 20.06.2025, and 26.06.2025 were issued to the authorized representative (In-charge), Indigo Airlines, SVPI Airport, Ahmedabad, requesting specific information in connection with Seat No. 19A, 19B and 19C of Indigo Flight No. 6E 381 dated 25.02.2025. The requested information includes: (i) complete journey details of aircraft registration number used for Flight No. 6E 381 on 25.02.2025; (ii) details of aircraft rotation and its conversion from international to domestic operations on 25.02.2025; (iii) the complete details of the aircraft registration number used for flight number 6E-381, its route with timings, including all origin and intermediate stops on 25.02.2025; and (iv) complete contact and identification details (including address, mobile number, passport number, and email address) of the passengers who travelled with Seat No. 19A, 19B and 19C on the said aircraft on the sectors: Dubai to Ahmedabad, Ahmedabad to Goa, and Goa to Ahmedabad on 25.02.2025.

**8.1.** Vide reply through e-mail ID notice@goIndiGo.in dated 20.05.2025, received from For and on behalf of InterGlobe Aviation Limited, Indigo, details in respect of Seat numbers 19A, 19B and 19C pertaining to Indigo Flight No.6E 381 from Goa to Ahmedabad were provided to this office apart from mobile numbers and Passport numbers and requested to contact third party travel agent namely Shree Akshar International in respect of Seat Numbers 19A and 19B and Makemy Trip (India) Pvt. Ltd. in respect of Seat number 19C for further details.

**8.1.1.** Upon inquiry regarding the passengers occupying seat numbers 19A and 19B, Akshar Travels Pvt. Ltd., located at 21, City Centre, Swastik Cross, C.G. Road, Ahmedabad-380009, provided copies of the passports associated with these seat numbers vide email ID akshar.domesticticket@gmail.com and as per the Passport Details, both the passengers hold British citizenship. Additionally, Akshar Travels Pvt. Ltd. has informed that they do not possess any mobile numbers and email IDs, for these passengers. The booking was reportedly made via a WhatsApp call from the number i.e. +44 7701 067706.

**8.1.2.** On asking the information related to Passenger having seat number 19C mobile number i.e. 9833110556 (Vodafone-Idea) and email id were provided by Make my Trip (India) Pvt. Ltd. vide email ID Legal@makemytrip.com. On examination of the Subscriber Data record provided by the respective Telecom

Service, summons dated 25.07.2025, 05.08.2025 and 12.08.2025 were issued via email as well as by post to Mohammed Roshaid Naseer Abbas Sayed, Room No-9/16, 2nd floor, Zainbaia building, Bhendi Bazar 132 Husainya, Marg (Pakmodia Street), Mumbai, Maharashtra-400003, however, he never joined the investigation.

**8.2.** Vide reply through e-mail ID Pramod.Uttamchandani@goIndiGo.in dated 01.07.2025, received from Shri Pramod V Uttamchandani, Airport Manager, Inter Globe Aviation Ltd. (Indigo) SVPI Airport, Ahmedabad following details have been provided:

Flight Date	Flight Num.	Aircraft Type	Registration	STD	Depart. Airport	Arrival Airport	STA	Door Closure	Chocks Off	Airborne	Chocks On	DOM / INT
24-022025	1477	320	VTISX	02:20	AMD	DXB	04:05	01:50	01:59	02:12	03:38	INT
24-022025	1478	320	VTISX	05:15	DXB	AMD	09:20	04:54	05:03	05:17	08:54	INT
24-022025	6345	320	VTISX	11:10	AMD	GOI	12:40	11:01	11:14	11:32	13:01	DOM
24-022025	381	320	VTISX	13:30	GOI	AMD	15:10	13:28	13:46	14:04	15:32	DOM
24-022025	935	320	VTISX	16:05	AMD	LKO	17:45	16:05	16:16	16:34	17:59	DOM
24-022025	6968	320	VTISX	18:15	LKO	AMD	20:15	18:35	18:42	18:58	20:56	DOM
24-022025	794	320	VTISX	20:55	AMD	PNQ	22:05	21:31	21:44	21:55	22:58	DOM
24-022025	547	320	VTISX	22:45	PNQ	AMD	00:05	23:25	23:35	23:51	00:55	DOM
25-022025	1477	320	VTIJQ	02:20	AMD	DXB	04:05	02:05	02:20	02:35	04:06	INT
25-022025	1478	320	VTIJQ	05:15	DXB	AMD	09:20	05:00	05:09	05:29	09:22	INT
25-022025	6345	320	VTIJQ	11:10	AMD	GOI	12:40	10:57	11:08	11:24	12:52	DOM
25-022025	381	320	VTIJQ	13:30	GOI	AMD	15:10	13:22	13:25	13:40	15:14	DOM
25-022025	935	320	VTIJQ	16:05	AMD	LKO	17:45	16:14	16:20	16:29	17:54	DOM
25-022025	6968	320	VTIJQ	18:15	LKO	AMD	20:15	18:24	18:26	18:43	20:29	DOM
25-022025	794	320	VTIJQ	20:55	AMD	PNQ	22:05	21:07	21:11	21:24	22:15	DOM
25-022025	547	320	VTIJQ	22:45	PNQ	AMD	00:05	22:47	22:49	23:02	00:18	DOM

In view of the above, it appears that Flight Nos. 1478, 6345, and 381 operated with the same aircraft type and registration number. Initially, the route was international but was subsequently converted into a domestic route. As per the statements of all the three accused, the 10 gold strips were affixed beneath the seat of the aircraft during boarding at Dubai, confirming that the 10 gold strips were of foreign origin.

**8.3.** Vide reply through e-mail ID Shah.Rakeshbhai@goIndigo.in and cc to Pramod.Uttamchandani@goIndiGo.in dated 04.07.2025, received from Riddhi Shah, Senior Executive MHB Coordination SVPI Airport, Ahmedabad details in respect of Seat numbers 19A, 19B and 19C pertaining to Indigo Flight No.6E1478 from Dubai to Ahmedabad and Flight No.6E 6345 from Ahmedabad to Goa were provided.

**8.3.1.** Accordingly, Customer Application Form (CAF), Subscriber Data records (SDR), Call Data Records (CDR) and certificate with reference to Mobile No. 9033342770 (Reliance Jio), 9840875225 (Airtel), 9099948339 (Airtel) and 9725436699 (Airtel) were obtained from the respective Nodal Officer, of Telecom Services.

**8.3.2.** On examination of the Subscriber Data records provided by the respective Telecom Services, summons dated 25.07.2025, 05.08.2025 and 12.08.2025 were issued via emails as well as by post to Rank Navneet

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Ghanshyambhai, S/o Rank Ghanshyambhai, Address-1) 1st Floor, Prashanti Heights, behind Fun Blast Gaming Zone, 150 ft Ring Road, Ahmedabad, Address-2) Shree Yamuna Kunj Shiv Ganga Society Main Road Near Police Head Quarter Nana Mauva Road Rajkot, Gujarat- 360004 and Address-3) 402,"Possible Triangle Commercial Complex", Mavdi Bypass Rd,Rajkot, Gujarat 360004, Sadakkathullah, S/o PasithNainaMohamed, 1<sup>st</sup> Cross Street, Ramapuram Tiruvallur, Chennai, Tamil Nadu, 600089,Sharma Shubham, S/o Ashokbhai, Address-1) B/103, Diwali Elegance, Vaishnudevi Circle, Ahmedabad, Address-2), 30, N R Patel Park Part 1, Nava Wadaj, Nr National Handloom, Ahmedabad-382421, Nipul Patel, S/o Chandu Patel, A/127, Asopalav Society, Nr. Mahalaxmi Corner, Vatva Gam, Vatva, Ahmedabad, Gujarat-382440. Mohammed Roshaid Naseer Abbas Sayed, Room No-9, /16, 2nd floor, Zainbaia building, Bhendi Bazar 132 Husainya, Marg (Pakmodia Street), Mumbai, Maharashtra-400003. However, except Nipul Patel, S/o Chandu Patel no one came forward to participate in the investigation. As per Nipul Patel's (travelled through Flight No. 6E 6345, Seat No.19C from Ahmedabad to Goa) statement, nothing has emerged to suggest his connivance in the smuggling of the 10 gold strips.

In connection with the 63 Certificates in respect of 9372941706, 9033342770, 9619710755, 9833110556, 9099948339, 8828284414, 8976330723, 9840875225, 9725436699, may be referred to.

## **9. SUMMARY:**

**9.1.** Based on the voluntary statements recorded under Section 108 of the Customs Act, 1962, it stands clearly established that Shri Tabrez Hussain Bana played the central role as the key conspirator and coordinator in a well-planned and organized act of smuggling foreign-origin gold into India by misusing the domestic leg of Indigo Flight No. 6E 381, which operated from Goa to Ahmedabad on 25.02.2025. Acting under the instructions of one Shri Irshad Bhai, based in Dubai, who arranged for the concealment of 10 stripshaped gold strips (weighing 1866 grams, purity 999) under Seat No. 19A during the aircraft's international leg from Dubai to Ahmedabad, Shri Tabrez Hussain Bana orchestrated the travel of himself and his associates— Shri Obaid Abdul Razzak Shaikh and Shri Mohammed Farid Alamhusain Mirza—from Mumbai to Goa.

**9.2.** Subsequently, all three individuals boarded the same aircraft (bearing the registration number used for Flight No. 6E 381) for its domestic leg from Goa to Ahmedabad with the intent of retrieving the concealed gold after the aircraft had been converted to a domestic sector, thereby circumventing the Customs checks applicable at international arrivals. As per the execution of the plan, Shri Obaid Abdul Razzak Shaikh physically retrieved the concealed gold and carried it in a shoulder bag, while Shri Mohammed Farid Alamhusain Mirza assisted and facilitated the operation with full prior knowledge of the concealment and its objective.

**9.3.** All three individuals, in their respective statements, have admitted to their roles, financial involvement, and confirmed that the smuggled gold was intended for illicit sale in the Indian market without any supporting legal import documents. The entire operation was carried out with full awareness of its illegality and in conscious violation of the provisions of the Customs Act. Accordingly, the recovered foreign-origin gold is liable for confiscation under the provisions of Sections 111 and 123 of the Customs Act, 1962. Further, all the above-named individuals are liable to penalty and prosecution under Sections 112 and 135 of the said Act.

**10.** From the foregoing, it is evident that 10 (ten) strip-shaped gold strips, having a total weight of 1866.00 grams, purity of 999.0/24Kt, and a total market value of ₹1,66,82,040/-, were attempted to be smuggled into India by Shri Obaid

Abdul Razzak Shaikh, Shri Tabrez Akbarali Bana, and Shri Mohammed Farid Alamhusain Mirza, in active connivance with one Shri Irshad, based in Dubai. The smuggling was carried out through Sardar Vallabhbhai Patel International Airport, Ahmedabad, by misusing the domestic leg of Indigo Flight No. 6E 381 operating from Goa to Ahmedabad on 25.02.2025, thereby deliberately circumventing the Customs checks applicable at international arrivals.

**10.1.** In view of above, 10 (ten) strip-shaped gold strips, having a total weight of 1866.00 grams, purity of 999.0/24Kt, and a total market value of ₹1,66,82,040/- recovered from Shri Obaid Abdul Razzak Shaikh, Shri Tabrez Akbarali Bana, and Shri Mohammed Farid Alamhusain Mirza, in active connivance with one Shri Irshad, based in Dubai are to be treated as smuggled goods as defined under Section 2(39) and prohibited goods as defined under Section 2(33) of the Customs Act, 1962 as the same were brought into India, attempting to smuggle into India by violating the provisions of the Customs Act, 1962 and FTP.

**10.2.** From all the above foregoing paras, it evidently appears that Shri Obaid Abdul Razzak Shaikh, Shri Tabrez Akbarali Bana, and Shri Mohammed Farid Alamhusain Mirza with the nexus of Shri Irshad@Dubai have conspired to smuggle the above 10 (ten) strip-shaped gold strips, having a total weight of 1866.00 grams, purity of 999.0/24Kt, and a total market value of ₹1,66,82,040/- The offences committed by Shri Obaid Abdul Razzak Shaikh, Shri Tabrez Akbarali Bana, and Shri Mohammed Farid Alamhusain Mirza have also been admitted in their respective statements recorded under Section 108 of the Customs Act, 1962 as mentioned in para supra. The market value of above gold is Rs. 1,66,82,040/- , which is more than one Crore. The same were seized under Section 110 of the Customs Act, 1962 as the same were liable to confiscation under Section 111 of the Customs Act, 1962.

**10.3.** From the above, it also established that they have knowingly concerned themselves in an offence punishable under Section 135(1) of the Customs Act, 1962, as they had knowingly involved themselves in dealing/carrying with 1866.00 grams of smuggled Gold having purity of 999.0/24 Carat for total market value of Rs.1,66,82,040/- and concerned themselves in carrying, removing, depositing, harbouring, keeping, concealing of smuggled Gold, which they knew and/or had reasons to believe that the same were liable to confiscation under Section 111 of the Customs Act, 1962.

## **11. LEGAL PROVISIONS:**

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

**11.2.** All the dutiable articles imported into India by a passenger in his baggage are classified under CTH 9803. As per Section 77 of the Customs Act, 1962, the owner of any baggage shall for the purpose of clearing it, make a declaration of its contents to the proper officer. As per Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992, no export or import shall be made by any person except in accordance with the provisions of Foreign Trade (Development and Regulation) Act, 1992, the Rules and Orders made there under and the Foreign Trade Policy for the time being in force.

**11.3.** In terms of Para 2.26 (a) of the Foreign Trade Policy 2015-2020, only bona fide household goods and personal effects are allowed to be imported as part of passenger baggage as per limits, terms and conditions thereof in Baggage Rules notified by the Ministry of Finance. The gold can be imported by the banks

(authorized by RBI) and the agencies nominated for the said purpose under Para 4.41 of Chapter-4 of Foreign Trade Policy or by "Eligible Passenger" as per the provision of Notification No. 50/2017- Customs dated 30.06.2017 (Sr. No. 356). As per Notification No. 50/2017- Customs dated 30.06.2017, the 'eligible passenger' means passenger of Indian origin or a passenger holding valid passport issued under the Passport Act, 1967 who is coming to India after a period of not less than 6 months of stay abroad.

The above said legal provisions are reproduced below:

**Para 2.26 (a) of the Foreign Trade Policy 2015-2020:**

Bona-fide household goods and personal effects may be imported as part of passenger baggage as per limits, terms and conditions thereof in Baggage Rules notified by the Ministry of Finance.

**Para 4.41 of the Foreign Trade Policy 2015-2020:**

*Nominated Agencies: -Exporters may obtain gold / silver / platinum from Nominated Agency. Exporter in EOU and units in SEZ would be governed by the respective provisions of Chapter-6 of FTP / SEZ Rules, respectively.*

*(i) Nominated Agencies are MMTC Ltd, The Handicraft and Handlooms Exports Corporation of India Ltd, The State Trading Corporation of India Ltd, PEC Ltd, STCL Ltd, MSTC Ltd, and Diamond India Limited.*

*(ii) Notwithstanding any provision relating to import of gold by Nominated Agencies under Foreign Trade Policy (2015-2020), the import of gold by Four Star and Five Star Houses with Nominated Agency Certificate is subjected to actual user condition and are permitted to import gold as input only for the purpose of manufacture and export by themselves during the remaining validity period of the Nominated Agency certificate.*

*(iii) Reserve Bank of India can authorize any bank as Nominated Agency.*

*(iv) Procedure for import of precious metal by Nominated Agency (other than those authorized by Reserve Bank of India and the Gems & Jewellery units operating under EOU and SEZ schemes) and the monitoring mechanism thereof shall be as per the provisions laid down in Hand Book of Procedures.*

*(v) A bank authorized by Reserve Bank of India is allowed export of gold scrap for refining and import standard gold strips as per Reserve Bank of India guidelines.*

**11.4.** Condition 41 of Sl. No. 356 of CBIC Customs Notification No. 50/2017 dated 30.06.2017 where the condition regarding import of gold by passenger is regulated in the following manner:

*If,*

*1. (a) the duty is paid in convertible foreign currency;*

*(b) the quantity of import does not exceed ten kilograms of gold and one hundred kilograms of silver per eligible passenger; and*

*2. the gold or silver is, -*

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

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

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

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

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

### **11.5. Baggage Rules, 2016 -**

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

**11.5.2.** A combined reading of the above-mentioned legal provisions under Foreign Trade Regulations, the Customs Act, 1962 and the notifications issued therein - clearly indicate that import of gold including gold Jewellery through Baggage is Restricted and conditions have been imposed on the said imports by a passenger such as he/she should be of Indian origin or an Indian passport holder with minimum six months stay abroad etc. Only passengers who satisfy those mandatory conditions can import gold as a part of their bona fide personal baggage and the same has to be declared to the Customs at the time of their arrival and applicable duty paid. These conditions are nothing but restrictions imposed on the import of gold through passenger baggage. Further, from the foregoing legal provisions of Foreign Trade Policy, 2015-2020 read with Reserve Bank of India circulars issued under Foreign Exchange Management Act (FEMA), Notifications issued by the Government of India and Circular issued by CBIC, it is evident that no one can import gold in any other manner as not explicitly stated/permitted above.

**11.6.** In exercise of powers conferred by Section 3 read with Section 5 of FT (D&R) Act, 1962, read with paragraph 1.02 and 2.01 of the Foreign Trade Policy, 2015-2020, as amended from time to time, the Central Government vide DGFT's Notification No. 49/2015-2020 dated 5<sup>th</sup> January, 2022 made amendment in import policy conditions of gold in any form Chapter 71 of ITC (HS), 2017, Schedule-1 (Import Policy) as under:

F. No. VIII/10-40/DRI/SVPIA/O7A/HQ/2025-26 OIO  
No. 196/ADC/SRV/O&A/HQ/2025-26

ITC(HS) Code	Item Description	Policy	Existing Policy Condition	Revised Policy Condition
71061000	Powder	Restricted	Import is allowed only through nominated agencies as notified by RBI (in case of banks) and DGFT (for other agencies).	No change in existing Policy Condition
71069110	Unwrought: Grains	Restricted	Import is allowed only through nominated agencies as notified by RBI (in case of banks) and DGFT (for other agencies).	No change in existing Policy Condition
71069190	Unwrought: Others		Silver dore can be imported by refineries against a license with AU condition.	
71069210	Sheets, plates, strips, tubes and pipes	Restricted	Import is allowed only through nominated agencies as notified by RBI (in case of banks) and DGFT (for other agencies).	No change in existing Policy Condition
71069290	Other	Restricted	Import is allowed only through nominated agencies as notified by RBI (in case of banks) and DGFT (for other agencies).	No change in existing Policy Condition
71081100	Powder	Restricted	Import is allowed only through nominated agencies as notified by RBI (in case of banks) and DGFT (for other agencies).	No change in existing Policy Condition
71081200	Other unwrought forms	Restricted	Import is allowed only through nominated agencies as notified by RBI (in case of banks) and DGFT (for other agencies).  Gold dore can be imported by refineries against a license with AU condition.	Import is allowed only through nominated agencies as notified by RBI (in case of banks), DGFT (for other agencies) and IFSCA (for qualified jewellers through India International Bullion Exchange)  Gold Dore can be imported by refineries against an import license with AU condition.
71081300	Other semi-manufactured forms	Restricted	Import is allowed only through nominated agencies as notified by RBI (in case of banks) and DGFT (for other agencies).	No change in existing Policy Condition
71189000	Other	Restricted	Import is allowed only through nominated agencies as notified by RBI (in case of banks) and DGFT (for other agencies).	Import is allowed only through nominated agencies as notified by RBI (in case of banks), DGFT (for other agencies) and IFSCA (for qualified jewellers through India International Bullion Exchange).

**11.6.1.** As per the said Notification, the expression “*Gold in any form*” includes *gold in any form above 22 carats* under Chapter 71 of ITC (HS), 2017, Schedule-I (Import Policy).

**11.7.** Further, as per Section 2(33) of the Customs Act, 1962, ‘prohibited goods’ means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with, implying that any goods imported in violation of the conditions subject to which the goods are permitted to be imported are nothing but prohibited goods. Hence, the smuggling of gold strips having purity of 999.0/24 Ct recovered from Shri Obaid Abdul Razzak Shaikh, Shri Tabrez Akbarali Bana and Shri Mohammed Farid Alamhusain Mirza are in contravention of the Foreign Trade Policy 2015-20 read with the relevant notification issued under the Customs Act, 1962 & rules made thereunder, shall have to be treated as prohibited, by virtue of not being in conformity with the conditions imposed in the said Regulations. It is pertinent to note that any prohibition applies to every type of prohibition which may be complete or partial and even a restriction on import or export is to an extent a prohibition. Hence the restrictions imposed on the said imports are to an extent a prohibition and any violation of the said conditions/restrictions would make the impugned goods liable for confiscation under Section 111 of Customs Act, 1962.

**11.8.** Therefore, it appears that import of gold in contravention of the Foreign Trade Policy 2015-20 read with the Customs Act, 1962 and RBI circulars, as well as the Rules and regulations mentioned supra, shall have to be treated as prohibited, by virtue of not being in conformity with the conditions imposed in said Regulations.

**Section 2(33) of the Customs Act, 1962** - "Prohibited Goods" means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with.

**Section 2(39) of the Customs Act, 1962** - "Smuggling", in relation to any goods, means any act or omission which will render such goods liable to confiscation under section 111 or section 113.

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

**Section 123: Burden of proof in certain cases.**

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

- (a) in a case where such seizure is made from the possession of any person -
  - (i) on the person from whose possession the goods were seized; and
  - (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.

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

**Section 111. Confiscation of improperly imported goods, etc.-**

The following goods brought from a place outside India shall be liable to confiscation: -

(d) any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;

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

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

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

**Section 112. Penalty for improper importation of goods, etc. -Any person, -**

(a) *who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or*

(b) *who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111,*

**11.12.** Section 119: Confiscation of goods used for concealing smuggled goods: *“Any goods used for concealing smuggled goods shall also be liable to confiscation”.*

**11.13.** From all the above paras, it appears that during the period relevant to this case, import of gold in any form (gold having purity above 22 carat) was restricted as per DGFT Notification and import was permitted only by nominated agencies. It clearly appears that import of goods whereof is allowed subject to certain conditions are to be treated as prohibited goods under Section 2(33) of the Customs Act, 1962 in case such conditions are not fulfilled. Gold is not allowed to be imported freely in baggage and it is permitted to be imported subject to fulfilment of certain conditions.

**12. VIOLATIONS & CONTRAVENTION OF VARIOUS PROVISIONS:**

**12.1.** The seized goods, 10 gold strips having purity of 999.0/24 Carat, totally weighing of 1866.000 grams & having a market value of Rs. 1,66,82,040/- have been attempted to be illegally smuggled into India without declaring before the custom authority in violation of the provisions of the Customs Act, 1962 & FTP and Custom Baggage Rules. The said gold strips do not also appear to be allowed to be imported by Obaid Abdul Razzak Shaikh, Tabrez Akbarali Bana Mohammed and Farid Alamhusain Mirza keeping the restrictions on such import under the provisions of FTP and Customs Act, 1962. Hence, it appears that the said 10 gold strips were brought into India with a motive to smuggle into India by way of fraudulently circumventing the restrictions and prohibitions imposed under the Customs Act 1962 and other allied Acts, Rules and Regulations. Therefore, the same prohibited goods may be treated as imported illegally into India and liable to confiscation under the provisions of Section 111(d) and (l) of the Customs Act, 1962. Further, the grey colour shoulder bag of “Winsor” brand used for concealing the above said 10 gold strips of purity 995/24 Kt., totally weighing 1866.000 grams believed to be used for concealment is liable to confiscation under Section 119 of the Customs Act, 1962. Also, Shri Obaid Abdul Razzak Shaikh, Tabrez Akbarali Bana Mohammed and Farid Alamhusain Mirza have claimed the ownership of the said seized gold. However, they failed to discharge their onus in terms of the provisions of Section 123 of the Custom Act, 1962. These actions render the said gold quantity liable for confiscation and also render penal action under the Customs Act, 1962.

**13. ROLE OF PERSONS IN THE ABOVE SMUGGLING OF GOLD:****13.1. Role of Shri Irshad@Dubai:**

**13.1.1.** On carefully going through the evidences available on record in the form of statements of Obaid Abdul Razzak Shaikh, Tabrez Akbarali Bana Mohammed and Farid Alamhusain Mirza recorded under Section 108 of the Customs Act, 1962 etc., it appears that Shri Irshad @Dubai was the mastermind

to smuggle the said 10 gold strips into India through SVPI Airport, Ahmedabad from Dubai. He recruited the three passengers and assigned the said work to execute such smuggling activities from Dubai to India offering them share in profit after disposal of the gold in Indian market, flight tickets, lodging and fooding as well. The gold strips were managed to be kept below the seat No. 19A by Shri Irshadbhai, while the said aircraft traveled from Dubai to Ahmedabad on 25.02.2025 and collected by their associates namely Obaid Abdul Razzak Shaikh, Tabrez Akbarali Bana Mohammed and Farid Alamhusain Mirza from the seat while boarding at Goa and had been kept in the shoulder bag of "Winsor" brand belonging to Shri Obaid Abdul Razzak Shaikh.

Shri Irshadbhai had managed to send the Gold from Dubai in hidden manner and the trio collected the same from the said aircraft by traveling through the said flight while the said aircraft got converted into domestic route.

However, whereabouts of Shri Irshadbhai@Dubai was not found. Thus, he has not joined with the investigation and he has not come forward to prove his innocence in the smuggling of gold by above said persons. Hence, it appears that Shri Irshadbhai@Dubai in a very planned manner attempted to smuggle 10 foreign origin gold strips through Obaid Abdul Razzak Shaikh, Tabrez Akbarali Bana Mohammed and Farid Alamhusain Mirza to India through SVPI Airport. The said Gold Strips recovered and seized are liable to confiscation under Section 111 of the Customs Act, 1962. Thus, he appears to be the mastermind in this entire smuggling racket of the above 10 gold strips.

**13.1.2.** Therefore, Shri Irshadbhai@Dubai has concerned himself in the act of smuggling of foreign origin 10 gold strips and has knowingly violated the various provisions of Foreign Trade Policy 2015-20, Baggage Rules, 2016, Customs Notifications, etc., which rendered the above goods liable to confiscation under Section 111(d) and (l) of the Customs Act, 1962 and rendered himself liable for penalty under Section 112 (a) and (b) of Customs Act, 1962. As per the evidences gathered, both oral and documentary, available on records Shri Irshadbhai@Dubai is one of the owners of the seized gold. However, he has not participated in the investigation and failed to discharge his onus to terms of the provisions of Section 123 of the Custom Act,1962. These actions render the said gold quantity liable for confiscation and also render penal action under the Customs Act, 1962.

### **13.2. Role of Shri Obaid Abdul Razzak Shaikh:**

**13.2.1.** From evidences gathered, both oral and documentary, available on records, clearly established the role of Shri Obaid Abdul Razzak Shaikh, who has indulged himself in act of carrying of 10 gold strips, totally weighing 1866.00 grams having purity of 999.0 (24 Kt), total market value of Rs. 1,66,82,040 /- by himself, Tabrez Akbarali Bana and Mohammed Farid Alamhusain Mirza all together. It reveals that he was knowingly and actively involved in the smuggling of 10 strips of foreign-origin gold weighing 1866 grams, which were concealed under seat no. 19A of Indigo Flight No. 6E381 and retrieved by him during the domestic leg of the journey from Goa to Ahmedabad as per the instructions of one Irshad Bhai based in Dubai. He has multiple voice call with Irshadbhai@Dubai (saved as IB having mobile number 971524165040) as found in mobile forensic report of his mobile.

He confessed that he, along with his associates Tabrez Akbarali Bana and Mohammed Farid Alamhusain Mirza, coordinated to execute this smuggling operation, having prior knowledge of the concealment and retrieval process for monetary considerations and for personal enrichment. 10 strips of gold were found in grey colour shoulder bag of "Winsor" brand belonging to Shri Obaid

Abdul Razzak Shaikh. Investigation also led to findings that he may get around 30 to 40 thousand per 1 KG of smuggled gold transaction in the Indian market as per assurance given by Shri Irshad that he would manage to sell the said smuggled gold through his persons in India.

He further disclosed that this was not a one-time act, but part of a repeated modus operandi undertaken on multiple occasions for monetary gain, with full awareness that such acts were illegal, unauthorized, and without any valid documentation.

During the course of interception, Shri Obaid Abdul Razzak Shaikh was also enquired by the officers of DRI, whether, he wanted to declare any dutiable item before the custom authority, to which he had denied. Shri Obaid Abdul Razzak Shaikh did not have any documents/purchase documents in respect of 10 gold strips, which were attempted to be smuggled. Hence, he appears to be important part of the syndicate of such smuggling of 10 gold strips in nexus with Tabrez Akbarali Bana and Mohammed Farid Alamhusain Mirza.

**13.2.2.** The act of concealing the gold items and not declaring before the custom authority itself appears and suggests the mens-rea on the part of Shri Obaid Abdul Razzak Shaikh with a view to avoiding payment of Customs duty. It therefore, appears that Shri Obaid Abdul Razzak Shaikh, was not inclined to declare the goods viz. gold items that he was carrying before the Customs Authorities. Thus, 10 gold strips concealed by them, totally weighing 1866.00 grams, purity of 999.0 24 Kt and having market value of Rs. 1,66,82,040 /-, recovered from the possession of Shri Obaid Abdul Razzak Shaikh, Tabrez Akbarali Bana and Mohammed Farid Alamhusain Mirza, were illegally attempted to be smuggled by them into India without declaration and payment of appropriate Customs duties.

**13.2.3.** Therefore, Shri Obaid Abdul Razzak Shaikh has concerned himself in the act of smuggling of 10 gold strips and has knowingly violated the various provisions of Foreign Trade Policy 2015-20, Baggage Rules, 2016, Customs Notifications, etc., which rendered the above goods liable to confiscation under Section 111(d) and (1) of the Customs Act, 1962 and rendered himself liable for penalty under Section 112 (a) and (b) of Customs Act, 1962. Shri Obaid Abdul Razzak Shaikh has claimed the ownership of the said seized gold. However, he failed to discharge his onus in terms of the provisions of Section 123 of the Custom Act, 1962. These actions render the said gold quantity liable for confiscation and also render penal action under the Customs Act, 1962.

### **13.3. Role of Shri Tabrez Akbarali Bana:**

**13.3.1.** From evidences gathered, both oral and documentary, available on records, clearly established that reveals that he was the main coordinator of a well-planned smuggling operation, in active connivance with Shri Obaid Abdul Razzak Shaikh and Shri Mohammed Farid Alamhusain Mirza, under the guidance of one Shri Irshad Bhai based in Dubai. Acting on instructions from Irshadbhai, Shri Tabrez orchestrated the journey from Mumbai to Goa and onward to Ahmedabad via Indigo Flight 6E 381 on 25.02.2025, specifically chosen to retrieve smuggled foreign-origin gold concealed under seat no. 19A by a passenger arriving from Dubai. As per the coordinated plan, the trio boarded the domestic leg of the said flight, with Shri Obaid retrieving the concealed gold and carrying it in a "Winsor" brand shoulder bag, assisted by Shri Mirza, who was seated beside him. He confirmed that the 10 black-coated gold strips weighing 1866 grams recovered from a "Winsor" brand shoulder bag carried by Shri Obaid belonged jointly to all four members of the syndicate. Shri Tabrez admitted that he managed travel logistics, transferred booking funds to Shri Mirza for strategic PNR separation, and was promised profit upon sale of the

smuggled gold. He stated that the gold was intentionally not removed on the international leg to avoid Customs detection and was retrieved on the domestic leg from Goa to Ahmedabad.

Shri Tabrez Akbarali Bana admitted in his statement that he was to get 1.5 lacs per KG as a share for his role in smuggled gold transaction. He has multiple voice call with Irshadbhai@Dubai (saved as IB having mobile number 971524165040) as found in mobile forensic report of his mobile as shown in Para No.7.2.1.

During the course of interception, Shri Tabrez Akbarali Bana was also enquired by the officers of DRI, whether, he wanted to declare any dutiable item before the custom authority, to which he had denied. Shri Tabrez Akbarali Bana did not have any documents/purchase documents in respect of 10 gold strips, which were attempted to be smuggled. Hence, he appears to be important part of the syndicate of such smuggling of 10 gold strips in nexus with Shri Obaid Shaikh and Shri Mohammed Farid Alamhusain Mirza.

**13.3.2.** The act of concealing the gold items and not declaring before the custom authority itself appears and suggests the mens-rea on the part of Shri Tabrez Akbarali Bana with a view to avoiding payment of Customs duty. It therefore, appears that Shri Tabrez Akbarali Bana, was not inclined to declare the goods viz. gold items that he was carrying before the Customs Authorities. Thus, 10 gold strips concealed by them, totally weighing 1866.00 grams, purity of 999.0 24 Kt and having market value of Rs.1,66,82,040 /-, recovered from the possession of Shri Mohammed Farid Alamhusain Mirza, Shri Obaid Abdul Razzak Shaikh and Shri Tabrez Akbarali Bana, were illegally attempted to be smuggled by them into India without declaration and payment of appropriate Customs duties.

**13.3.3.** Therefore, Shri Tabrez Akbarali Bana has concerned himself in the act of smuggling of 10 gold strips and has knowingly violated the various provisions of Foreign Trade Policy 2015-20, Baggage Rules, 2016, Customs Notifications, etc., which rendered the above goods liable to confiscation under Section 111(d) and (1) of the Customs Act, 1962 and rendered himself liable for penalty under Section 112 (a) and (b) of Customs Act, 1962. Shri Tabrez Akbarali Bana has claimed the ownership of the said seized gold.

However, he failed to discharge his onus in terms of the provisions of Section 123 of the Custom Act,1962. These actions render the said gold quantity liable for confiscation and also render penal action under the Customs Act, 1962.

#### **13.4. Role of Shri Mohammed Farid Alamhusain Mirza:**

**13.4.1.** From evidences gathered, both oral and documentary, available on records, clearly established that Shri Mohammed Farid Alamhusain Mirza, along with Shri Obaid Shaikh and Shri Tabrez Bana, was knowingly involved in the smuggling of foreign-origin gold into India through a domestic route by Indigo Flight 6E 381 from Goa to Ahmedabad on 25.02.2025. He confirmed that the trio had travelled together from Mumbai to Goa, and thereafter boarded the said domestic flight with the intent to retrieve smuggled gold strips that were concealed beneath seat no. 19A by an unknown passenger arriving from Dubai. Acting on the instructions from Shri Tabrez Bana, who was in contact with one "Irshad Bhai" based in Dubai, the group coordinated the recovery of the concealed gold during the flight. Shri Mirza changed his seat to sit beside Obaid Shaikh, who carried the retrieved gold strips in a grey "Winsor" brand shoulder bag. Shri Mirza admitted in his statement that he was to get ₹40,000-₹50,000 as a share

in profit for his role and was to hand over the gold to Shri Tabrez for further disposal in Mumbai.

During the course of interception, Shri Mohammed Farid Alamhusain Mirza was also enquired by the officers of DRI, whether, he wanted to declare any dutiable item before the custom authority, to which he had denied. Shri Mohammed Farid Alamhusain Mirza did not have any documents/purchase documents in respect of 10 gold strips, which were attempted to be smuggled. Hence, he appears to be important part of the syndicate of such smuggling of 10 gold strips in nexus with Shri Obaid Shaikh and Shri Tabrez Bana.

**13.4.2.** The act of concealing the gold items and not declaring before the custom authority itself appears and suggests the mens-rea on the part of Shri Mohammed Farid Alamhusain Mirza with a view to avoiding payment of Customs duty. It therefore, appears that Shri Mohammed Farid Alamhusain Mirza, was not inclined to declare the goods viz. gold items that he was carrying before the Customs Authorities. Thus, 10 gold strips concealed by them, totally weighing 1866.00 grams, purity of 999.0 24Kt and having market value of Rs.1,66,82,040/-, recovered from the possession of Shri Mohammed Farid Alamhusain Mirza, Obaid Abdul Razzak Shaikh and Tabrez Akbarali Bana, were illegally attempted to be smuggled by them into India without declaration and payment of appropriate Customs duties.

**13.4.3.** Therefore, Shri Mohammed Farid Alamhusain Mirza has concerned himself in the act of smuggling of 10 gold strips and has knowingly violated the various provisions of Foreign Trade Policy 2015-20, Baggage Rules, 2016, Customs Notifications, etc., which rendered the above goods liable to confiscation under Section 111(d) and 111(1) of the Customs Act, 1962 and rendered himself liable for penalty under Section 112 (a) and 112(b) of Customs Act, 1962. Shri Mohammed Farid Alamhusain Mirza has claimed the ownership of the said seized gold. However, he failed to discharge his onus in terms of the provisions of Section 123 of the Custom Act,1962. These actions render the said gold quantity liable for confiscation and also render penal action under the Customs Act, 1962.

**14.** Accordingly, a Show Cause Notice was issued to **(i) Shri Obaid Abdul Razzak Shaikh**, resident of 145-Abeda Mansion, 3rd Floor, Room No.-19, Samuel Street, P.O. Chinchbunder, Mumbai-400009 **(ii) Shri Tabrez Akbarali Bana**, resident of 19, Navroji, Hill Road, Baitul Habib Bungalows, 1st Floor, Room No.3, Dongri, Mumbai-400009, **(iii) Shri Mohammed Farid Alamhusain Mirza**, resident of 202-Rehab Building, Wing-A, Building -6/A, Golibar Road, Near Shivalik Ventures Substation, Santacruz East, VTC: Mumbai, PO: Santacruz (East), Mumbai Suburban-400055 and **(iv) Shri Irshadbhai @Dubai**, as to why:

- i. 10 gold strips totally weighing 1866.00 grams having purity of 999.0/24 Carat and market value of Rs. 1,66,82,040/- seized under Section 110 of the Customs Act, 1962 should not be confiscated under Section 111 (d) and (l) of the Customs Act, 1962 also read with Section 123 of the Custom Act,1962.
- ii. The grey colour shoulder bag of "Winsor" brand believed to be used for concealing the above said 10 gold strips of purity 995/24 Kt., totally weighing 1866.000 grams should not be confiscated under Section 119 of the Customs Act, 1962 also read with Section 123 of the Custom Act,1962;
- iii. Penalties should not be imposed upon them under Section 112(a) and (b) of the Customs Act, 1962.

**15. DEFENSE REPLY AND RECORD OF PERSONAL HEARING:**

**15.1 Defense Reply:** The noticee (i) **Shri Obaid Abdul Razzak Shaikh**, (ii) **Shri Tabrez Akbarali Bana**, (iii) **Shri Mohammed Farid Alamhusain Mirza** and (iv) **Shri Irshad@Dubai** have not submitted any written defense reply against the allegation made against them in the SCN.

**15.2 Personal Hearing:** Adequate opportunities of personal hearing were given to all noticees in the Show Cause, which is summarized as under: -

**Noticee No. 1 i.e. Shri Obaid Abdul Razzak Shaikh:** - The noticee was given an opportunity for personal hearing on 10.11.2025. Accordingly, the noticee Shri Obaid Abdul Razzak Shaikh was appeared for personal hearing on 10.11.2025. He submitted that the said gold is belongs to him. He also stated that this was his mistake.

Further, he requested to take lenient view in the matter and release the gold on payment of duty, fine and penalty.

**Noticee No. 2 i.e. Shri Tabrez Akbarali Bana:** - The noticee was given an opportunity for personal hearing on 10.11.2025. Accordingly, the noticee Shri Tabrez Akbarali Bana was appeared for personal hearing on 10.11.2025. He submitted that the said gold is belongs to him. He also stated that this was his mistake.

Further, he requested to take lenient view in the matter and release the gold on payment of duty, fine and penalty.

**Noticee No. 3 i.e. Shri Mohammed Farid Alamhusain Mirza:** -The noticee was given an opportunity for personal hearing on 10.11.2025. Accordingly, the noticee Shri Mohammed Farid Alamhusain Mirza was appeared for personal hearing on 10.11.2025. He submitted that the said gold is belongs to him. He also stated that this was his mistake.

Further, he requested to take lenient view in the matter and release the gold on payment of duty, fine and penalty.

**Noticee No. 4: Shri Irshad@Dubai:** The noticee was given opportunity for personal hearing on 10.11.2025, 19.11.2025, and 01.12.2025. The letters for intimation for personal hearing were served to the noticee by affixing the same on notice board in terms of Section 153 of Customs Act, 1962, but he failed to appear and represent his case. In the instant case, the noticee has been granted sufficient opportunity of being heard in person for three times but he failed to appear. In view of above, it is obvious that the Noticee is not bothered about the ongoing adjudication proceedings and he do not have anything to say in his defense.

**16. DISCUSSION AND FINDINGS:**

**16.1** I have carefully gone through the case records, Show Cause Notice, relied upon documents to Show Cause Notice and Statements of the Noticees alongwith any submission made by the noticees at the time of personal hearing scheduled on various dates. Further, sufficient opportunities to be heard were extended to all the noticees of the SCN following the Principles of Natural Justice. I am of the opinion that sufficient opportunities have been offered to the Noticee in keeping with the principle of natural justice and there is no prudence in keeping the matter in abeyance indefinitely.

**16.2** Noticee No. 1 i.e. Shri Obaid Abdul Razzak Shaikh: From the evidence available on record, including the Panchnama dated 25-26.02.2025, the statements of Shri Obaid Abdul Razzak Shaikh, was recorded on 26.02.2025,

under Section 108 of the Customs Act, 1962 and the forensic and digital data, I find that Shri Obaid Abdul Razzak Shaikh indulged himself in act of carrying of 10 gold strips, totally weighing 1866.00 grams having purity of 999.0/24Kt, total Market Value of Rs.1,66,82,040/- by himself, Tabrez Akbarali Bana and Mohammed Farid Alamhusain Mirza all together. I find that he was knowingly and actively involved in the smuggling of 10 strips of foreign-origin gold weighing 1866 grams, which were concealed under seat no. 19A of Indigo Flight No. 6E381 and retrieved by him during the domestic leg of the journey from Goa to Ahmedabad as per the instructions of one Irshad Bhai based in Dubai. He confessed that he, along with his associates Tabrez Akbarali Bana and Mohammed Farid Alamhusain Mirza, coordinated to execute this smuggling operation, having prior knowledge of the concealment and retrieval process for monetary considerations and for personal enrichment. I find that 10 gold strips concealed by them, totally weighing 1866.00 grams, purity of 999.0/24Kt and having market value of Rs.1,66,82,040/-, recovered from the possession of Shri Obaid Abdul Razzak Shaikh, Tabrez Akbarali Bana and Mohammed Farid Alamhusain Mirza, were illegally attempted to be smuggled by them into India without declaration and payment of appropriate Customs duties. Therefore, Shri Obaid Abdul Razzak Shaikh has concerned himself in the act of smuggling of 10 gold strips and has knowingly violated the various provisions of Foreign Trade Policy 2015-20, Baggage Rules, 2016, Customs Notifications, etc., which rendered the above goods liable to confiscation under Section 111(d) and 111(1) of the Customs Act, 1962 and rendered himself liable for penalty under Section 112(a) and 112(b) of Customs Act, 1962. Shri Obaid Abdul Razzak Shaikh has claimed the ownership of the said seized gold. However, he failed to discharge his onus in terms of the provisions of Section 123 of the Custom Act,1962. These actions render the said gold quantity liable for confiscation and also render penal action under the Customs Act, 1962.

**16.3** Noticee No. 2 i.e. Shri Tabrez Akbarali Bana: From the evidence available on record, including the Panchnama dated 25-26.02.2025, the statements of Shri Tabrez Akbarali Bana, was recorded on 26.02.2025, under Section 108 of the Customs Act, 1962 and the forensic and digital data, I find that Tabrez Akbarali Bana was the main coordinator of a wellplanned smuggling operation, in active connivance with Shri Obaid Abdul Razzak Shaikh and Shri Mohammed Farid Alamhusain Mirza, under the guidance of one Shri Irshad Bhai based in Dubai. Acting on instructions from Irshadbhai, Shri Tabrez orchestrated the journey from Mumbai to Goa and onward to Ahmedabad via Indigo Flight 6E 381 on 25.02.2025, specifically chosen to retrieve smuggled foreign-origin gold concealed under seat no. 19A by a passenger arriving from Dubai. As per the coordinated plan, the trio boarded the domestic leg of the said flight, with Shri Obaid retrieving the concealed gold and carrying it in a "Winsor" brand shoulder bag, assisted by Shri Mirza, who was seated beside him. Further, I find that he confirmed that the 10 black-coated gold strips weighing 1866 grams recovered from a "Winsor" brand shoulder bag carried by Shri Obaid belonged jointly to all four members of the syndicate. Shri Tabrez admitted that he managed travel logistics, transferred booking funds to Shri Mirza for strategic PNR separation, and was promised profit upon sale of the smuggled gold. He stated that the gold was intentionally not removed on the international leg to avoid Customs detection and was retrieved on the domestic leg from Goa to Ahmedabad. I find that Shri Tabrez Akbarali Bana admitted in his statement that he was to get 1.5 lacs per KG as a share for his role in smuggled gold transaction. Further, I find that the 10 gold strips concealed by them, totally weighing 1866.00 grams, purity of 999.0/24Kt. and having Market Value of Rs.1,66,82,040/-, recovered from the possession of Shri Mohammed Farid Alamhusain Mirza, Shri Obaid Abdul Razzak Shaikh and Shri Tabrez Akbarali Bana, were illegally attempted to be smuggled by them into India without declaration and payment of appropriate Customs duties. Therefore, Shri

Tabrez Akbarali Bana has concerned himself in the act of smuggling of 10 gold strips and had knowingly violated the various provisions of Foreign Trade Policy 2015-20, Baggage Rules, 2016, Customs Notifications, etc., which rendered the above goods liable to confiscation under Section 111(d) and 111(1) of the Customs Act, 1962 and rendered himself liable for penalty under Section 112(a) and 112(b) of Customs Act, 1962. Shri Tabrez Akbarali Bana had claimed the ownership of the said seized gold. However, he failed to discharge his onus in terms of the provisions of Section 123 of the Custom Act,1962. These actions render the said gold quantity liable for confiscation and also render penal action under the Customs Act, 1962.

**16.4** Noticee No. 3 i.e. Shri Mohammed Farid Alamhusain Mirza: From the evidence available on record, including the Panchnama dated 25.02.2025, the statements of Shri Mohammed Farid Alamhusain Mirza, was recorded on 26.02.2025, under Section 108 of the Customs Act, 1962 and the forensic and digital data, I find that Shri Mohammed Farid Alamhusain Mirza, along with Shri Obaid Shaikh and Shri Tabrez Bana, was knowingly involved in the smuggling of foreign-origin gold into India through a domestic route by Indigo Flight 6E 381 from Goa to Ahmedabad on 25.02.2025. He confirmed that the trio had travelled together from Mumbai to Goa, and thereafter boarded the said domestic flight with the intent to retrieve smuggled gold strips that were concealed beneath seat no. 19A by an unknown passenger arriving from Dubai. Acting on the instructions from Shri Tabrez Bana, who was in contact with one "Irshad Bhai" based in Dubai, the group coordinated the recovery of the concealed gold during the flight. Shri Mirza changed his seat to sit beside Obaid Shaikh, who carried the retrieved gold strips in a grey "Winsor" brand shoulder bag. I find that Shri Mirza admitted in his statement that he was to get ₹40,000–₹50,000 as a share in profit for his role and was to hand over the gold to Shri Tabrez for further disposal in Mumbai. Further, I find that the 10 gold strips concealed by them, totally weighing 1866.00 grams, purity of 999.0/24Kt. and having Market Value of Rs.1,66,82,040/-, recovered from the possession of Shri Mohammed Farid Alamhusain Mirza, Obaid Abdul Razzak Shaikh and Tabrez Akbarali Bana, were illegally attempted to be smuggled by them into India without declaration and payment of appropriate Customs duties. Therefore, Shri Mohammed Farid Alamhusain Mirza has concerned himself in the act of smuggling of 10 gold strips and has knowingly violated the various provisions of Foreign Trade Policy 201520, Baggage Rules, 2016, Customs Notifications, etc., which rendered the above goods liable to confiscation under Section 111(d) and 111(1) of the Customs Act, 1962 and rendered himself liable for penalty under Section 112(a) and 112(b) of Customs Act, 1962. Shri Mohammed Farid Alamhusain Mirza has claimed the ownership of the said seized gold. However, he failed to discharge his onus in terms of the provisions of Section 123 of the Custom Act,1962. These actions render the said gold quantity liable for confiscation and also render penal action under the Customs Act, 1962.

**16.5** Noticee No. 4 i.e. Shri Irshad Bhai@Dubai: I, further find that Shri Irshad Bhai@Dubai has neither submitted any written defense reply against the allegation made against him in the SCN nor appeared in personal hearing scheduled on various dates.

**16.6** Before, proceeding further, I would like to mention that Hon'ble Supreme Court, High Courts and Tribunals have held, in several judgments/decision, that ex-parte decision will not amount to violation of principles of Natural Justice. In support of the same, I rely upon some the relevant judgments/orders which are as under: -

**a)** The Hon'ble Supreme Court in the matter of Jethmal Versus Union of India reported in 1999 (110) E.L.T. 379 (S.C.), the Hon'ble Court has observed as under;  
*"7. Our attention was also drawn to a recent decision of this Court in A.K. Kripak v. Union of India - 1969 (2) SCC 340, where some of the rules of natural justice were formulated in Paragraph 20 of the judgment. One of these is the well-known principle of audi alteram partem and it was argued that an ex parte hearing without notice violated this rule. In our opinion this rule can have no application to the facts of this case where the appellant was asked not only to send a written reply but to inform the Collector whether he wished to be heard in person or through a representative. If no reply was given or no intimation was sent to the Collector that a personal hearing was desired, the Collector would be justified in thinking that the persons notified did not desire to appear before him when the case was to be considered and could not be blamed if he were to proceed on the material before him on the basis of the allegations in the show cause notice. Clearly, he could not compel appearance before him and giving a further notice in a case like this that the matter would be dealt with on a certain day would be an ideal formality."*

**b).** Hon'ble High Court of Kerala in the case of United Oil Mills Vs. Collector of Customs & C. Ex., Cochin reported in 2000 (124) E.L.T. 53 (Ker.), the Hon'ble Court has observed that;  
*Natural justice - Petitioner given full opportunity before Collector to produce all evidence on which he intends to rely but petitioner not prayed for any opportunity to adduce further evidence - Principles of natural justice not violated.*

**c)** Hon'ble High Court of Calcutta in the case of Kumar Jagdish Ch. Sinha Vs. Collector of Central Excise, Calcutta reported in 2000 (124) E.L.T. 118 (Cal.) in Civil Rule No. 128 (W) of 1961, decided on 13-9-1963, the Hon'ble court has observed that;  
*Natural justice - Show cause notice - Hearing - Demand - Principles of natural justice not violated when, before making the levy under Rule 9 of Central Excise Rules, 1944, the Noticee was issued a show cause notice, his reply considered, and he was also given a personal hearing in support of his reply - Section 33 of Central Excises & Salt Act, 1944. - It has been established both in England and in India [vide N.P.T. Co. vs. N.S.T. Co. (1957) S.C.R. 98 (106)], that there is no universal code of natural justice and that the nature of hearing required would depend, inter alia, upon the provisions of the statute and the rules made there under which govern the constitution of a particular body. It has also been established that where the relevant statute is silent, what is required is a minimal level of hearing, namely, that the statutory authority must 'act in good faith and fairly listen to both sides' [Board of Education v. Rice, (1911) A.C. 179] and, "deal with the question referred to them without bias, and give to each of the parties the opportunity of adequately presenting the case" [Local Govt. Board v. Arlidge, (1915) A.C. 120 (132)]. [para 16]*

**d)** Hon'ble High Court of Delhi in the case of Saketh India Limited Vs. Union of India reported in 2002 (143) E.L.T. 274 (Del.). The Hon'ble Court has observed that:  
*Natural justice - Ex parte order by DGFT-EXIM Policy-Proper opportunity given to appellant to reply to show cause notice issued by Addl. DGFT and to make oral submissions, if any, but opportunity not availed by appellant - Principles of natural justice not violated by Additional DGFT in passing ex parte order - Para 2.8(c) of Export-Import Policy 1992-97 - Section 5 of Foreign Trade (Development and Regulation) Act, 1992.*

e) The Hon'ble CESTAT, Mumbai in the case of Gopinath Chem Tech. Ltd Vs. Commissioner of Central Excise, Ahmedabad-II reported in 2004 (171) E.L.T. 412 (Tri. - Mumbai), the Hon'ble CESTAT has observed that; *Natural justice - Personal hearing fixed by lower authorities but not attended by appellant and reasons for not attending also not explained - Appellant cannot now demand another hearing - Principles of natural justice not violated. [para 5]*

f). The Hon'ble High Court of Jharkhand in W.P.(T) No. 1617 of 2023 in case of Rajeev Kumar Vs. The Principal Commissioner of Central Goods and Service Tax & The Additional Commissioner of Central GST & CX, 5A Central Revenue Building, Main Road, Ranchi pronounced on 12.09.2023 wherein Hon'ble Court has held that:

*"Accordingly, we are of the considered opinion that no error has been committed by the adjudicating authority in passing the impugned Order-in-Original, inasmuch as, enough opportunities were provided to the petitioner by issuing SCN and also fixing date of personal hearing for four times; but the petitioner did not respond to either of them.*

8. *Having regard to the aforesaid discussions and admitted position with regard to non-submission of reply to the SCN, we failed to appreciate the contention of the petitioner that principle of natural justice has not been complied in the instant case. Since there is efficacious alternative remedy provided in the Act itself, we hold that the instant writ application is not maintainable.*

9. *As a result, the instant application stands dismissed. Pending I.A., if any, is also closed."*

**17.** I am of the opinion that sufficient opportunities have been offered to the Noticee No. 4 i.e. Shri Irshad Bhai@Dubai in keeping with the principle of natural justice and there is no prudence in keeping the matter in abeyance indefinitely.

**17.1** On a careful examination of the evidence available on record, including the statements of Shri Obaid Abdul Razzak Shaikh, Shri Tabrez Akbarali Bana, and Shri Mohammed Farid Alamhusain Mirza recorded on 26.02.2025 under Section 108 of the Customs Act, 1962, and other documentary and digital evidence, I find that Shri Irshad Bhai, based in Dubai, was the mastermind behind the smuggling of the ten gold strips into India through Sardar Vallabhbhai Patel International (SVPI) Airport, Ahmedabad.

It is established that Shri Irshad Bhai recruited the three passengers and assigned them the task of executing the smuggling operation from Dubai to India, offering them a share in the profits upon disposal of the gold in the Indian market, along with providing flight tickets, lodging, and food. I find that Shri Irshad Bhai had concealed the gold strips beneath **seat No. 19A** of the aircraft while it traveled from Dubai to Ahmedabad on 25.02.2025. The gold was subsequently retrieved by his associates, namely Shri Obaid Abdul Razzak Shaikh, Shri Tabrez Akbarali Bana, and Shri Mohammed Farid Alamhusain Mirza, while boarding the aircraft at Goa, and was placed into the grey-coloured "Winsor" shoulder bag belonging to Shri Obaid Abdul Razzak Shaikh.

Further, it is evident that Shri Irshad Bhai had orchestrated the entire operation to send the gold from Dubai in a concealed manner, and the trio executed the plan by collecting the gold from the aircraft after it was converted into a domestic route, deliberately bypassing the scrutiny of the Customs authorities.

**17.2** I find that Shri Irshad Bhai, based in Dubai, neither attended the personal hearing nor submitted any response or explanation against the Show Cause

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Notice to prove his innocence in the smuggling of gold through the above-mentioned persons. The evidence on record clearly demonstrates that Shri Irshad Bhai, in a carefully planned and premeditated manner, orchestrated the smuggling of ten foreign-origin gold strips into India through Shri Obaid Abdul Razzak Shaikh, Shri Tabrez Akbarali Bana, and Shri Mohammed Farid Alamhusain Mirza via Sardar Vallabhbhai Patel International (SVPI) Airport, Ahmedabad.

The said gold strips, which were subsequently recovered and seized, are liable for **confiscation under Section 111 of the Customs Act, 1962**. It is evident that Shri Irshad Bhai was the mastermind behind the entire smuggling operation. By engaging and directing the three passengers to transport and conceal the gold, he knowingly facilitated an offence under the Customs Act, 1962, and contravened provisions of the **Foreign Trade Policy, 2015–20**, the **Baggage Rules, 2016**, and applicable Customs notifications.

Accordingly, the seized gold is liable for **absolute confiscation under Sections 111(d) and 111(l) of the Customs Act, 1962**, and Shri Irshad Bhai is rendered liable for **penalty under Sections 112(a) and 112(b) of the Customs Act, 1962**.

Further, the evidence available on record, both oral and documentary, indicates that Shri Irshad Bhai is one of the owners of the seized gold. However, he failed to appear for the personal hearing and has not discharged the burden cast upon him under **Section 123 of the Customs Act, 1962**, to prove that the goods were not smuggled. His deliberate inaction, combined with the evidence of his active involvement in orchestrating the smuggling, clearly renders the said gold liable to confiscation and himself liable to penal action under the Customs Act, 1962.

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

- i.** Whether the goods seized are falls under "prohibited goods" as defined under Section 2(33) of the Customs Act, 1962;
- ii.** Whether, seized 10 gold strips, totally weighing 1866.00 grams having purity of 999.0/24Kt, total Market Value of Rs.1,66,82,040/- which were kept/concealed in grey colour shoulder bag of "Winsor" brand, recovered from the possession of Shri Obaid Abdul Razzak Shaikh is liable for confiscation under Section 111(d) and 111(l) of the Customs Act, 1962;
- iii.** Whether the act of the Noticee No.01 to Noticee No.04 renders themselves to be penalized discretionarily under Section 112 of the Customs Act, 1962;

**19.** In the instant case, the principal issue for determination is whether the 10 gold strips, totally weighing 1866.00 grams having purity of 999.0/24Kt, found kept/concealed in grey colour shoulder bag of "Winsor" brand and having a Market Value of Rs.1,66,82,040/- and Tariff Value of Rs.1,53,58,953/-, seized vide Seizure Memo/Order dated 26.02.2025 under Panchnama Proceedings date 25-26.02.2025 on a reasonable belief, is liable to confiscation under Section 111 of the Customs Act, 1962 (hereinafter referred to as "the Act"). The further issue to be decided is whether the passengers concerned are liable for penal action under the provisions of Section 112 of the Act.

**20.** I find that the Panchnama clearly brings out that, based on specific intelligence received by the Directorate of Revenue Intelligence (DRI), Zonal Unit, Ahmedabad, regarding carriage of restricted/prohibited goods, a team of officers from DRI, intercepted three passengers, namely (i) Shri Obaid Abdul Razzak Shaikh (Seat No. 2D, PNR No. VUWZSL), (ii) Shri Tabrez Akbarali Bana (Seat No. 12C, PNR No. RS7GRR), and (iii) Shri Mohammed Farid Alamhusain Mirza (Seat

No. 1B, PNR No. VVM5XI), travelling on Indigo Flight No. 6E381 arriving from Goa to Ahmedabad Domestic Airport around 15:10 hrs. on 25.02.2025.

**20.1** From the depositions of statements of Shri Obaid Abdul Razzak Shaikh, Shri Tabrez Akbarali Bana, and Shri Mohammed Farid Alamousain Mirza, recorded under Section 108 of the Customs Act, 1962 on 26.02.2025, it is revealed that ten strips of gold of foreign origin were concealed beneath the seat of an Indigo aircraft by one Shri Irshad Bhai (Contact No. +971524165040) at Dubai. The said aircraft was operating Indigo Flight No. 6E-381 on the Dubai-Ahmedabad sector (Flight No. 1478) and subsequently operated as a domestic flight from Ahmedabad to Goa (Flight No. 6345) and thereafter from Goa to Ahmedabad (Flight No. 381) on 25.02.2025, using the same aircraft type and registration number.

It is further revealed that, while boarding the aircraft at Goa, Shri Obaid Abdul Razzak Shaikh retrieved the concealed ten strips of foreign-origin gold from beneath the aircraft seat and placed the same into his grey-coloured "Winsor" brand shoulder bag. The statements further disclose that the said gold strips were intentionally concealed beneath the aircraft seat at Dubai by Shri Irshad Bhai, and that Shri Obaid Abdul Razzak Shaikh, Shri Tabrez Akbarali Bana, and Shri Mohammed Farid Alamousain Mirza were instructed to retrieve the gold after the aircraft had converted to a domestic sector, i.e., from Goa to Ahmedabad, with the intention of evading scrutiny by Customs officers at Sardar Vallabhbhai Patel International Airport, Ahmedabad.

**20.2** It is on record that Shri Kartikey Vasantrai Soni, a Government Approved Valuer, weighed the said 10 strips of foreign origin gold and certified vide Certificate No.1665/2024-25 dated 25.02.2025 that the total weight of the said 10 gold strips is 1866.00 grams and having purity of 999.0/24Kt and having a Market Value of Rs.1,66,82,040/- and Tariff Value of Rs.1,53,58,953/-.The details of the valuation of the said gold strips is tabulated as below:

Details Of Gold Items	Quantity	Certificate No.	Net Weight in Gram	Purity	Market Value (Rs)	Tariff Value (Rs)
Strips of Foreign Origin Gold	10	1665/2024-25 Dated 25.02.2025	1866.0	999.0/24Kt	1,66,82,040/-	1,53,58,953/-

**21.** The noticees agreed to the facts of Panchnama dated 25-26.02.2025 and confirmed that the 10 strips of foreign origin gold mentioned in Panchnama dated 25-26.02.2025 which were kept/concealed in grey colour shoulder bag of "Winsor" brand, recovered from the possession of Shri Obaid Abdul Razzak Shaikh. I find that the statement given by noticees under Section 108 of the Customs Act, 1962, were made voluntarily and carry evidentiary value under the law. In support of my view, I relied on the following judgements:

- i. Hon'ble Supreme Court in case of Surjeet Singh Chhabra Vs. U.O.I [reported in 1997 (89) E.L.T 646 (S.C)] held that **evidence- confession statement made before Customs officer, though retracted within six days, in admission and binding, since Customs Officers are not police officers under Section 108 of the Customs Act and FERA.**
- ii. Assistant Collector of Central Excise, Rajamundry Vs. Duncan Agro India Ltd reported in 2000 (120) E.L.T 280 (SC) wherein it was held that **"Statement recorded by a Customs Officer under Section 108 is valid evidence"**
- iii. In 1996 (83) E.L.T 258 (SC) in case of Shri Naresh J Sukhwani V. Union of India wherein it was held that **"It must be remembered that the statement before the Customs official is not a statement recorded under Section 161 of the Criminal Procedure Code 1973. Therefore, it is material piece of**

**evidence collected by Customs Official under Section 108 of the Customs Act, 1962”**

iv. **There is no law which forbids acceptance of voluntary and true admissible statement if the same is later retracted on bald assertion of threat and coercion** as held by Hon’ble Supreme Court in case of K.I Pavunny Vs. Assistant Collector (HQ), Central Excise Cochin (1997) 3 SSC 721.

v. Hon’ble High Court of Mumbai in FERA Appeal No. 44 of 2007 in case of Kantilal M Jhala Vs. Union of India, held that **“Confessional Statement corroborated by the Seized documents admissible even if retracted.”**

vi. In the case of Rajesh Kumar Vs CESTAT reported at 2016 (333) ELT 256 (Del), the Hon’ble High Court of Delhi has observed as under:

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

vii. The Hon’ble Apex Court in the case of Badaku Joti Svant Vs. State of Mysore reported at 1978 (2) ELT J 323(SC) held as "In this view of the matter the statement made by the appellant to the Deputy Superintendent of Customs and Excise would not be hit by Section 25 of the Evidence Act and would be admissible in evidence unless the appellant can take advantage of Section 24 of the Evidence Act. As to that it was urged on behalf of the appellant in the High Court that the confessional statement was obtained by threats. This was not accepted by the High Court and therefore, Section 24 of the Evidence Act has no application in the present case. it is not disputed that if this statement is admissible, the conviction of the appellant is correct. As we have held that a Central Excise Officer is not a Police officer within the meaning of those words in Section 25 of the Evidence Act, the appellant's statement is admissible. It is not ruled out by anything in Section 24 of the Evidence Act and so the appellant's conviction is correct and the appeal must be dismissed."

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

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

ix. The Hon’ble Supreme Court in the case of K.T.M.S. Mohd. vs. 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..."*

**22.** I also take note that, as per paragraph 2.20 of the Foreign Trade Policy (FTP), bona fide household goods and personal effects may be imported as part of a passenger's baggage, subject to the limits, terms, and conditions prescribed under the Baggage Rules, 2016, notified by the Ministry of Finance. Further, in terms of EXIM Code 98030000 under the ITC (HS) Classification of Export and Import Items, 2009–2014, as amended, the import of all dutiable articles by a passenger in his baggage is classified as "Restricted" and is subject to fulfilment of the conditions imposed under the Customs Act, 1962 and the Baggage Rules, 2016.

Further, as per Notification No. 49/2015–2020 dated 05.01.2022 issued under the FTP, gold in any form, including gold above 22 carats, falling under Chapter 71 of the ITC (HS), 2017, Schedule I (Import Policy), is a restricted item for import. I further find that, in terms of Rule 5 of the Baggage Rules, 2016, a passenger residing abroad for more than one year, on return to India, is allowed duty-free clearance of gold jewellery forming part of bona fide baggage, subject to the prescribed limits, namely, up to 20 grams with a value cap of Rs.50,000/- in the case of a male passenger, and up to 40 grams with a value cap of Rs.1,00,000/- in the case of a female passenger.

I also take note that the Central Board of Indirect Taxes and Customs (CBIC) has issued instructions to ensure compliance by "eligible passengers" and to prevent misuse of duty concessions by unscrupulous elements, vide Circular No. 06/2014-Cus dated 06.03.2014.

**22.1** A combined reading of the relevant provisions of the Foreign Trade Policy, the Customs Act, 1962, and the notifications issued thereunder clearly establishes that the import of gold, including gold jewellery, through passenger baggage is subject to restrictions. Such import is permitted only upon fulfilment of prescribed conditions, inter alia, that the passenger must be of Indian origin or an Indian passport holder and must have resided abroad for a minimum period of six months. Only passengers satisfying these mandatory conditions are eligible to import gold as part of their bona fide personal baggage, subject to declaration before the Customs authorities on arrival and payment of applicable customs duty in foreign currency/exchange.

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I find that these conditions constitute explicit restrictions on the import of gold through passenger baggage. In the present case, the noticee was found to be carrying gold items weighing a total of 1,866.0 grams, which is far in excess of the permissible limits prescribed under the Baggage Rules.

In this regard, I also take note of the Board's instructions issued vide F. No. 495/6/97-Cus.VI dated 06.05.1996, as reiterated vide F. No. 495/19/99-Cus.VI dated 11.04.2000, wherein it has been categorically clarified that the import of goods, including gold in commercial quantities, is not permissible under the Baggage Rules, even on payment of applicable duty. In view of the foregoing facts, statutory provisions, and binding instructions, it is evident that the noticee does not fall within the ambit of an "eligible passenger" to import gold as claimed in his submissions.

Further, the manner in which the gold was concealed clearly demonstrates that the act was not only deliberate but also premeditated and ingeniously executed. The noticee has admitted to the possession, carriage, non-declaration, concealment, and subsequent recovery of the said gold. I also find that all procedures conducted during the panchnama were duly documented and carried out by the officers in the presence of independent panchas as well as the passenger/noticee, thereby lending credibility to the proceedings.

**22.2** In view of the non-declaration of the impugned gold and the noticee's categorical admission regarding its carriage and possession, it stands established that the noticee failed to declare the gold bars to the Customs authorities as mandated under Section 77 of the Customs Act, 1962. Such failure to make a true and correct declaration of dutiable goods clearly evidences the noticee's intention to evade payment of applicable customs duty.

Further, gold being a notified commodity under the provisions of the Customs Act, 1962, where such notified goods are seized on the reasonable belief that they are smuggled, the statutory burden shifts upon the person from whose possession the goods are seized to prove that the said goods are not smuggled, in terms of Section 123 of the Customs Act, 1962. In the present case, the impugned gold was seized from the possession of the noticee under a reasonable belief of smuggling, thereby squarely attracting the provisions of Section 123 *ibid*.

**23.** I find that the noticees have unequivocally admitted that they did not declare the gold, in the form of ten strips of foreign-origin gold concealed inside a greycoloured shoulder bag, to the Customs authorities at the time of arrival. Such non-declaration constitutes a clear attempt to smuggle the gold with the intention to evade payment of applicable customs duty. Accordingly, there is sufficient and cogent evidence on record to conclude that the noticee failed to declare the foreign origin gold before the Customs authorities upon arrival at Sardar Vallabhbhai Patel International Airport, Ahmedabad.

Therefore, the present case is one of smuggling of gold without declaration, with the deliberate intent to evade customs duty, which stands conclusively established. Consequently, it is held that the noticee has violated the provisions of Sections 77 and 79 of the Customs Act, 1962, in relation to the import/smuggling of gold which was not meant for bona fide personal use. The noticee has also contravened Rule 11 of the Foreign Trade (Regulation) Rules, 1993, and paragraph 2.26 of the Foreign Trade Policy, 2015-20.

Further, gold being a notified commodity under the Customs Act, 1962, when such goods are seized on the reasonable belief that they are smuggled, the burden of proving that the said goods are not smuggled squarely lies upon the person from whose possession the goods have been seized, in terms of Section 123 of the Customs Act, 1962. In the instant case, the noticee has failed to produce any documentary or other credible evidence to discharge the statutory burden cast upon him under the said provision.

**24.** From the depositions of the statements of Shri Obaid Abdul Razzak Shaikh, Shri Tabrez Akbarali Bana, and Shri Mohammed Farid Alamhusain Mirza,

recorded under Section 108 of the Customs Act, 1962 on 26.02.2025, it is revealed that ten strips of gold of foreign origin were concealed beneath the seat of an Indigo aircraft by one Shri Irshad Bhai (Contact No. +971524165040) at Dubai. The said aircraft was operating on the Dubai–Ahmedabad sector as Indigo Flight No. 1478 and thereafter continued operations as a domestic flight from Ahmedabad to Goa (Flight No. 6345) and subsequently from Goa to Ahmedabad (Flight No. 381) on 25.02.2025, using the same aircraft type and registration number.

It further emerges that, while boarding the aircraft at Goa, Shri Obaid Abdul Razzak Shaikh retrieved the concealed ten strips of foreign-origin gold from beneath the aircraft seat and placed the same into his grey-coloured “Winsor” brand shoulder bag. I further find that the concealment of the said gold beneath the aircraft seat at Dubai was done by Shri Irshad Bhai, and that Shri Obaid Abdul Razzak Shaikh, Shri Tabrez Akbarali Bana, and Shri Mohammed Farid Alamhusain Mirza were specifically instructed to retrieve the gold after the aircraft had converted into a domestic sector, i.e., from Goa to Ahmedabad, with the clear intention of evading scrutiny by the Customs officers at Sardar Vallabhbhai Patel International Airport, Ahmedabad.

By the above acts of commission and omission, Shri Obaid Abdul Razzak Shaikh, Shri Tabrez Akbarali Bana, and Shri Mohammed Farid Alamhusain Mirza became instrumental in facilitating the smuggling of gold. The foreign-origin gold, which was sent from Dubai and recovered while being carried from Goa, is therefore liable for confiscation under the provisions of the Customs Act, 1962. Accordingly, the seized smuggled goods, viz., ten strips of foreign-origin gold, seized vide seizure memo dated 26.02.2025, are liable for confiscation under Section 111 of the Customs Act, 1962, and the noticees are liable for penalty under Section 112 of the Customs Act, 1962, for their role in abetting and facilitating the said smuggling.

From the above facts and evidence on record, it is also established that the said noticees knowingly concerned themselves in an offence punishable under Section 135(1) of the Customs Act, 1962. They were knowingly involved in carrying, removing, depositing, harbouring, keeping, and concealing smuggled gold weighing 1,866.00 grams, having a purity of 999.0/24 carat and a total market value of ₹1,66,82,040/-, which they knew or had reason to believe was liable to confiscation under Section 111 of the Customs Act, 1962.

**25.** It is evident from the foregoing discussions that the impugned gold was deliberately concealed and not declared to the Customs authorities with the sole intention of smuggling the same into India and evading payment of applicable customs duty. The ten strips of foreign-origin gold, weighing 1,866.0 grams and having a purity of 24 Kt/999.0, with a total market value of 1,66,82,040/- and a ₹ tariff value of ₹1,53,58,953/-, concealed inside a grey-coloured “Winsor” brand shoulder bag, were seized under a panchnama drawn on 25–26.02.2025.

The passengers/noticees have categorically admitted that, despite having full knowledge of the legal requirement to declare such goods to the Customs authorities and being aware that such import is prohibited/restricted under the Customs Act, 1962 and the rules and regulations framed thereunder, they intentionally attempted to remove the gold by concealing it and by deliberately not declaring the same. Such acts were committed with the wilful and conscious intention to smuggle the impugned gold into India.

I, therefore, hold that the passengers/noticees have committed acts of commission and omission rendering them liable under Section 112 of the Customs Act, 1962, and accordingly, they are liable for imposition of penalty under the provisions of the said section.

**25.1** In view of the above, I further find that the manner of concealment clearly demonstrates that the noticees attempted to smuggle the seized gold to avoid detection by the Customs authorities. No evidence has been produced to prove

licit import of the seized gold at the time of interception. From the SCN, Panchnama, and statements, it is evident that the noticees did not intend to declare the 10 strips of foreign origin gold and tried to remove them clandestinely to evade payment of Customs duty.

It is settled by the judgment of the Hon'ble Supreme Court in *Garg Wollen Mills (P) Ltd vs. Additional Collector of Customs, New Delhi [1998 (104) ELT 306 (SC)]* that the option to release 'prohibited goods' on payment of redemption fine is discretionary. In *Raj Grow Impex (Supra)*, the Hon'ble Supreme Court held that the exercise of discretion must be guided by law, reason, and justice, and based on relevant considerations. The Hon'ble Delhi High Court in *Raju Sharma [2020 (372) ELT 249 (Del.)]* held that the exercise of discretion by judicial or quasi-judicial authorities merits interference only where it is perverse, tainted by patent illegality, or influenced by oblique motive. Further, in orders dated 21.08.2023 in W.P (C) Nos. 8902/2021, 9561/2021, 13131/2022, 531/2022 & 8083/2023, the Hon'ble Delhi High Court held that an infraction of a condition for import of goods falls within the ambit of Section 2(33) of the Act, and their redemption and release become subject to the discretionary power of the Adjudicating Officer. Considering the above judicial pronouncements, the nature of concealment, and the facts of the present case, I am not inclined to exercise my discretion to permit redemption of the gold on payment of a redemption fine under Section 125 of the Customs Act, 1962.

Further, to support my view, I also relied upon the following judgment which are as: -

**25.2** Before the Kerala High Court in the case of Abdul Razak [2012(275) ELT 300 (Ker)], the petitioner had contended that under the Foreign Trade (Exemption from application of rules in certain cases) Order, 1993, gold was not a prohibited item and can be released on payment of redemption fine.

The Hon'ble High Court held as under:

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

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

**25.3** 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.

**25.4** Further I find that in a recent case decided by the Hon'ble High Court of Madras reported at 2016-TIOL-1664-HC-MAD-CUS in respect of Malabar Diamond Gallery Pvt Ltd, the Court while holding gold jewellery as prohibited goods under Section 2(33) of the Customs Act, 1962 had recorded that "restriction" also means prohibition. In Para 89 of the order, it was recorded as under;

*89. While considering a prayer for provisional release, pending adjudication, whether all the above can wholly be ignored by the authorities, enjoined with a duty, to enforce the statutory provisions, rules and notifications, in letter and spirit, in consonance with the objects and intention of the Legislature, imposing prohibitions/restrictions under the Customs Act, 1962 or under any other law, for*

*the time being in force, we are of the view that all the authorities are bound to follow the same, wherever, prohibition or restriction is imposed, and when the word, "restriction", also means prohibition, as held by the Hon'ble Apex Court in Om Prakash Bhatia's case (cited supra).*

**25.5** The Hon'ble High Court of Madras in the matter of Commissioner of Customs (AIR), Chennai-I Versus P. Sinnasamy 2016 (344) E.L.T. 1154 (Mad.) held-

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

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

**25.6** In 2019 (370) E.L.T. 1743 (G.O.I.), before the Government of India, Ministry of Finance, [Department of Revenue - Revisionary Authority]; Ms. Mallika Arya, Additional Secretary in Abdul Kalam Ammangod Kunhamu vide Order No. 17/2019-Cus., dated 07.10.2019 in F. No. 375/06/B/2017RA stated that it is observed that C.B.I. & C. had issued instruction vide Letter F. No. 495/5/92-Cus. VI, dated 10.05.1993 wherein it has been instructed that "in respect of gold seized for non-declaration, no option to redeem the same on redemption fine under Section 125 of the Customs Act, 1962 should be given except in very trivial cases where the adjudicating authority is satisfied that there was no concealment of the gold in question".

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

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

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

**27.** In the present case, upon careful consideration of all the facts, submissions, and evidence available on record, including the panchnama dated 25-26.02.2025, the statements of Shri Obaid Abdul Razzak Shaikh, Shri Tabrez Akbarali Bana, and Shri Mohammed Farid Alamhusain Mirza recorded on 26.02.2025 under Section 108 of the Customs Act, 1962, as well as the forensic and digital evidence, I find that Shri Obaid Abdul Razzak Shaikh, Shri Tabrez Akbarali Bana, and Shri Mohammed Farid Alamhusain Mirza were actively

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involved in the smuggling of ten strips of gold weighing 1,866.00 grams with a purity of 999.0/24 Kt through Sardar Vallabhbhai Patel International (SVPI) Airport, Ahmedabad.

The evidence on record establishes that the said ten strips of foreign-origin gold were concealed beneath the seat of an Indigo aircraft by one Shri Irshad Bhai at Dubai. The aircraft initially operated on the Dubai–Ahmedabad sector as Indigo Flight No. 1478 and thereafter continued as a domestic flight from Ahmedabad to Goa (Flight No. 6345) and subsequently from Goa to Ahmedabad (Flight No. 381) on 25.02.2025, using the same aircraft type and registration number. It is further established that the noticees were instructed to retrieve the concealed gold after the aircraft converted into a domestic sector, i.e., from Goa to Ahmedabad, with the deliberate intention of evading scrutiny by the Customs officers at Sardar Vallabhbhai Patel International Airport, Ahmedabad.

I further find that, while boarding the aircraft at Goa, Shri Obaid Abdul Razzak Shaikh recovered the concealed ten strips of foreign-origin gold from beneath the aircraft seat and placed the same in his grey-coloured “Winsor” brand shoulder bag. By the above acts of commission and omission, Shri Obaid Abdul Razzak Shaikh, Shri Tabrez Akbarali Bana, and Shri Mohammed Farid Alamhusain Mirza became instrumental in facilitating the smuggling of gold. The said foreign-origin gold, which was sent from Dubai and recovered while being carried from Goa, is therefore liable for confiscation under the provisions of the Customs Act, 1962.

Accordingly, the smuggled goods, viz., ten strips of foreign-origin gold seized vide Seizure Memo dated 26.02.2025, are held to be liable for confiscation under Section 111 of the Customs Act, 1962. Further, for their role in carrying, concealing, and facilitating the smuggling of the said gold, Shri Obaid Abdul Razzak Shaikh, Shri Tabrez Akbarali Bana, and Shri Mohammed Farid Alamhusain Mirza are liable to penalty under Section 112 of the Customs Act, 1962.

**28.** Further, I find that the noticee deliberately violated the law by failing to make the mandatory declaration as required under Section 77 of the Customs Act, 1962, and by importing gold in contravention of the provisions of Section 11 of the Customs Act, 1962 read with paragraph 2.20 of the Foreign Trade Policy and the Baggage Rules, 2016. The possession of gold in bullion form having a market value of ₹1,66,82,040/- clearly demonstrates a conscious intention on the part of the noticee to evade payment of applicable customs duty and to avoid compliance with the statutory requirements governing the import of gold into India under the Customs Act, 1962 and other applicable laws.

I further find that the impugned gold was ingeniously concealed inside a grey coloured “Winsor” brand shoulder bag and was not carried in a declared or transparent manner. Such concealment was premeditated, deliberate, and carefully designed to evade detection during routine customs checks and surveillance, thereby establishing the requisite mens rea for smuggling.

Accordingly, in view of the foregoing discussion and findings, the impugned gold weighing 1,866.0 grams, having a purity of 999.0/24 Kt, in the form of ten strips of foreign-origin gold, found concealed inside the grey-coloured “Winsor” brand shoulder bag, is held to be liable for confiscation. I, therefore, unequivocally hold that the said gold, seized under the panchnama dated 25–26.02.2025, is liable to **absolute confiscation** under the provisions of Sections 111(d) and 111(l) of the Customs Act, 1962.

**29.** With regard to the imposition of penalty under Section 112 of the Customs Act, 1962, I find that in the present case the existence of *mens rea* is established beyond any doubt from the documentary evidence on record, the voluntary statements of the noticee, and the detailed findings discussed hereinabove. While determining the quantum and applicability of penalty, I also place reliance on the ratio laid down by the Hon’ble Supreme Court in *M/s. Hindustan Steel Ltd. vs. State of Orissa*, wherein it was held that:

“The discretion to impose a penalty must be exercised judicially. A penalty will ordinarily be imposed where the party acts deliberately in defiance of law, or is guilty of contumacious or dishonest conduct, or acts in conscious disregard of its obligation; but not in cases of technical or venial breach 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 facts clearly demonstrate that the noticee, despite having full knowledge that carrying gold in the manner adopted constituted an offence under the Customs Act, 1962 and the rules and regulations framed thereunder, deliberately attempted to smuggle gold weighing 1,866.00 grams of 999.0/24 Kt purity by ingeniously concealing the same inside a grey-coloured “Winsor” brand shoulder bag. Such conduct cannot be construed as a technical or venial breach, nor can it be attributed to any bona fide belief.

I further find that the noticee knowingly concerned himself with the carrying, removing, keeping, concealing, and dealing with smuggled gold, which he knew or had reason to believe was liable to confiscation under Section 111 of the Customs Act, 1962. The deliberate non-declaration of the impugned goods in violation of Section 77 of the Customs Act, 1962, coupled with their import in contravention of the statutory provisions, clearly constitutes acts and omissions rendering the goods liable to confiscation, thereby attracting the provisions of Section 112(a) of the Customs Act, 1962.

Further, the premeditated and ingenious manner of concealment adopted by the noticee, with the clear intention of evading detection by the Customs authorities, squarely brings the case within the ambit of Section 112(b) of the Customs Act, 1962, which covers persons who acquire possession of, carry, remove, deposit, harbour, keep, conceal, or deal with goods which they know or have reason to believe are liable to confiscation.

Accordingly, in view of the foregoing facts, evidence, and legal position, I hold that the noticee is liable for imposition of penalty under Sections 112(a) and 112(b) of the Customs Act, 1962, and I hereby impose penalty under the said provisions.

**30. Accordingly, I pass the following Order:**

**ORDER**

- i) I order absolute confiscation of 10 gold strips totally weighing 1866.00 Grams**, purity 999.0/24kt, having total Market Value at **Rs.1,66,82,040/-** (Rupees One Crore Sixty-Six Lakhs Eighty-Two Thousand and Fourty only) and Tariff Value Rs.1,53,58,953/-(Rupees One Crore Fifty-Three Lakh Fifty-Eighty Thousand Nine Hundred and Fifty-Three Only) recovered from the possession of Shri Obaid Abdul Razzak Shaikh, placed under seizure under Panchnama Proceedings dated 25-26.02.2025, and Seizure Memo Order dated 26.02.2025 under the provisions of Section 111(d) and 111(l) of the Customs Act,1962;
- ii) I order absolute confiscation of the grey colour shoulder bag of “Winsor” brand** believed to be used for concealing the above said 10 gold strips of purity 999.0/24Kt., totally weighing 1866.000 grams under the provisions of Section 119 of the Customs Act, 1962 also read with Section 123 of the Custom Act,1962;
- iii) I impose a penalty of Rs.10,00,000/-**(Rupees Ten Lakhs Only) on Shri Obaid Abdul Razzak Shaikh under the provisions of Section 112(a)(i) and Section 112(b)(i) of the Customs Act 1962;

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- iv) **I impose a penalty of Rs.10,00,000/-**(Rupees Ten Lakhs Only) on **Shri Tabrez Akbarali Bana** under the provisions of Section 112(a)(i) and Section 112(b)(i) of the Customs Act 1962;
- v) **I impose a penalty of Rs.10,00,000/-**(Rupees Ten Lakhs Only) on **Shri Mohammed Farid Alamhusain Mirza** under the provisions of Section 112(a)(i) and Section 112(b)(i) of the Customs Act 1962;
- vi) **I impose a penalty of Rs.10,00,000/-**(Rupees Ten Lakhs Only) on **Shri Irshadbhai @Dubai** under the provisions of Section 112(a)(i) and Section 112(b)(i) of the Customs Act 1962;

**31. Accordingly, the Show Cause Notice No. DRI/AZU/GI-02/ENQ22/2025 dated 19.08.2025 stands disposed of.**

**(Shree Ram Vishnoi)**  
**Additional Commissioner**  
**Customs, Ahmedabad**

**DIN: 20260171MN000000DBD3**

**F. No. VIII/10-40/DRI/SVPIA/O&A/HQ/2025-26**

**Date:15.01.2026**

By Speed Post A.D./E-mail /Hand Delivery/Through Notice Board

To

**1. Shri Obaid Abdul Razzak Shaikh,**  
Resident of 145-Abeda Mansion,  
3<sup>rd</sup> Floor, Room No.-19,  
Street/Road/Lane: Samuel Street,  
Village/Town/City: Mumbai, P.O. Chinchbunder,  
State: Maharashtra-400009  
**(E-mail ID: [obaidshaikh784@gmail.com](mailto:obaidshaikh784@gmail.com))**

**2. Shri Tabrez Akbarali Bana,**  
Resident of 19, Navroji, Hill Road,  
Baitul Habib Building, 1<sup>st</sup> Floor, Room No.3,  
Dongri, Mumbai-400009  
**(E-mail ID: [tabrezbana@gmail.com](mailto:tabrezbana@gmail.com))**

**3. Shri Mohammed Farid Alamhusain Mirza,**  
Resident of 202-Rehab Building, Wing-A, Building -6/A,  
Golibar Road, Near Shivalik Venturs Substation, Santacruz East,  
VTC: Mumbai, PO: Santacruz (East),  
District: Mumbai Suburban, Maharashtra – 400055,  
**(E-mail ID: [faridmirza72110@gmail.com](mailto:faridmirza72110@gmail.com))**

**4. Shri Irshadbhai @Dubai (+971524165040)**  
(To be served Through Notice Board)

Copy to-

1. The Principal Commissioner of Customs, Ahmedabad. (Kind Attn: RRA Section)
2. The Deputy Commissioner of Customs (AIU), SVPIA, Ahmedabad.
3. The Additional Director, DRI, AZU, Ahmedabad.
4. The Deputy Commissioner of Customs (TRC), Ahmedabad.
5. The Deputy Commissioner of Customs (Prosecution), Ahmedabad.
6. The System In-Charge, Customs, HQ., Ahmedabad for uploading on the web-site.
7. Guard File.