



सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद
OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD,
चौथी मंज़िल 4th Floor, हडको भवन HUDCO Bhawan, ईश्वर भुवन रोड़ Ishwar Bhuvan Road
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009
दूरभाष क्रमांक Tel. No. 079-26589281

DIN – 20250671MN0000121223

क	फाइल संख्या FILE NO.	1) S/49-73/CUS/AHD/2025-26 2) S/49-74/CUS/AHD/2025-26
ख	अपील आदेश संख्या ORDER-IN- APPEAL NO. (सीमा शुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962) :	AHD-CUSTM-000-APP-100-101-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	25.06.2025
ङ	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN- ORIGINAL NO.	Orders – In – Original No. 244/ADC/SRV/O&A/2024-25, dated 29.01.2025
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	25.06.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	1) Shree Neminath Jewellers, 2/3, Maheta Manor, B.P.T Colony, Sanor, 146, Varavathi Village, Mumbai – 400 030. 2) Shri Lakhpatraj Hemraj Singhvi, Room No. 103, Heena Residency, Daulat Nagar Road No. 9, Borivali East, Mumbai, Maharashtra – 400 066.



1	यह प्रति उस व्यक्ति के निजी उपयोग के लिए मुफ्त में दी जाती है जिनके नाम यह जारी किया गया है.
	This copy is granted free of cost for the private use of the person to whom it is issued.
2.	सीमाशुल्क अधिनियम 1962 की धारा 129 डी डी (1) (यथा संशोधित) के अधीन निम्नलिखित श्रेणियों के मामलों के सम्बन्ध में कोई व्यक्ति इस आदेश से अपने को आहत महसूस करता हो तो इस आदेश की प्राप्ति की तारीख से 3 महीने के अंदर अपर सचिव/संयुक्त सचिव (आवेदन संशोधन), वित्त मंत्रालय, (राजस्व विभाग) संसद मार्ग, नई दिल्ली को पुनरीक्षण आवेदन प्रस्तुत कर सकते हैं.
	Under Section 129 DD(1) of the Customs Act, 1962 (as amended), in respect of the following categories of cases, any person aggrieved by this order can prefer a Revision Application to The Additional Secretary/Joint Secretary (Revision Application), Ministry of Finance, (Department of Revenue) Parliament Street, New Delhi within 3 months from the date of communication of the order.
	निम्नलिखित सम्बन्धित आदेश/Order relating to :
(क)	बैगज के रूप में आयातित कोई माल.
(a)	any goods imported on baggage
(ख)	भारत में आयात करने हेतु किसी वाहन में लादा गया लेकिन भारत में उनके गन्तव्य स्थान पर उतारे न गए माल या उस गन्तव्य स्थान पर उतारे जाने के लिए अपेक्षित माल उतारे न जाने पर या उस गन्तव्य स्थान पर उतारे गए माल की मात्रा में अपेक्षित माल से कमी हो.
(b)	any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination.
(ग)	सीमाशुल्क अधिनियम, 1962 के अध्याय X तथा उसके अधीन बनाए गए नियमों के तहत शुल्क वापसी की अदायगी.
(c)	Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.
.3	पुनरीक्षण आवेदन पत्र संगत नियमावली में विनिर्दिष्ट प्रारूप में प्रस्तुत करना होगा जिसके अन्तर्गत उसकी जांच की जाएगी और उस के साथ निम्नलिखित कागजात संलग्न होने चाहिए :
	The revision application should be in such form and shall be verified in such manner as may be specified in the relevant rules and should be accompanied by :
(क)	कोर्ट फी एक्ट, 1870 के मद सं. 6 अनुसूची 1 के अधीन निर्धारित किए गए अनुसार इस आदेश की 4 प्रतियां, जिसकी एक प्रति में पचास पैसे की न्यायालय शुल्क टिकट लगा होना चाहिए.
(a)	4 copies of this order, bearing Court Fee Stamp of paise fifty only in one copy as prescribed under Schedule 1 item 6 of the Court Fee Act, 1870.
(ख)	सम्बद्ध दस्तावेजों के अलावा साथ मूल आदेश की 4 प्रतियां, यदि हो
(b)	4 copies of the Order-in-Original, in addition to relevant documents, if any
(ग)	पुनरीक्षण के लिए आवेदन की 4 प्रतियां
(c)	4 copies of the Application for Revision.
(घ)	पुनरीक्षण आवेदन दायर करने के लिए सीमाशुल्क अधिनियम, 1962 (यथा संशोधित) में निर्धारित फीस जो अन्य रसीद, फीस, दण्ड, जब्ती और विविध मदों के शीर्ष के अधीन आता है में रु. 200/- (रुपए दो सौ मात्र) या रु. 1000/- (रुपए एक हजार मात्र), जैसा भी मामला हो, से सम्बन्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दो प्रतियां. यदि शुल्क, मांगा गया ब्याज, लगाया गया दंड की राशि और रूपए एक लाख या उससे कम हो तो ऐसे फीस के रूप में रु. 200/- और यदि एक लाख से अधिक हो तो फीस के रूप में रु. 1000/-
(d)	The duplicate copy of the T.R.6 challan evidencing payment of Rs.200/- (Rupees two Hundred only) or Rs.1,000/- (Rupees one thousand only) as the case may be, under the Head of other receipts, fees, fines, forfeitures and Miscellaneous Items being the fee prescribed in the Customs Act, 1962 (as amended) for filing a Revision Application. If the amount of duty and interest demanded, fine or penalty levied is one lakh rupees or less, fees as Rs.200/- and if it is more than one lakh rupees, the fee is Rs.1000/-.
4.	मद सं. 2 के अधीन सूचित मामलों के अलावा अन्य मामलों के सम्बन्ध में यदि कोई व्यक्ति इस आदेश से आहत महसूस करता हो तो वे सीमाशुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म सी.ए.-3 में सीमाशुल्क, केन्द्रीय उत्पाद शुल्क और सेवा कर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील कर सकते हैं

	In respect of cases other than these mentioned under item 2 above, any person aggrieved by this order can file an appeal under Section 129 A(1) of the Customs Act, 1962 in form C.A.-3 before the Customs, Excise and Service Tax Appellate Tribunal at the following address :	
	सीमाशुल्क, केंद्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench
	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2 nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
5.	सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (6) के अधीन, सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (1) के अधीन अपील के साथ निम्नलिखित शुल्क संलग्न होने चाहिए-	
	Under Section 129 A (6) of the Customs Act, 1962 an appeal under Section 129 A (1) of the Customs Act, 1962 shall be accompanied by a fee of -	
(क)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए या उससे कम हो तो एक हजार रूपए.	
(a)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;	
(ख)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पाँच हजार रूपए	
(b)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees ;	
(ग)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रूपए से अधिक हो तो; दस हजार रूपए.	
(c)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees	
(घ)	इस आदेश के विरुद्ध अधिकरण के सामने, मांगे गए शुल्क के %10 अदा करने पर, जहां शुल्क या शुल्क एवं दंड विवाद में हैं, या दंड के %10 अदा करने पर, जहां केवल दंड विवाद में है, अपील रखा जाएगा।	
(d)	An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.	
6.	उक्त अधिनियम की धारा 129 (ए) के अन्तर्गत अपील प्राधिकरण के समक्ष दायर प्रत्येक आवेदन पत्र- (क) रोक आदेश के लिए या गलतियों को सुधारने के लिए या किसी अन्य प्रयोजन के लिए किए गए अपील : - अथवा (ख) अपील या आवेदन पत्र का प्रत्यावर्तन के लिए दायर आवेदन के साथ रुपये पाँच सौ का शुल्क भी संलग्न होने चाहिए.	
	Under section 129 (a) of the said Act, every application made before the Appellate Tribunal- (a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or (b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.	



ORDER IN APPEAL

Two (02) appeals, as per details given in the table below, have been filed challenging Order – In – Original No. 244/ADC/SRV/O&A/2024-25, dated 29.01.2025, (hereinafter referred to as 'the impugned order') passed by the Additional Commissioner, Customs, Ahmedabad (hereinafter referred to as 'the adjudicating authority') :

Sr. No.	Appeal File No.	Name and address of the Appellant	Herein after referred to as
1.	S/49-73/CUS/AHD/25-26	Shree Neminath Jewellers, 2/3, Maheta Manor, B.P.T Colony, Sanor, 146, Varavathi Village, Mumbai – 400 030.	Appellant No. 1
2.	S/49-74/CUS/AHD/25-26	Shri Lakhpatraj Hemraj Singhvi, Room No. 103, Heena Residency, Daulat Nagar Road No. 9, Borivali East, Mumbai, Maharashtra – 400 066	Appellant No. 2

2. Facts of the case, in brief, are that an intelligence was gathered by the Directorate of Revenue Intelligence, Ahmedabad Zonal Unit (hereinafter referred to as 'DRI') that person belonging to few Angadia firms coming from Mumbai, on board Saurashtra Mail Train No. 22945 may carry smuggled gold and other contraband / high valued goods through Ahmedabad Kalupur Railway Station. Further, three persons would board the cars / vehicles in the 'Pic-up' cars outside the railway station.

2.1 Acting on the said intelligence, the officers from DRI, Ahmedabad intercepted 15 passengers while they were approaching the above said vehicles at around 04:50 hrs on 07.06.2023. The said passengers were carrying different bags and they informed that they were working for different Angadia firms. Thereafter, taking into consideration the quantum of baggages and due to reasons of safety, the officers with the consent of the passengers took them to the DRI, Ahmedabad Zonal Unit office situated at Unit No. 15, Magnet Corporate Park, Near Sola Flyover, Behind Intas Corporate Building, Thaltej, Ahmedabad, for examination of the baggage. The examination proceedings were recorded in the presence of the independent Panchas vide Panchnama dated 07.06.2023.

2.2 Accordingly, the examination of the baggage of the passengers was done in the separate room of the DRI, Ahmedabad office under respective Panchnama dated 07/08.06.2023. During the examination of the baggage of one of the passenger, who identified himself as Shri Dalpathai K. Dodiya, Employee of M/s. Ashokkumar Ambalal a Company, and produced his train ticket of Train No. 22945 for travelling from Mumbai to Ahmedabad on 06.06.2023. During the examination, the officers found that his bag contained various parcels. The officers opened each and every parcel contained in the bags and prepared inventory of all the goods found during the examination of baggage



as attached to the said Panchnama.

2.3 During the examination of the baggage, the officers found that there were certain parcels containing gold which appeared to be of foreign origin. Further, the passenger could not produce any documents showing legitimate import of the said goods and these goods appeared to be of the nature of smuggled goods. The details of said gold, as identified vide the markings on the gold and labels of the parcels are as per Table-I of the impugned order. Under the reasonable belief that these goods were liable for confiscation under the provisions of the Customs Act, 1962, the officers placed the said goods under detention for further investigation while releasing the remaining goods (with legitimate documents) to Shri Kailashkumar Dodiya, Manager, M/s. Ashokkumar Ambalal & Company under Panchnama dated 20.06.2023.

2.4 During the course of investigation, statements of various persons were recorded as under:

2.4.1 Statement of Shri Kailashkumar Dodiya, Manager of M/s. Ashokkumar Ambalal & Company was recorded on 14.06.2023, wherein, he, *inter-alia*, stated that their firm specializes in courier services of precious and valuable goods, documents, Gems and Jewellery, Diamonds etc. and that they pay GST @18% as per the CGST Rules and regulations; that they pick up the parcels from the office or business premises of the customer and also deliver the parcels at the address and details provided by the sender and is mentioned by them on the parcel; that on being asked he stated that their company's pick up vehicles generally go to the customs' office to collect the goods in majority of the cases. In case of precious parcels, the same are sealed by the sender and they do not know the exact description of goods. That they act on the basis of invoice and description mentioned on the parcel by the sender; that on being asked as to whether they can accept the parcels related to foreign currency, foreign origin gold, to which he stated that they cannot accept the parcels related to foreign currency, foreign origin gold in bars or in any other form. However, the customer may sometimes mis-declare the correct description and nature of the goods in the parcel.

2.4.2 M/s. Ashokkumar Ambalal & Company submitted certain documents as detailed at TABLE-II of the impugned order, above pertaining to their parcels, i.e., detained gold indicating the genuine procurement of the same by DRI under Panchnama dated 07/08.06.2023. Accordingly, the representative of the said Aangadia firm, M/s. Ashokkumar Ambalal & Company was called to the DRI office and the Indian Origin gold, as mentioned at Sl. No. 1 (i), 2 (ii), 3 (i), 4 (ii) and 5 (i) in the TABLE-I of the impugned order were released to the Aangadia firms after verification with the respective necessary documents in respect of some of the parcels while detaining the foreign origin gold for further investigation. The proceedings thereof were recorded under Panchnama dated 20.06.2023 in the presence of the independent Panchas. The receipt of the parcels was duly acknowledged by Shri Kailashkumar Dodiya vide Panchnama dated 20.06.2023, which were detained vide as per Annexure -B to the Panchnama dated 07/08.06.2023,



as detailed in Table-III of the impugned order. The remaining parcels as mentioned at Sl. No. 2, 4, 6, 7, 8 & 9 as detailed in Annexure –B attached to the Panchnama were again resealed and detained for further investigation, as per details mentioned in Table – IV of the impugned order.

2.4.3 Statement of Shri Chintan Sagarmal Jain, Partner of M/s. Shree Neminath Jewellers (Appellant No. 1) was recorded on 11.07.2023, in connection with investigation with respect to 2 foreign origin gold bars of 200 grams wherein, he, *inter-alia*, on being asked about his work profile in the firm M/s. Shree Neminath Jewellers, Mumbai, he stated that he is partner of the said firm M/s. Shree Neminath Jewellers, Mumbai, and looks after the sale purchase of Gold Bars and Gold Jewellery; that his firm deals in the work related to trading of foreign gold and Gold Jewellery in the retail market; that they give raw gold in the form of Bars or cut pieces to various goldsmiths to make jewellery for them on job work basis; that he also stated that goods detained as per Annexure-B of the said Panchnama were parcel belonging to Shri Lakhpat Raj Singhvi (Appellant No. 2) was detained under reasonable belief that these were liable for confiscation under the provisions of the Customs Act, 1962; that he further stated that the detained two gold bars having total weight of 200 grams of 999 purity were purchased by them from M/s. Shree Mandev Bullion LLP, Mumbai; that the said gold is further sold in retail market out of which 200 grams was sold to Shri Lakhpat Raj Singhvi (Appellant No. 2). He stated that he does not have import dockets for the import of the said foreign origin 2 gold bars of 200 grams, they were not supplied any Import dockets for the import of the said foreign origin 2 gold bars of 200 grams by the supplier M/s. Shree Mandev Bullion LLP, Mumbai. However, he would seek the documents from the supplier and undertake to submit the same once it is received from the supplier. He submitted the documents related to sale, purchase, details of payment for the said gold vide his letter dated 11.07.2023.

2.4.4 Statement of Shri Lakhpatraj Hemraj Singhvi (Appellant No. 2), intended recipient of goods, viz., 2 foreign origin Gold Bar of 200 grams was recorded on 11.07.2023, wherein, he, *inter-alia*, stated that the goods detained vide Annexure- B to the Panchnama dated 07/08.06.2023, viz. 2 gold bars of foreign origin were purchased by him and handed over by him to M/s. Ashokkumar Ambalal & Company to deliver the same to his nephew Mr. Sankhesh Singhvi. The said Foreign Origin Gold bars were purchased from M/s. Shree Neminath Jewellers, Mumbai.

2.4.5 Statement of Shri Mukesh S. Jain, Proprietor of M/s. Pooja Gold sender and beneficial owner of two gold cut pieces weighing 113.98 grams was recorded on 14.07.2023, wherein, he, *inter-alia*, stated that he started the firm M/s. Pooja Gold is operating from Surat and was engaged in the business of Gold bars and Gold Jewellery sale and purchase. He stated that he handles all the day to day work, work related to sale and purchase of Gold Bars and Gold Jewellery, accounts etc.; that on being asked specifically about the detained two Gold Cut pieces having total weight of 113.98 grams of 999 purity he stated that the said two Gold Cut pieces having total weight of 113.98 grams of 999 purity was of foreign origin and the same was purchased by them from



some retailers who sometimes visits to their shop to sell Gold; that on being asked about as to whether the said cut piece of gold bar was smuggled in India, he stated that they had purchased the said gold from a person aged about 30-35 years in Surat. The said person had come to or shop in around May' 2023 saying that he was in urgent requirement of funds for some social function and that he needs to sell his gold to earn some money. He stated that taking pity on his condition, he had purchased the gold from him and had paid him by cash. He also admitted that he had not made the entry of payment made in cash in our accounts; that he stated that he was not aware of the name or identity of the said person from whom he had purchased the said gold as sometimes such type of persons come to their shop for sale of gold in small quantity. He stated that it is possible that the said person had smuggled the gold through Surat Airport from abroad. He further stated that the person offered him the gold at a cheaper rate, and therefore he purchased the gold based on its purity and rate; that he further stated that he does not have any import documents for their seized two Gold Cut pieces having total weight of 113.98 grams of 999 purity as it was not provided by the person from whom they had purchased the said gold; that on being asked as to why they did not seek any import documents from that person as he offered him the gold on a cheaper rate, he stated that they do not have any legal knowledge of the Customs Act or rules; that he admitted that he himself had handed-over the parcel to M/s. Ashokkumar Ambalal & Company to deliver the same to Shri Sudhir Bhai Ramchandra Anarsan, Ahmedabad and provided a copy of the invoice issued to Shri SudhirBhai Ramchamchandra Anarsan.

2.5 Shri Kartikey Vasantrai Soni, Govt. Approved Gold Assayer, examined the detained gold in presence of independent Pancha witnesses and Shri Kailashkumar Dodiya of M/s. Ashokkumar Ambalal & Company and examination of the same was recorded under Panchnama dated 11.09.2023 drawn at DRI Ahmedabad office. Shri Kartikey Vasantrai Soni, Gold Assayer certified the purity of Gold, weight, rate of gold vide his Vluation Report dated 18.09.2023. As per the Valuation Report dated 18.09.2023, the details of the detained gold in respect of parcels detained vide Panchnama dated 07/08.06.2023 in respect of M/s. Ashokumar Ambalal & Company are as per details mentioned at Table-V of the impugned order.

2.6 Statement of Shri Alpesh Kumar of M/s. Diya Bullion and Jewellery (intended recipient of 1000 grams of gold sent by 'RD') was recorded on 29.09.2023, herein, he, *inter-alia*, stated that he is Proprietor of M/s. Diya Bullion and Jewellery, Rajasthan; that he had purchased 1200 grams gold from Shri Sushil of M/s. Swiss Bullion and on perusal of report it was observed that 1000 grams of gold was having foreign marking and was thus imported and 200 grams was having Indian marking in parcel 6B; that he placed an order of 1200 grams of Gold to M/s. Swiss Bullion, Mumbai and had no information as to whether the said gold was of foreign origin and had not asked for foreign origin gold; that he submitted a copy of Invoice No. SB/27 dated 07.06.2023; that the gold was sent on 06.06.2023 and invoice date was of 07.06.2023; that Shri Sushil of M/s. Swiss Bullion, Mumbai may be able to explain the reason for the same; that he had not been provided any import documents in respect of 1000 grams of foreign origin gold by



[Handwritten signature]

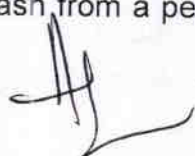
the supplier; that he was not provided actual tax invoice at the time of handing over the goods to M/s. Ashokumar Ambalal & Company.

2.7 From the Valuation Report dated 18.09.2023, it was determined that the detained gold as mentioned at Parcel No. 8, 6A in the TABLE-V of the impugned order, were of foreign origin. In absence of the import related documents of such goods with the Angadia firm, the detained goods, detailed as follows, were placed under seizure under the provisions of Section 110 of Customs Act, 1962, under the reasonable belief that the same were liable to confiscation under the provisions of Customs Act, 1962.

- i. One Gold Bar and particle of foreign origin totally weighing 598.30 grams valued at Rs. 36,19,715/- having marking AL Etihad Gold Dubai UAE Gold 995, Sr. No. A979750 Melter Assayer and two small pieces/ particles sent by SENDER- 'M/s. Royal Bullion, Mumbai' to RECIPIENT- 'M/s. V.S. Gold, Udaipur- 313001' placed under seizure vide Seizure Memo dated 12.10.2023;
- ii. One Gold Bar of foreign origin, weighing 1000 grams (1Kg) valued at Rs. 60,50,000/- (having marking AL Etihad Gold Dubai UAE Gold 995, Sr. No. A378402 Melter Assayer sent by SENDER- M/s. Swiss Bullion (RD) Mumbai- to RECIPIENT- M/s. Diya Bullion and Jewellery, Rajasthan placed under seizure vide Seizure Memo dated 12.10.2023;

2.8 Statement of Shri Vishal Bhopawat, Proprietor of M/s. V. S. Gold, Udaipur was recorded on 17.10.2023, herein, he, *inter-alia*, stated that he has done B. Tech and had started his firm M/s. V. S. Gold for retail sale of gold and silver bars at Udaipur; that on being asked specifically about the detained parcels belonging to M/s. Royal Bullion as given in the Panchnama dated 07/08.06.2023, he stated that he had given the order of 600 grams of 995 purity gold to M/s. Royal Bullion; that he received Invoice No. RB/119/23-24, dated 06.06.2023 by M/s. Royal Bullion; that that he was also given verbal communication by M/s. Royal Bullion that they were sending 598.30 gram of gold by Angadia and further 1.70 gram of gold would be sent by them later on; that they generally receive the gold bars by Angadia firm; that the gold bars were generally dispatched by their suppliers through Angadia after confirmation of the order over phone; that as regards the import documents pertaining to the seized gold bar of foreign origin of 598.30 gram gold sent by M/s. Royal Bullion, he stated that he does not have any import documents pertaining to the said gold bars, nor he was provided any import documents by the supplier.

2.9 Statement of Shri Chaman Jain, Partner of M/s. Royal Bullion, Mumbai was recorded on 18.10.2023, herein, he, *inter-alia*, stated that he was partner of the firm, M/s. Royal Bullion, Mumbai and his firm was engaged in the trading of gold and silver bullion; that he was handling all the day to day work, work related to sale and purchase of Gold Bars and Gold Jewellery, accounts etc.; that that they procure gold domestically and sell these bars in the retail market to various customers and there are no specific customers; that on being asked about the detained gold pertaining to M/s. Royal Bullion, he stated that M/s. V.S. Gold had informed him on 06.06.2023 over phone to purchase 600 grams of gold by cash from a person called Shri Poshha Bhai and that the cash for




the same would be handed over by a person of M/s. V. S. Gold. Also, M/s. V. S. Gold had asked to hand over the said gold to M/s. Ashokkumar Ambalal & Company - Angadiya to deliver to Shri Shankarji, V.S. Udaipur; that M/s. V.S. Gold had given him cash for 600 grams of gold on 06.06.2023 afternoon; that Shri Posha Bhai had come to his shop in the evening of 06.06.2023 to deliver the said gold; that he weighed the said gold in their shop and it weighed only 598.30 gram and he had informed the same to M/s. V.S. Gold, Udaipur over phone and they had asked him (Chaman Jain) to hand over the cash corresponding to 598.30 grams of gold and the cash for the remaining 1.70 grams of gold would be collected by some person of M/s. V.S. Gold afterwards. Subsequently, he handed over the cash to Shri Posha Bhai for 598.30 grams of gold; that he does not know any identity detail of Shri Posha Bhai.; that he admitted that as per the instructions of M/s. V. S.Gold, he handed over the said gold to M/s. Ashokkumar Ambalal & Company-Angadiya firm at their Mumbai office to be delivered to M/s. V. S.Gold, Udaipur; that on being asked as to why M/s. V.S. Gold did not purchase and take the delivery of the detained gold on their own and why did they involve M/s. Royal Bullion, he stated that M/s. V.S. Gold are their regular customers. Therefore, to maintain their business relations, they took the said job for them on their request; that he had received a call from M/s. V.S. Gold on 07.06.2023 to issue him a back dated invoice for 600 grams gold as their gold that was handed over a day before to M/s. Ashokkumar Ambalal & Company, Mumbai had been detained by DRI at Ahmedabad. Further, he stated that to adjust the gold and payments corresponding to the said invoice in books of account, they made payment for 200 grams gold by RTGS on 07.06.2023 and then for another 200 grams gold by RTGS on 08.06.2023; that a person of M/s. V.S. Gold had come to take the delivery of the gold on 07.06.2023 and 08.06.2023 to whom he delivered the said gold accordingly; that for the remaining 200 gram gold as per the invoice No. RB/119/23-24, dated 06.06.2023, M/s. V.S. Gold had not made a payment for the said gold and so they issued an invoice for 200 grams gold afterwards in around 2nd week of June'2023; that the gold pertaining to the Invoice No. RB/119/23-24, dated 06.06.2023 issued by M/s. Royal Bullion was issued by them for a separate delivery on being asked by M/s. V.S. Gold and it does not pertain to the gold detained by DRI on 07.06.2023 which was later adjusted against the gold supplied through the parcel and detained by DRI; that on being asked to submit the documents related to the import of the said gold, he stated that he does not have any import documents pertaining to the said gold bars as he was not provided any import documents by either M/s. V.S. Gold or the supplier, i.e. Shri Posha Bhai.

2.10 From the Valuation Report, it was determined that the detained gold as mentioned at Parcel No. 2 and 4 in the TABLE-V of the impugned order, were of foreign origin. In absence of the import related documents of such goods with the Angadia firm, the detained goods, detailed as follows, were placed under seizure under the provisions of Section 110 of Customs Act, 1962, under the reasonable belief that the same were liable to confiscation under the provisions of Section 111 of the Customs Act, 1962.

Two Gold Bars of 100 grams each having Valcambi Marking of foreign origin totally weighing 200 grams, having purity 999, valued at Rs. 12,10,000/- having



marking 'VALCAMBI' sent by SENDER- M/s. Shree Neminath Jewellers to RECIPIENT- Shankhesh Raj Singhvi placed under seizure vide Seizure Memo dated 25.10.2023;

- ii. Two Cut Pieces and gold dust of purity 999 of foreign origin and without cover of any import invoice/ documents, weighing 114.20 grams valued at Rs. 6,90,910/- sent by SENDER- Shri Rajat of M/s. Pooja Gold, Surat to RECIPIENT- Shri Anarsan Sudhirbhai Ramchandra, Ahmedabad placed under seizure vide Seizure Memo dated 25.10.2023.

2.11 The box containing parcel no. 2,4,6,7,8 & 9 (as per Annexure – B of the Panchnama dated 07.06.2023) and detained during panchnama dated 07.06.2023 and 20.06.2023 were examined and Valuation Report dated 18.09.2024 was provided by Shri Kartikey Vasantraai Soni, Govt. approved Valuer. As per the said Valuation Report, the parcels no. 6B, 7 & 9 (as per Annexure –B) to the Panchnama dated 07.06.2023 were of Indian Origin and as supported by the documents submitted by the respective parties. The parcel No. 8, 2, 6A, 4 were of foreign origin. Accordingly, the representative of the said Angadia firm, M/s. Ashokkumar Ambalal & Company was called to the DRI office and the Indian Origin gold, as mentioned at Sl. No. 6B, 7 & 9 in the TABLE-V mentioned above was released to the Angadia firms after verification with the respective necessary documents in respect of some of the parcels while detaining the foreign origin gold for further investigation. The proceedings thereof were recorded under Panchnama dated 07.12.2023 in the presence of the independent Panchas. The receipt of the parcels was duly acknowledged by Shri Kailashkumar Dodiya vide Panchnama dated 07.12.2023, which were detained vide as per Annexure –B to the Panchnama dated 07/08.06.2023, as per Table-VI of the impugned order. The remaining parcels as mentioned at Sl. No. 2(i), 4, 6A & 8 as detailed in Annexure –B attached to the Panchnama dated 07.06.2023 were again resealed and detained for further investigation, as per the details mentioned at Table- VII of the impugned order.

2.12 Statement of Shri Sudhirbhai Ramchandra Anarsan (intended recipient of gold sent by Shri Mukesh S. Jain, M/s. Pooja Gold was recorded on 15.02.2024, in connection with one piece of gold weighing 114.20 grams was carried by employee of Angadia – M/s. Ashokkumar Ambalal & Company wherein, he, *inter-alia*, stated that he was 9th standard pass and deals in jewellery making for different retailers in Gujarat and do artisan work of jewellery making as per the designs provided by the customers; that they take the gold in raw form and deliver jewellery as per the designs provided by them; that he get his commission cut of 0.5% of the Gold and is not in trading or retail business; that he was shown the report dated 18.09.2023 of Shri Kartikey Vasantraai Soni, Govt. Approved Valuer; that on perusal he noticed that the 114.20 grams gold pertaining to M/s. Pooja Gold, Surat was having imported marking and was of foreign origin; that the said gold bar/ piece of 114.20 grams was meant to be sent by M/s. Pooja Gold, Surat to them for making gold rings; that he had never seen the gold of 114.20 grams sent by M/s. Pooja Gold, Surat; that he was not aware of the origin of the said gold and it was not informed by M/s. Pooja Gold, Surat to them; that M/s. Pooja Gold, Surat had also not issued any

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invoice to them; that the ownership of the said gold of 114.20 grams, it is stated that it lies with M/s. Pooja Gold, Surat.

2.13 Statement of Shri Chitan Sagarbhai Jain, Partner of M/s. Shree Neminath Jewellers (Appellant No. 1) was recorded on 18.03.2024, wherein, he, *inter-alia*, on being specifically asked about the seized gold having total weight of 200 grams of 999 purity, he stated that the said Gold bars having total weight of 200 grams of 999 purity were of foreign origin and he does not remember exactly from whom they have purchased this gold bar; that he had not verified the purity of gold and he had just purchased the said gold from the person based on rates; that he was not aware of the name or identity of the said person from whom he had purchased the said gold as sometimes such type of persons come to their shop for sale of gold in small quantity; that it is possible that the said person had smuggled or brought in the said gold through Mumbai Airport from abroad as the gold bar was of foreign origin; that such person offered them the gold on a cheaper rate, therefore they purchased the gold based on its purity and rates; that he admitted that he does not have any import documents for their seized gold pieces of 200 grams as it was not provided by the person from whom they had purchased the said gold; that he had sold the said gold to Shri Lakhpatrij Hemraj Singhvi (Appellant No. 2) as asked by him for his personal use and therefore, he had handed over the said gold to Shri the Appellant No. 2; that as regards the ownership of the detained gold bars of 200 grams, he admitted and claimed the ownership of the said gold; that he was aware that the said gold was of foreign origin before it was sold by them to the Appellant No. 2 and it might have been smuggled through Mumbai or any other airport.

2.14 A further statement of Shri Lakhpatrij Hemraj Singhvi (Appellant No. 2) intended recipient of goods, viz., 2 foreign origin gold bar of 200 grams was recorded on 18.03.2024, wherein, he, *inter-alia*, on being asked about the said seized gold weighing 200 grams, he stated that the said gold was purchased by him on 04.06.2023 from M/s. Shree Neminath Jewellers, Mumbai and also provided copy of the invoice issued to him i.e. Invoice No. 1639, dated 04.06.2023 for the same; that he made payment for the same and handed over the said gold bars weighing 200 grams to the Angadia on 06.06.2023 to get the same delivered to his nephew; that he was not provided any import documents for the said gold; he admitted during the recording of his statement that he was aware that the said gold bars were of foreign origin but did not inquire much about its source; He admitted that he is owner of the said foreign origin gold weighing 200 grams.

2.15 Summons dated 07.07.2023, 25.09.2023, 17.05.2024 were issued to M/s. Swiss Bullion, 307, Krishna Niwas, 3rd Floor, Office No- 69, Yusuf Mehrali Road, Next to Dhanji St. Corner, Pydhonie, Mumbai- 400003 in connection with the instant investigation related to 1 Kg Foreign origin gold detained vide Panchnama dated 07/08.06.2023, wherein production of following documents were sought:-

Sales and Purchase of Gold Bars from 01.04.2023 to 06.06.2023

2. Details of payment received

3. Details of import of gold or purchase of foreign origin gold.

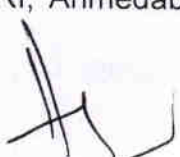


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2.16 M/s. Swiss Bullion, Mumbai was issued summons dated 07.07.2023, 25.07.2023, 17.05.2024, but they did not appear before the investigating agency, DRI, Ahmedabad. It appeared that by not appearing before the investigating agency, DRI, they did not cooperate during the investigation. They resorted delay tactics, with an intent to stall the investigation pertaining to 1000 grams of Foreign Origin Gold, having fair market value of Rs. 60,50,000/- seized by DRI, Ahmedabad vide Seizure Memo dated 12.10.2023. The investigating agency reserves its right to issue of an addendum or Supplementary Show Cause Notice or Separate Show Cause Notice, to bring on record further evidence as may be gathered against the noticees of this Show Cause Notice and also to issue Show Cause Notice to any person/persons not covered included in this Show Cause Notice, who may be found to be involved.

2.17 A search was carried out at the premises of M/s. Swiss Bullion, Mumbai which was recorded under Panchnama dated 28.05.2024. During the search proceedings, Shri Dhruv Porwal, son of Proprietor of M/s. Swiss Bullion and the other employees of M/s. Swiss Bullion, i.e. Shri Ketan Jain and Shri Samit Kumar Yadav denied about having given any parcel to M/s. Ashokkumar Ambalal & Company on the said date. Shri Ketan Jain later informed the DRI officers that Shri Alpesh Shantilal Soni, Proprietor of M/s. Diya Bullion & Jewellery, Jalore had asked them on 07.06.2023 that he wishes to buy 1200 grams of gold, therefore, in good faith, they had made a Tax invoice, bearing No. SB/127, dated 07.06.2023 for 1200 grams of gold before the payment for the said gold. Shri Ketan Jain further informed that Shri Alpesh Kumar later did not make payment for the 1200 grams gold mentioned in the Invoice and also, they got to know from some acquaintances that one parcel of M/s. Diya Bullion and Jewellery containing 1200 grams of gold had been detained by DRI, Ahmedabad Zonal Unit in the morning of 07.06.2023. Shri Ketan Jain informed that in view of the same, they had subsequently cancelled the Invoice and did not deliver the gold to M/s. Diya Bullion and Jewellery, Jalore. During the search, they also submitted copy of the said cancelled invoice bearing no. SB/127, dated 07.06.2023. Thereafter officer of DRI, enquired about purchase or sale of Gold Bar having Sr. No A378402 Melter Assayer in FY 2023-24; to which Shri Ketan Jain informed that their firm M/s Swiss Bullion have not made purchase or sale of said Gold Bar. Further on being enquired if such gold bar was purchased or sold from accounts of M/s RD Bullion; to which Shri Ketan Jain informed that they have examined their accounts in M/s RD Bullion as well and their account had no sale or purchase details of the above said Gold Bar.

2.18 During the search proceedings, Shri Dhruv Porwal and Shri Ketan Jain were asked about whether they had done any business with M/s. Diya Bullion and Jewellery in the past to which Shri Ketan Jain informed that M/s. Swiss Bullion had never done any business with M/s. Diya Bullion and Jewellery. Shri Ketan Jain further informed that M/s. RD Bullion, the Proprietorship firm of Shri Vansh Porwal, had done business with M/s. Diya Bullion and Jewellery in the past but after the parcel of M/s. Diya Bullion and Jewellery was detained by DRI, Ahmedabad on 07.06.2023, they had stopped doing



business with them. On being asked with regard to the documents they take from the suppliers while purchasing the foreign origin gold, Shri Ketan Jain informed that their suppliers only provide them the GST invoices and no import documents are provided to them by the supplier firms of foreign origin gold. Shri Ketan Jain informed that they themselves also do not ask for the import related documents from the suppliers and their purchase decisions are only guided by the purity and price of the gold.

2.19 A statement of Shri Kailashkumar Dodiya, Manager of M/s. Ashokkumar Ambalal & Company was recorded on 29.05.2024, wherein, he, *inter-alia*, he stated that the parcel bearing marking as 'RD' and intended for Mr. Alpesh as per Annexure - B to the Panchnama dated 07.06.2023 was booked by M/s. RD Bullion and meant to be delivered to Shri Alpesh of M/s. Diya Bullion and Jewellery, Jalore; that 'RD' mentioned on the parcel also indicates that the parcel was booked by M/s. RD Bullion; that on being asked as to who had attached the slip to the parcel which mentioned sender's and recipient's name, he stated that the concerned parties themselves attach these slips on their parcels and in this case, M/s. RD Bullion had attached the said slip; that they do not maintain booking slips at their offices and they work only on trust basis; that on being asked about the identity of the person who had booked the said parcel, he stated that they do not remember the identity of the person as a lot of persons come for booking of parcels and it is difficult to remember the identity of every person and had not taken any KYC documents of the person who had booked the parcel as it is not a practise in the Angadia firms to take the KYC of the sender of the parcels and therefore, they had not taken any KYC of the person who had done the booking. He stated that they work only on trust basis, however, they insist on invoice or delivery challan pertaining to the goods; that on being asked about the documents they collected while booking the said parcel, he stated that the concerned party, i.e. M/s. RD Bullion or M/s. Swiss Bullion had not given any invoice at the time of booking; that they insist to take the copy of invoice or delivery challan from the senders of the parcel to which majority of the customers inform them that the same is kept inside the parcel; that he was asked to specifically peruse the fact mentioned in the Panchnama dated 28.05.2024 that Shri Ketan Jain of M/s. Swiss Bullion had denied about handing over the said parcel of 1200 grams, which was subsequently detained under Panchnama dated 07.06.2023, he stated that it does not seem possible as the parcel was booked by the name of 'RD' as also mentioned on the parcel of the said gold.

2.20 It appeared that the burden of proof in case of 'Gold' in terms of Section 123 (1) of Customs Act, 1962 that they were not smuggled goods shall be laid on M/s. Pooja Jewellers, M/s. Royal Bullion & M/s V.S. Gold, M/s. Shree Neminath Jewellers (Appellant No. 1), Shri Lakhpatraj Hemraj Singhvi (Appellant No. 2), M/s. Swiss Bullion and M/s. Diya Bullion & Jewellery, Jalore. And during the course of investigation they could not provide legitimate documents of import of said foreign origin gold seized vide 4 seizure memos dated 12.10.2023 and 25.10.2023 respectively.



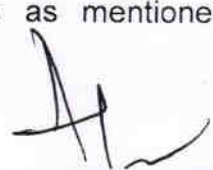
2.21 The investigation could not be completed in the stipulated time period of six months from the date of the detention of goods. The competent authority vide letter dated 01.12.2023 granted the extension by a further period of six months for issuance of Show Cause Notice in respect of seized goods in terms of the first proviso of Section 110(2) of the Customs Act, 1962 as amended by the Finance Act, 2018.

2.22 Investigations carried out by way of recording of statements of Shri Chintan Sagarmal Jain, Proprietor of M/s. Shree Neminath Jewellers (Appellant No. 1) and Shri Lakhpat Hemraj Singhvi (Appellant No. 2) with respect to parcel no. 2 of the TABLE-IX of the impugned order, it appeared that the said foreign origin gold, i.e. 200 grams pertaining to the Appellant No. 1 and their fair value as per the Market Rate was Rs. 12,10,000/-. Statement of Shri Lakhpat Hemraj Singhvi (Appellant No. 2) the buyer of the said gold, who intended to send the same to his nephew for personal use did not enquire about the source of the foreign origin gold at the time of purchase and also made payment to purchase the said foreign origin gold weighing 200 grams. Statement of proprietor of the Appellant No. 1 was recorded under Section 108 of Customs Act, 1962 wherein it was stated that they do not have import documents for the said foreign origin gold weighing 200 grams and does not remember from whom they got this foreign origin gold. Therefore, the said foreign origin gold, i.e. 200 grams pertaining to the Appellant No. 1 and the Appellant No. 2 was seized vide Seizure Memo dated 25.10.2023. From the aforementioned, it appeared that the same was smuggled goods in terms of Section 2 (39) of the Customs Act, 1962. Therefore, it appeared that the said gold pertaining to Appellant No. 2 and the Appellant No. 1 was liable for confiscation under Section 111 of the Customs Act, 1962.

2.23 From the above, it thus appeared that the gold as per Table-IX of the impugned order being of foreign origin were smuggled goods in terms of Section 2(39) of the Customs Act, 1962. The burden of proving that the Gold seized from the Angadia - M/s. Ashokkumar Ambalal & Company under Panchnama dated 07.06.2023 were not smuggled goods, lied on below entities:-

- i. M/s. Swiss Bullion & M/s. Diya Bullion w.r.t seizure of 1000 grams of Foreign origin gold having purity 999;
- ii. M/s. Royal Bullion and M/s. V.S. Gold, Udaipur with respect to seizure of 598.30 grams of foreign origin gold having purity 995;
- iii. M/s. Pooja Gold with respect to seizure of 114.20 grams of foreign origin gold having purity 999;
- iv. M/s. Shree Neminath Jewellers (Appellant No. 1) and Shri Lakhpatraj Hemraj Singhvi (Appellant No. 2) with respect to seizure of 200 grams of foreign origin gold having purity 999.
- v. M/s. Ashokkumar Ambalal & Company

2.24 It appeared that during the investigation, all the respective beneficial owner or the Angadia firm, i.e., M/s. Ashokumar Ambalal & Company have failed to provide documents indicating any legitimate import of the said Gold Bars or any proof that the said foreign origin gold bars as mentioned above. Thus, it appeared that the



aforementioned foreign origin gold stands liable for confiscation under the provisions of Section 111 (d), 111 (j), 111(l) and 111(m) of Customs Act, 1962.

2.25 On completion of the investigation, a Show Cause Notice under F. No. VIII/10-83/DRI-AZU/O&A/HQ/2024-25, dated 04.06.2024 was issued to – (1) M/s. V.S. Gold, Udaipur; (2) M/s. Royal Bullion, Mumbai; (3) M/s. Swiss Bullion, Mumbai; (4) M/s. Diya Bullion and Jewellery, Jalore, Rajasthan; (5) M/s. Shree Neminath Jewellers, Mumbai (Appellant No. 1); (6) Shri Lakhpatraj Hemraj Singhvi, Mumbai (Appellant No. 2); (7) M/s. Pooja Gold, Surat; (8) Shri Dalpatbhai K. Dodiya, Employee of M/s. Ashokkumar Ambalal & Company; (9) Shri Kailashkumar Dodiya, Manager of M/s. Ashokkumar Ambalal & Company and (10) M/s. Ashokkumar Ambalal & Company, Ahmedabad, proposing, as to why

- i. The foreign origin gold under the provisions of Section 111(d), 111(j), 111(l) and 111(m) of the Customs Act, 1962, as detailed below should not be confiscated absolutely:
 - a) One Gold Bar and particle of foreign origin totally weighing 598.30 grams valued at Rs. 36,19,715/- having marking AL Etihad Gold Dubai UAE Gold 995, Sr. No. A979750 Melter Assayer and two small pieces / particles sent by SENDER- 'M/s. Royal Bullion, Mumbai' to RECIPIENT- 'M/s. V.S. Gold, Udaipur' placed under seizure vide Seizure Memo (DIN- dated 12.10.2023;
 - b) One Gold Bar of foreign origin, weighing 1000 grams (1Kg) valued at Rs. 60,50,000 having marking AL Etihad Gold Dubai UAE Gold 995, Sr. No. A378402 Melter Assayer sent by SENDER- M/s. Swiss Bullion (RD) Mumbai to RECIPIENT- M/s. Diya Bullion and Jewellery, Shanti Nagar, Rajasthan - M.No.9414350330 placed under seizure vide Seizure Memo dated 12.10.2023;
 - c) Two Gold Bars of 100 grams each having Valcambi Marking of foreign origin totally weighing 200 grams, having purity 999, valued at Rs. 12,10,000/- having marking 'VALCAMBI' sent by SENDER- M/s. Shree Neminath Jewellers to RECIPIENT- Shankhesh Raj Singhvi placed under seizure vide Seizure Memo dated 25.10.2023;
 - d) Two Cut Pieces and gold dust of purity 999 of foreign origin and without cover of any import invoice / documents, weighing 114.20 grams valued at Rs. 6,90,910/- sent by SENDER- Shri Rajat of M/s. Pooja Gold, Surat to RECIPIENT- Shri Anarsan Sudhirbhai Ramchandra, Ahmedabad placed under seizure vide Seizure Memo dated 25.10.2023;
 - e) .Penalty should not be imposed under Sections 112(a), 112(b) and 117 of the Customs Act, 1962 on the following entities:-



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Entity name & address	With respect to seizure of goods
1) M/s. V.S. Gold, 705, 1 st Floor, Shop no. 2, 54, 55, Taj Jewellery Complex, Udaipur &	One Gold Bar and particle of foreign origin totally weighing 598.30 grams valued at Rs. 36,19,715/- having marking AL Etihad Gold Dubai UAE Gold 995, Sr. No. A979750 Melter Assayer and two small pieces/ particles sent by SENDER- 'M/s. Royal Bullion, Mumbai- 400002' to RECIPIENT- 'M/s. V.S. Gold, Udaipur placed under seizure vide Seizure Memo dated 12.10.2023.
2) M/s. Royal Bullion, 705, 7 th Floor, Auram Mall, Shaikh Memon Street, Kalbadevi, Mumbai	
3) M/s. Swiss Bullion, 307, Krishna Niwas, 3 rd Floor, Office No-69, Yusuf Mehrli Road, Next to Dhanji Street Corner, Pydhanie, Mumbai-4000003 &	One Gold Bar of foreign origin, weighing 1000 grams (1Kg) valued at Rs. 60,50,000/- having marking AL Etihad Gold Dubai UAE Gold 995, Sr. No. A378402 Melter Assayer sent by SENDER- M/s. Swiss Bullion (RD) Mumbai to RECIPIENT- M/s. Diya Bullion and Jewellery, Rajasthan - M.No.9414350330 placed under seizure vide Seizure Memo dated 12.10.2023.
4) M/s. Diya Bullion and Jewellery, Shanti Nagar, B Block, Jalore, Rajasthan - 343001	
5) M/s. Shree Neminath Jewellers, 2/3, Maheta Manor, B.P.T. Colony, Sanor, 146 Varavathi Village, Mumbai- 400030 (Appellant No. 1) &	Two Gold Bars of 100 grams each having Valcambi Marking of foreign origin totally weighing 200 grams, having purity 999, valued at Rs. 12,10,000/- having marking 'VALCAMBI' sent by SENDER- M/s. Shree Neminath Jewellers to RECIPIENT- Shankhesh Raj Singhvi placed under seizure vide Seizure Memo dated 25.10.2023.
6) Shri Lakhpatraj Hemraj Singhvi, Room No. 103, Heena Residency, Daulat Nagar, Road No. 9, Borivali East, Mumbai, Maharashtra- 400066 (Appellant No. 2)	
7) M/s. Pooja Gold, Surat, Shop no-28, Sardiwala Market, Bundelawad, Bhagal Surat. M. No.9825630400	Two Cut Pieces and gold dust of purity 999 of foreign origin and without cover of any import invoice/ documents, weighing 114.20 grams valued at Rs. 6,90,910/- sent by SENDER- Shri Rajat of M/s. Pooja Gold, Surat to RECIPIENT- Shri Anarsan Sudhirbhai Ramchandra, Ahmedabad placed under seizure vide Seizure Memo dated 25.10.2023.
8) Shri Dalpatbhai K. Dodiya, Employee of M/s. Ashokkumar Ambalal & Company; 9) Shri Kailashkumar Dodiya, Manager of M/s. Ashokkumar Ambalal & Company , & 10) M/s. Ashokkumar Ambalal & Company, 18, Zaveri Chamber, Vaganpole, Ratanpole, Zaveriwad, Ahmedabad, Guj.	Foreign origin gold, as mentioned in the preceding rows of this table, i.e. 598.30 grams of gold pertaining to M/s. Royal Bullion, Mumbai, 200 grams foreign origin gold pertaining to M/s. Shree Neminath Jewellers, Mumbai, 1000 grams foreign origin gold pertaining to M/s. Swiss Bullion and 114.20 grams of foreign origin gold pertaining to M/s. Pooja Gold, Surat, the gold being subsequently seized vide Seizure Memos dated 12.10.2023 and 25.10.2023

2.26 The Adjudication Authority has vide the impugned order passed order as detailed below:

- i. He has ordered absolute confiscation of One Gold Bar and two small Gold particles of foreign origin totally weighing 598.30 grams valued at Rs. 36,19,715/- (pertaining to M/s. V. S. Gold, Udaipur placed under seizure vide Seizure Memo dated 12.10.2023, under the provisions of Section 111(d), 111(j), 111(l) and 111(m) of the Customs Act, 1962;



- ii. He has imposed a penalty of Rs. 4,50,000/- on M/s. V. S. Gold, Udaipur under section 112 (b) of the Customs Act, 1962;
- iii. He has imposed a penalty of Rs. 50,000/- on M/s. V. S. Gold, Udaipur under section 117 of the Customs Act, 1962;
- iv. He has imposed a penalty of Rs. 4,50,000/- on M/s. Royal Bullion, Mumbai under section 112 (b) of the Customs Act, 1962;
- v. He has imposed a penalty of Rs. 50,000/- on M/s. Royal Bullion, Mumbai under section 117 of the Customs Act, 1962 as discussed in foregoing paras;
- vi. He has ordered absolute confiscation of One Gold Bar of foreign origin weighing 1000 grams (1Kg) valued at Rs. 60,50,000/- pertaining to M/s. Diya Bullion and Jewellery, Rajasthan placed under seizure vide Seizure Memo dated 12.10.2023, under the provisions of Section 111(d), 111(j), 111(l) and 111(m) of the Customs Act, 1962;
- vii. He has imposed a penalty of Rs. 7,50,000/- (on M/s. Diya Bullion and Jewellery, Rajasthan under section 112 (b) of the Customs Act, 1962;
- viii. He has imposed a penalty of Rs. 50,000/- on M/s. Diya Bullion and Jewellery, Rajasthan under section 117 of the Customs Act, 1962;
- ix. He has imposed a penalty of Rs. 7,50,000/- on M/s. Swiss Bullion (RD) Mumbai under section 112 (b) of the Customs Act, 1962;
- x. He has imposed a penalty of Rs. 2,00,000/- on M/s. Swiss Bullion (RD), Mumbai under section 117 of the Customs Act, 1962;
- xi. He has ordered absolute confiscation of Two Gold Bars of foreign origin weighing 200 grams valued at Rs. 12,10,000/- pertaining to Shri Lakhpatraj Hemraj Singhvi (Appellant No. 2), Mumbai, Maharashtra placed under seizure vide Seizure Memo dated 25.10.2023, under the provisions of Section 111(d), 111(j), 111(l) and 111(m) of the Customs Act, 1962;
- xii. He has imposed a penalty of Rs. 1,50,000/- on Shri Lakhpatraj Hemraj Singhvi (Appellant No. 2), Mumbai, Maharashtra under section 112 (b) of the Customs Act, 1962;
- xiii. He has imposed a penalty of Rs. 10,000/- on Shri Lakhpatraj Hemraj Singhvi (Appellant No. 2), Mumbai, Maharashtra- 400066 under section 117 of the Customs Act, 1962;
- xiv. He has imposed a penalty of Rs. 1,50,000/- on M/s. Shree Neminath Jewellers (Appellant No. 1), Mumbai under section 112 (b) of the Customs Act, 1962;
- xv. He has imposed a penalty of Rs. 10,000/- on M/s. Shree Neminath Jewellers (Appellant No. 1), Mumbai under section 117 of the Customs Act, 1962;
- xvi. He has ordered absolute confiscation of Two Cut Pieces and gold dust of foreign origin, weighing 114.20 grams valued at Rs. 6,90,910/- pertaining to M/s. Pooja Gold, Surat, placed under seizure vide Seizure Memo dated 25.10.2023, under the provisions of Section 111(d), 111(j), 111(l) and 111(m) of the Customs Act, 1962;
- xvii. He has imposed a penalty of Rs. 1,00,000/- on M/s. Pooja Gold, Surat, under section 112 (b) of the Customs Act, 1962;



- xviii. He has imposed a penalty of Rs. 10,000/- on M/s. Pooja Gold, Surat, under section 117 of the Customs Act, 1962;
- xix. He has imposed a penalty of Rs. 2,00,000/- on M/s. Ashokkumar Ambalal & Company under section 112 (b) of the Customs Act, 1962;
- xx. He has imposed a penalty of Rs. 1,00,000/- on M/s. Ashokkumar Ambalal & Company under section 117 of the Customs Act, 1962
- xxi. He has imposed a penalty of Rs. 50,000/- on Shri Kailashkumar Dodiya, Manager of M/s. Ashokkumar Ambalal & Company under section 112 (b) of the Customs Act, 1962;
- xxii. He has imposed a penalty of Rs. 25,000/- on Shri Kailashkumar Dodiya, Manager of M/s. Ashokkumar Ambalal & Company under section 117 of the Customs Act, 1962;
- xxiii. He has imposed a penalty of Rs. 50,000/- on Shri Dalpatbhai K. Dodiya, employee of M/s. Ashokkumar Ambalal & Company under section 112 (b) of the Customs Act, 1962;
- xxiv. He has imposed a penalty of Rs. 10,000/- on Shri Dalpatbhai K. Dodiya, employee of M/s. Ashokkumar Ambalal & Company under section 117 of the Customs Act, 1962;

3. Being aggrieved with the impugned order passed by the adjudicating authority, the Appellants have filed the present appeals raising various contentions on merits and filed detailed submissions in support of their claims. They have also filed application for condonation of delay in filing the present appeals.

PERSONAL HEARING:-

4. Personal hearing in the matter was held on 19.06.2025. Shri Hirak Shah, Advocate appeared for hearing on behalf of the Appellants.

5. I have carefully gone through the appeal memorandum filed by the Appellants, the grounds of appeals as well as the records of the case. Before going into merits of the case, it is observed that both the appeals have not been filed within statutory time limit of 60 days prescribed under Section 128 (1) of the Customs Act, 1962. The details of the date of communication of the impugned order and filing of the present appeals as per appeal memorandum are as under:-

Sr. No.	Appeal No.	Impugned Order No. & Date	Communication of Impugned Order	Appeals filed on	No. of days delayed in filing Appeal
1.	2.	3.	4.	5.	6.
1.	S/49-73/CUS/AHD/2025-26	244/ADC/SRV/O&A/2024-25, dtd. 29.01.25	02.02.2025	20.05.2025	47
1.	S/49-74/CUS/AHD/2025-26	244/ADC/SRV/O&A/2024-25, dtd. 29.01.25	02.02.2025	20.05.2025	47



5.1 In this regard, I have gone through the provisions of limitations for filing an appeal as specified under Section 128 (1) of the Customs Act, 1962. Thus, it is relevant to refer the legal provisions governing filing an appeal before the Commissioner (Appeals) and his powers to condone the delay in filing appeals beyond 60 days. Extracts of relevant Section 128 of the Customs Act, 1962 are reproduced below for ease of reference:

SECTION 128. Appeals to [Commissioner (Appeals)]. — (1) Any person aggrieved by any decision or order passed under this Act by an officer of customs lower in rank than a [Principal Commissioner of Customs or Commissioner of Customs] may appeal to the [Commissioner (Appeals)] [within sixty days] from the date of the communication to him of such decision or order.

[Provided that the Commissioner (Appeals) may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of sixty days, allow it to be presented within a further period of thirty days.]

5.2 Section 128 of the Customs Act, 1962 makes it clear that the appeal has to be filed within 60 days from the date of communication of order. Further, if the Commissioner (Appeals) is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of 60 days, he can allow it to be presented within a further period of 30 days.

5.3 It will also be relevant to refer to the judgment of Hon'ble Supreme Court in case of Singh Enterprises – [2008 (221) E.L.T. 163 (S.C.)], wherein the Hon'ble Apex Court had, while interpreting the Section 35 of the Central Excise Act, 1944, which is pari materia to Section 128 of the Customs Act, 1962, held that the appeal has to be filed within 60 days, but in terms of the proviso, further 30 days' time can be granted by the appellate authority to entertain the appeal. The proviso to sub-section (1) of Section 35 makes the position crystal clear that the appellate authority has no power to allow the appeal to be presented beyond the period of 30 days. The relevant para is reproduced below:

"8. The Commissioner of Central Excise (Appeals) as also the Tribunal being creatures of Statute are vested with jurisdiction to condone the delay beyond the permissible period provided under the Statute. The period upto which the prayer for condonation can be accepted is statutorily provided. It was submitted that the logic of Section 5 of the Indian Limitation Act, 1963 (in short the 'Limitation Act') can be availed for condonation of delay. The first proviso to Section 35 makes the position clear that the appeal has to be preferred within three months from the date of communication to him of the decision or order. However, if the Commissioner is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of 60 days, he can allow it to be presented within a further period of 30 days. In other words, this clearly shows that the appeal has to be filed within 60 days but in terms of the proviso further 30 days time can be granted by the appellate authority to entertain the appeal. The proviso to sub-



section (1) of Section 35 makes the position crystal clear that the appellate authority has no power to allow the appeal to be presented beyond the period of 30 days. The language used makes the position clear that the legislature intended the appellate authority to entertain the appeal by condoning delay only upto 30 days after the expiry of 60 days which is the normal period for preferring appeal. Therefore, there is complete exclusion of Section 5 of the Limitation Act. The Commissioner and the High Court were therefore justified in holding that there was no power to condone the delay after the expiry of 30 days period."

5.4 The above view was reiterated by the Hon'ble Supreme Court in Amchong Tea Estate [2010 (257) E.L.T. 3 (S.C.)]. Further, the Hon'ble High Court of Gujarat in case of Ramesh Vasantbhai Bhojani – [2017 (357) E.L.T. 63 (Guj.)] and Hon'ble Tribunal Bangalore in the case of Shri Abdul Gafoor Vs Commissioner of Customs (Appeals) [2024-TIOL-565-CESTAT-BANG] took a similar view while dealing with Section 128 of the Customs Act, 1962.

5.5 In terms of legal provisions under Section 128 of the Customs Act, 1962 and in light of the judicial pronouncements by the Hon'ble Supreme Court, Hon'ble High Court and Hon'ble Tribunal Bangalore, it is settled proposition of law that the appeals before first appellate authority are required to be filed within 90 days, including the condonable period of 30 days as provided in the statute, and the Commissioner (Appeals) is not empowered to condone any delay beyond 30 days.

5.7 In light of the above observation, I find that both the appeals have been filed after 90 days from the date of receipt of the impugned order. I am not empowered to condone the delay in filing the appeal beyond the period specified in Section 128 of the Customs Act, 1962. Hence, the same are held to be time barred.

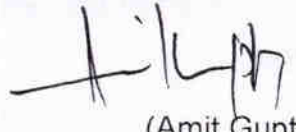
6. In view of the above discussion, I reject the 02 (two) appeals filed by the Appellants on the grounds of limitation, without going into the merits of the case.



F. No. S/49-73/CUS/AHD/25-26
S/49-74/CUS/AHD/25-26

सत्यापित/ATTESTED
अधीक्षक/SUPERINTENDENT
सीमा शुल्क (अपील), अहमदाबाद.
CUSTOMS (APPEALS), AHMEDABAD.

1749


(Amit Gupta)
Commissioner (Appeals),
Customs, Ahmedabad

Date: 25.06.2025

By Registered post A.D

To,

1. Shree Neminath Jewellers,
2/3, Maheta Manor,
B.P.T Colony, Sanor,
146, Varavathi Village,
Mumbai – 400 030.
2. Shri Lakhpatrij Hemraj Singhvi,
Room No. 103, Heena Residency,
Daulat Nagar Road No. 9,
Borivali East, Mumbai,
Maharashtra – 400 066



Copy to:

1. The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad.
2. The Principal Commissioner of Customs, Custom House, Mundra.
3. The Additional Commissioner, Customs, Custom House, Ahmedabad
4. Guard File.