



प्रधान आयुक्त का कार्यालय, सीमा शुल्क, अहमदाबाद

“सीमाशुल्कभवन,” पहलीमंजिल, पुरानेहाईकोर्टकेसामने, नवरंगपुरा, अहमदाबाद – 380009

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PREAMBLE

A	फाइल संख्या/ File No.	:	VIII/10-51/SVPIA-C/O&A/HQ/2025-26
B	कारण बताओ नोटिस संख्या-तारीख / Show Cause Notice No. and Date	:	VIII/10-51/SVPIA-C/O&A/HQ/2025-26 Dated 10.11.2025
C	मूलआदेश संख्या/ Order-In-Original No.	:	204/ADC/SRV/O&A/HQ/2025-26
D	आदेश तिथि/ Date of Order-In-Original	:	30.01.2026
E	जारी करने की तारीख/ Date of Issue	:	30.01.2026
F	द्वारा पारित/ Passed By	:	Shree Ram Vishnoi, Additional Commissioner, Customs, Ahmedabad
G	आयातक का नाम और पता / Name and address of Importer/ Passenger	:	Shri Kutbuddin Bagidorawala, C/o Shabbir Husain Bagidorawala, Saifee Pura, Nai Abadi, Banswara (Rural), Banswara, Rajasthan-327001
(1)	यह प्रति उन व्यक्तियों के उपयोग के लिए निःशुल्क प्रदान की जाती है जिन्हें यह जारी की गयी है।		
(2)	कोई भी व्यक्ति इस आदेश से स्वयं को असंतुष्ट पाता है तो वह इस आदेश के विरुद्ध अपील इस आदेश की प्राप्ति की तारीख के 60 दिनों के भीतर आयुक्त कार्यालय, सीमा शुल्क अपील) चौथी मंजिल, हुडको भवन, ईश्वर भुवन मार्ग, नवरंगपुरा, अहमदाबाद में कर सकता है।		
(3)	अपील के साथ केवल पांच (5.00) रुपये का न्यायालय शुल्क टिकिट लगा होना चाहिए और इसके साथ होना चाहिए:		
(i)	अपील की एक प्रति और;		
(ii)	इस प्रति या इस आदेश की कोई प्रति के साथ केवल पांच (5.00) रुपये का न्यायालय शुल्क टिकिट लगा होना चाहिए।		
(4)	इस आदेश के विरुद्ध अपील करने इच्छुक व्यक्ति को 7.5 % (अधिकतम 10 करोड़) शुल्क अदा करना होगा जहां शुल्क या ड्यूटी और जुर्माना विवाद में है या जुर्माना जहां इस तरह की दंड विवाद में है और अपील के साथ इस तरह के भुगतान का प्रमाण पेश करने में असफल रहने पर सीमा शुल्क अधिनियम, 1962 की धारा 129 के प्रावधानों का अनुपालन नहीं करने के लिए अपील को खारिज कर दिया जायेगा।		

Brief Facts of the Case:

On the basis of passenger profiling, the officers of Air Intelligence Unit (AIU), SVPIA, Customs Ahmedabad, intercepted a male passenger named **Shri Kutbuddin Bagidorawala**, S/o Shri Shabbir Husain Bagidorawala (hereinafter referred to as the said “passenger/Noticee”), holding Passport Number X3494585, aged 42 years (DOB : 15.04.1983), residing at C/o Shabbir Husain Bagidorawala,

Saifee pura, Nai Abadi, Banswara (Rural), Banswara, Rajasthan-327 001, India (address as per passport/Aadhaar), arrived by Fly Dubai Airlines Flight No. FZ 064 from Kuwait to Dubai (Seat No. 28A) and flight No. FZ437 from Dubai to Ahmedabad (Seat No.16A) on 27.05.2025, at the arrival hall of the Terminal-2 of SVPIA, Ahmedabad, while he was attempting to exit through green channel without making any declaration to the Customs. Passenger's personal search and examination of his baggage was conducted in presence of two independent witnesses and the proceedings thereof were recorded under the Panchnama dated 27.05.2025.

2. The passenger Mr. Kutbuddin Bagidorawala is carrying one bag Pack (Green Colour) as cabin luggage and one trolley bag (light green Colour) and one carton box as checked in baggage. The officers asked the passenger whether he was carrying any contraband/dutiable goods in person or in baggage to which he denied. The AIU officer informs the said passenger that he along with his accompanied officers would be conducting his personal search and detailed examination of his baggage. The AIU officers scan the checked in baggage of the passenger in the X-Ray baggage scanning machine, which is installed near AIU Office at Arrival Hall, Terminal II, SVPI Airport, Ahmedabad. However, nothing objectionable was found during scanning of his baggage.

2.1 The AIU officers offer their personal search to the passenger, but the passenger denied the same and told that he was full trust on the AIU officers. Now, the AIU officer asked the passenger whether he wanted to be checked in front of an Executive Magistrate or Superintendent of Customs, in reply to which the passenger gives his consent to be searched in front of the Superintendent of Customs. Now, the AIU officers asked the said passenger to pass through the Door Frame Metal Detector (DFMD) Machine installed near the AIU Office, in the Arrival Hall of Terminal 2 building, after removing all metallic objects from his body/clothes. Further, the passenger readily kept mobile, wallet (kept in the jacket that he was wearing) and handbag in a plastic tray and passed through the DFMD machine. During DFMD, strong beep sound was heard from the metal detector machine indicating the presence of objectionable/ metal item on his body/ clothes.

Thereafter, the AIU officer again asked the passenger if he has anything to declare to the customs to which the passenger again denied. Further, during detailed frisking of the passenger i.e. Kutbuddin Bagidorawala, the officers recovered one thick gold kadiwali chain concealed inside the chain pocket of the handkerchief from the left pocket of the jeans that he was wearing. At the outset the same appears to be made of 24 Kt gold. The photograph of the recovered thick gold kadiwali chain is as below: -



2.2 Thereafter, the officers called the Government Approved Valuer (Shri Kartikey Vasantrai Soni) in presence of panchas at around 10:00 AM on 27.05.2025 and informs him that a thick gold kadiwali chain has been recovered from a passenger and hence, he needs to come to the Airport for testing and valuation of the said chain. After some time Shri Kartikey Soni Vasantrai came to the airport. The AIU officer introduces the panchas as well as the passenger to the Shri Kartikey Soni Vasantrai, Government Approved Valuer. After that Shri Kartikey Vasantrai Soni weighs the above said thick gold kadiwali chain. photograph of the same is as under:



2.3 Further, the valuer Shri Kartikey Soni Vasantrai starts testing of the gold for its purity and valuation, the valuer vide its report No. 222/2025-26 dated 27.05.2025 confirms that the said thick gold kadiwali chain was made of pure gold having purity 999.0/24kt. He further calculates the value of these gold items as per the Notification No. 34/2025-Customs (N.T.) dated 15.05.2025 (gold) and Notification No. 27/2024-Customs (N.T.) dated 16.05.2025 (exchange rate).

The details of the gold recovered from the passenger are as under:

Details of Gold Items	Pc s.	Certificate No.	Net Weight in Gram	Purity	Market Value (Rs)	Tariff Value (Rs)
Gold Kadiwali Chain	1	222/2025-26	250.00	999.0/24Kt	24,87,000/-	22,20,480/-

Seizure of The Above Gold Kadiwali Chain: -

3. The said Gold Kadiwali Chain totally weighing 250.00 grams derived from concealed inside the chain pocket of the handkerchief from the left pocket of the jeans of the passenger without any legitimate Import documents inside the Customs Area, therefore the same falls under the category of Smuggled Goods and stands liable for confiscation under the Customs Act, 1962. Therefore, the said gold items totally weighing 250.00 grams, having purity of 999.0/24 KT, having tariff value of Rs. 22,20,480/- (Rupees Twenty Two Lakhs Twenty Thousand Four hundred Eighty Only) and Market value of Rs.24,87,000/- (Rupees Twenty Four Lakhs Eighty Seven Thousands only) as on 27.05.2025 was placed under **seizure vide Order dated 27.05.2025** issued under the provisions of Section 110(1) and (3) of the Customs Act, 1962 under reasonable belief that the subject gold items are liable for confiscation under Section 111 of the Customs Act, 1962.

Further, under Section 111 of the Customs Act, 1962, the Handkerchief having chain pocket, of the passenger, inside of which, the said thick gold kadiwali chain was recovered used for packing and concealing the above-mentioned gold, which was attempted to be smuggled into India in violation of the Customs Act,

1962 and therefore the same was also placed under seizure vide the same **Seizure Order Dated 27.05.2025**.

Statement of Shri Kutbuddin Bagidorwala: -

4. Statement of **Shri Kutbuddin Bagidorwala** was recorded on **27.05.2025**, wherein he inter alia stated that personal details like name, address, family details, mobile number and bank account statement as mentioned in the statement and stated that he is presently residing at Saifeepura, Nai Abadi, Banswara, Pin-327001, Rajasthan, India. He studied up to Ninth (9th) standard and doing the work of Electrician at Kuwait. He can read, write and understand English and Hindi languages. He submitted copy of his AADHAR Card No. 4057 7922 7417. He reside with his wife at residential address at of Banswara as stated above. His monthly family income at Kuwait is approx. Rs. 30,000/-.

4.1 He perused the Panchnama dated 27.05.2025 drawn at Terminal-2 of SVPI Airport, Ahmedabad and he stated that he was present at AIU, SVPIA, Customs, Ahmedabad during entire course of the said panchnama proceedings and agreed with the contents of the said Panchnama and stated that the facts narrated therein are true and correct.

4.2 On being asked, he stated that he had been working at Kuwait as an Electrician for more than 10 years. He has work permit valid till 27.05.2026. In a single ticket of his present air travelling, two flights of Fly Dubai airlines were booked for his journey i.e. from Kuwait to Dubai (Flight No. FZ064) and Dubai to Ahmedabad (Flight No. FZ437).

4.3 He confirmed the events narrated in the panchnama drawn on 27.05.2025 at Terminal-2, SVPI Airport, Ahmedabad by the AIU officers of Customs, at around 03:40 AM on 27.05.2025 in presence of the panchas intercepted him with his baggage when he tried to exit the Green Channel at arrival hall of terminal 2 of Sardar Vallabhbai Patel International Airport (SVPI) Ahmedabad and intercepted him for personal search and examination of his baggage in presence of two independent Panchas when he was about to exit through the green channel. The Customs officers asked him whether he is carrying any dutiable goods or any restricted goods or any prohibited goods or any other declarable items and he wish to declare that before Customs Authorities, in reply he denied and informed that he has nothing to declare as he is not carrying any dutiable goods or any restricted goods with him.

He also confirmed that during frisking of his body, the AIU officers in presence of the panchas recovered one thick gold kadiwali chain concealed inside the chain pocket of the handkerchief from the left pocket of the jeans that he has worn. Thereafter, the item recovered from his possession was examined by the Government Approved Valuer for testing and valuation. After testing, the valuer vides his report No.222/2025-26 dated 27.05.2025, informed that the said one thick gold kadiwali chain recovered from his possession is made of Pure Gold having purity 999.00/24Kt and having weight 250 grams, Market Value of Rs.24,87,000/- and Tariff Value of Rs.22,20,480/-. Further, the officers seized the same one thick gold kadiwali chain during Panchnama dated 27.05.2025 under the provision of the Customs Act, 1962. The Officer on the reasonable belief that the above said gold item recovered from him has been attempted to smuggle inside India by way of concealment/hiding with an intent to evade payment of Customs duty which was a clear violation of the provisions of Customs Act, 1962 is liable

for confiscation as per the provisions of Customs Act, 1962, and hence, the same was placed under seizure.

4.4 On further inquiry, he did not produce any bill/invoice in respect of the said gold item and he would also not be able to produce it in future. The said one gold kadi wali chain was given to him by one person at Kuwait Airport and he did not know his name. He was given directions to hand over the same to the person who will come to receive the same at outside Ahmedabad Airport. He did not have the details about the same. He agreed to bring the said thick gold kadiwali chain to Ahmedabad Airport, in lieu of monetary consideration of Rs.15,000/-. He stated that he was given directions to opt for green channel without declaring the dutiable goods. He was told that if he opted for red channel, he has to pay Customs Duty before customs and therefore he opted for green channel with a view to evade payment of customs duty. He also knew that illegally carrying gold without declaring to Customs is liable for seizure therefore, he had concealed the said one thick gold kadiwali chain inside the chain pocket of the handkerchief and put it inside his left pocket of the jeans.

4.5 On further inquiry, on being asked whether he was aware about the provisions of the Customs for import of Gold in any form, he stated that he know that smuggling of gold without payment of customs duty is an offence but as he had told with an intention to evade customs duty, so he tried to smuggle the gold by carrying this gold kadiwali chain having purity (999.0/ 24 Kt.) by way of concealing/ hiding the same. He further stated that as he was trying to evade payment of customs duty and smuggle the gold by concealing/hiding the same, he did not declare the goods brought by him before the Customs officer. He was fully aware that clearing Gold in any form in excess of the eligible quantities for passenger without declaring before Customs, with an intent to evade payment of customs duty is an offence, under the provisions of Customs Act, 1962, Foreign Trade Policy, 2023 and Rules and Regulations made there under. He also did not file any Declaration form for declaring dutiable goods i.e. one gold kadi wali chain to Customs, carried by me on 27.05.2025 at SVPI Airport, Ahmedabad. He reiterated that he had intentionally not declared the said 250 grams gold item valued at Rs.24,87,000/- as Market Value and Rs.22,20,480/- as Tariff Value, before the Customs Authorities on his arrival at SVP International Airport Ahmedabad, as he wanted to clear it illicitly and evade payment of Customs duty. He was fully aware that clearing Gold in such large commercial quantities without declaring before Customs, with an intent to evade payment of customs duty is an offence, under the provisions of Customs Act, 1962, Foreign Trade Policy, 2023 and Rules and Regulations made there under.

Summation:

5. The aforementioned proceedings indicates that **Shri Kutbuddin Bagidorwala** attempted to smuggle the aforesaid gold into India and thereby rendered the aforesaid gold having tariff value of Rs.22,20,480/- (Rupees Twenty Two Lakhs Twenty Thousand Four hundred Eighty Only) and Market value of Rs.24,87,000/- (Rupees Twenty Four Lakhs Eighty Seven Thousands only),liable for confiscation under the provisions of Section 111 of the Customs Act, 1962 and therefore the same was placed under seizure vide Order dated 27.05.2025 issued under the Provisions of Section 110(1) and (3) of the Customs Act, 1962.Further, the Handkerchief having chain pocket, of the passenger, inside of which, the said thick gold kadiwali chain was recovered used for packing and concealing the above mentioned **Gold Kadiwali Chain** form were also liable for confiscation under the

provisions of the Customs Act, 1962 and therefore the same was also placed under seizure vide the same seizure order dated 27.05.2025 issued under the Provisions of Section 110(1) and (3) of the Customs Act, 1962.

6. Legal Provisions Relevant to the Case:

Foreign Trade Policy 2015-20 and Foreign Trade (Development and Regulation) Act, 1992

6.1 In terms of Para 2.26 (a) of the Foreign Trade Policy 2015-20, 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. Gold can be imported by the banks (Authorized by the RBI) and agencies nominated for the said purpose under Para 4.41 of the Chapter 4 of the Foreign Trade Policy or any eligible passenger as per the provisions of Notification no. 50/2017-Customs dated 30.06.2017 (Sr. No. 356). As per the said notification "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.

6.2 As per Section 3(2) of the Foreign Trade (Development and Regulation) Act, 1992 the Central Government may by Order make provision for prohibiting, restricting or otherwise regulating, in all cases or in specified classes of cases and subject to such exceptions, if any, as may be made by or under the Order, the import or export of goods or services or technology.

6.3 As per Section 3(3) of the Foreign Trade (Development and Regulation) Act, 1992 all goods to which any Order under sub-section (2) applies shall be deemed to be goods the import or export of which has been prohibited under section 11 of the Customs Act, 1962 (52 of 1962) and all the provisions of that Act shall have effect accordingly.

6.4 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 this Act, the rules and orders made thereunder and the foreign trade policy for the time being in force.

The Customs Act, 1962:

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

6.6 As per Section 2(22), of Customs Act, 1962 definition of 'goods' includes-

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

6.7 As per Section 2(33) of 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.

6.8 As per 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 of the Customs Act 1962.

6.9 As per Section 11(3) of the Customs Act, 1962 any prohibition or restriction or obligation relating to import or export of any goods or class of goods or clearance thereof provided in any other law for the time being in force, or any rule or regulation made or any order or notification issued thereunder, shall be executed under the provisions of that Act only if such prohibition or restriction or obligation is notified under the provisions of this Act, subject to such exceptions, modifications or adaptations as the Central Government deems fit.

6.10 As per Section 77 of the Customs Act 1962 the owner of baggage shall, for the purpose of clearing it, make a declaration of its contents to the proper officer.

6.11 As per Section 110 of Customs Act, 1962 if the proper officer has reason to believe that any goods are liable to confiscation under this Act, he may seize such goods.

6.12 Section 111. Confiscation of improperly imported goods, etc.:

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

- (a) any goods imported by sea or air which are unloaded or attempted to be unloaded at any place other than a customs port or customs airport appointed under clause (a) of section 7 for the unloading of such goods;*
- (b) any goods imported by land or inland water through any route other than a route specified in a notification issued under clause (c) of section 7 for the import of such goods;*
- (c) any dutiable or prohibited goods brought into any bay, gulf, creek or tidal river for the purpose of being landed at a place other than a customs port;*
- (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;*
- (e) any dutiable or prohibited goods found concealed in any manner in any conveyance;*
- (f) any dutiable or prohibited goods required to be mentioned under the regulations in an import manifest or import report which are not so mentioned;*
- (g) any dutiable or prohibited goods which are unloaded from a conveyance in contravention of the provisions of section 32, other than goods inadvertently unloaded but included in the record kept under sub-section (2) of section 45;*
- (h) any dutiable or prohibited goods unloaded or attempted to be unloaded in contravention of the provisions of section 33 or section 34;*
- (i) any dutiable or prohibited goods found concealed in any manner in any package either before or after the unloading thereof;*

- (j) any dutiable or prohibited goods removed or attempted to be removed from a customs area or a warehouse without the permission of the proper officer or contrary to the terms of such permission;*
- (k) any dutiable or prohibited goods imported by land in respect of which the order permitting clearance of the goods required to be produced under section 109 is not produced or which do not correspond in any material particular with the specification contained therein;*
- (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];*
- (n) any dutiable or prohibited goods transitted with or without transshipment or attempted to be so transitted in contravention of the provisions of Chapter VIII;*
- (o) any goods exempted, subject to any condition, from duty or any prohibition in respect of the import thereof under this Act or any other law for the time being in force, in respect of which the condition is not observed unless the non-observance of the condition was sanctioned by the proper officer;*
- (p) any notified goods in relation to which any provisions of Chapter IV-A or of any rule made under this Act for carrying out the purposes of that Chapter have been contravened.*

6.13 Section 112. Penalty for improper importation of goods etc.:

any person,

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

(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harboring, keeping, concealing, selling or purchasing or in any manner dealing with any goods which he knows or has reason to believe are liable to confiscation under Section 111, shall be liable to penalty.

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

Explanation: *In this section, "goods" do not include a conveyance used as a means of transport.*

6.15 As per Section 123 of Customs Act 1962,

(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.

6.16 All dutiable goods imported into India by a passenger in his baggage are classified under CTH 9803.

Customs Baggage Rules and Regulations:

6.17 As per Customs Baggage Declaration (Amendment) Regulations, 2016 issued vide Notification no. 31/2016 (NT) dated 01.03.2016, all passengers who come to India and having anything to declare or are carrying dutiable or prohibited goods shall declare their accompanied baggage in the prescribed form under Section 77 of the Customs Act, 1962.

6.18 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 upto weight, of twenty grams with a value cap of Rs. 50,000/- if brought by a gentlemen passenger and forty grams with a value cap of one lakh rupees, if brought by a lady passenger.

Notifications under Foreign Trade Policy and the Customs Act, 1962:

6.19 As per Notification no. 49/2015-2020 dated 05.01.2022, gold in any form includes gold in any form above 22 carats under Chapter 71 of the ITC (HS), 2017, Schedule-1 (Import Policy) and import of the same is restricted.

6.20 Notification No. 50 /2017 –Customs New Delhi, the 30th June, 2017 G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962) and sub-section (12) of section 3, of Customs Tariff Act, 1975 (51 of 1975), and in supersession of the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 12/2012 -Customs, dated the 17th March, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 185 (E) dated the 17th March, 2017, except as respects things done or omitted to be done before such supersession, the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts the goods of the description specified in column (3) of the Table below or column (3) of the said Table read with the relevant List appended hereto, as the case may be, and falling within the Chapter, heading, sub-heading or tariff item of the First Schedule to the said Customs Tariff Act, as are specified in the corresponding entry in column (2) of the said Table, when imported into

India,- (a) from so much of the duty of customs leviable thereon under the said First Schedule as is in excess of the amount calculated at the standard rate specified in the corresponding entry in column (4) of the said Table; and (b) from so much of integrated tax leviable thereon under sub-section (7) of section 3 of said Customs Tariff Act, read with section 5 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) as is in excess of the amount calculated at the rate specified in the corresponding entry in column (5) of the said Table, subject to any of the conditions, specified in the Annexure to this notification, the condition number of which is mentioned in the corresponding entry in column (6) of the said Table:

	Chapter or heading or sub-heading or tariff item	Description of goods	Standard rate	Condition No.
356.	71or 98	(i) Gold bars, other than tola bars, bearing manufacturer's or refiner's engraved serial number and weight expressed in metric units, and gold coins having gold content not below 99.5%, imported by the eligible passenger (ii) Gold in any form other than (i), including tola bars and ornaments, but excluding ornaments studded with stones or pearls	10%	41

Condition no. 41 of the Notification:

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.

7. From the above paras, it appears that during the period relevant to this case, import of gold in any form (gold having purity above 22 kt.) was restricted as per DGFT notification and import was permitted only by nominated agencies. Further, it appears that import of goods whereas it 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. As such import of gold is not permitted under Baggage and therefore the same is liable to be held as prohibited goods.

8. Contravention and Violation of Laws:

It therefore appears that: -

- (i) Shri Kutbuddin Bagidorawala** had attempted to smuggle/improperly import gold totally weighing 250.00 grams, having purity of 999.0/24 KT, having tariff value of Rs. 22,20,480/- (Rupees Twenty Two Lakhs Twenty Thousand Four hundred Eighty Only) and Market value of Rs.24,87,000/- (Rupees Twenty Four Lakhs Eighty Seven Thousands only) recovered from concealed inside the chain pocket of the handkerchief from the left pocket of the jeans of the passenger, with a deliberate intention to evade payment of Customs duty and fraudulently circumventing the restrictions and prohibitions imposed under the Customs Act, 1962 and other allied Acts, Rules and Regulations. The said passenger, **Shri Kutbuddin Bagidorawala** had knowingly and intentionally smuggled the said gold by way of concealment inside the chain pocket of the handkerchief from the left pocket of the jeans having Gross weight 250.00 grams, on his arrival by Fly Dubai Airlines Flight No. FZ 064 from Kuwait to Dubai (Seat No. 28A) and flight No. FZ437 from Dubai to Ahmedabad (Seat No.16A) on 27.05.2025 at Terminal-2 SVPIA Ahmedabad, with an intent to clear it illicitly to evade payment of Customs duty. Therefore, the improperly imported gold by **Shri Kutbuddin Bagidorawala**, by way of concealment inside the chain pocket of the handkerchief from the left pocket of the jeans of the passenger and without declaring it to Customs on arrival in India cannot be treated as Bonafide household goods or personal effects. **Shri Kutbuddin Bagidorawala** has thus contravened the Foreign Trade Policy 2015-20 and Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 read with Section 3(2) and 3(3) of the Foreign Trade (Development and Regulation) Act, 1992, as amended.
- (ii) Shri Kutbuddin Bagidorawala** by not declaring the gold brought by him in the form of one thick gold kadiwali chain concealed inside the chain pocket of the handkerchief from the left pocket of the jeans that he was wearing totally weighing 250.00 grams having purity 999.0/24 KT, which included dutiable and restricted/prohibited goods to the proper officer of the Customs has contravened Section 77 of the Customs Act, 1962 read with Regulation 3 of Customs Baggage Declaration Regulations, 2013.
- (iii)** The improperly imported/smuggled gold by **Shri Kutbuddin Bagidorawala**, in the form of one thick gold kadiwali chain totally weighing 250.00 grams having purity 999.0/24 KT that was recovered from inside the concealed inside the chain pocket of the handkerchief from the left pocket of the jeans, before arriving from Dubai to SVPI Airport, Ahmedabad, on 27.05.2025 via Fly Dubai Airlines (Seat No. 16A) at Terminal-2, SVPIA Ahmedabad on 27.05.2025, for the purpose of the smuggling without declaring it to the Customs is thus liable for confiscation under Section 111(d), 111(f), 111(i), 111(j), 111(l) and 111(m) read with Section 2 (22), (33), (39) of the Customs Act, 1962 and further read in conjunction with Section 11(3) of Customs Act, 1962.

- (iv) **Shri Kutbuddin Bagidorawala**, by the above-described acts of omission/commission and/or abetment has rendered himself liable for penalty under Section 112 of Customs Act, 1962.
- (v) The Handkerchief having chain pocket of the passenger, inside of which, the said thick gold kadiwali chain was recovered used for packing and concealing the above-mentioned gold by **Shri Kutbuddin Bagidorawala** were also liable for confiscation under the provisions of Section 119 of the Customs Act, 1962.
- (vi) As per Section 123 of Customs Act 1962, the burden of proving that the said Gold (Kadiwali chain) totally weighing 250.00 grams that recovered from one thick gold kadiwali chain concealed inside the chain pocket of the handkerchief from the left pocket of the jeans of the passenger, Shri Kutbuddin Bagidorawala who arrived from flight No. FZ437 (Seat No.16A) from Dubai to SVPI Airport, Ahmedabad on 27.05.2025 at Terminal-2, SVPIA Ahmedabad are not smuggled goods, is upon **Shri Kutbuddin Bagidorawala**, who is the Noticee in this case.

9. Accordingly, a Show Cause Notice was issued to the Noticee i.e. **Shri Kutbuddin Bagidorawala**, as to why:

- (i) The Gold Kadiwali Chain weighing 250.00 grams having purity 999.0/24K, having tariff value of Rs.22,20,480/- (Rupees Twenty Two Lakhs Twenty Thousand Four hundred Eighty Only) and Market value of Rs.24,87,000/- (Rupees Twenty Four Lakhs Eighty Seven Thousands only) recovered from one thick gold kadiwali chain concealed inside the chain pocket of the handkerchief from the left pocket of the jeans of the passenger, **Shri Kutbuddin Bagidorawala**, who arrived from flight No. FZ437 (Seat No.16A) from Dubai to SVPI Airport, Ahmedabad on 27.05.2025 at Terminal-2 of SVPIA Ahmedabad, placed under seizure under panchnama proceedings dated 27.05.2025 and Seizure Memo Order dated 27.05.2025, should not be confiscated under the provision of Section 111(d), 111(f), 111(i), 111(j), 111(l) and 111(m) of the Customs Act, 1962;
- (ii) The Handkerchief having chain pocket of the passenger, inside of which, the said thick gold kadiwali chain was recovered used for concealing the above-mentioned gold by **Shri Kutbuddin Bagidorawala** placed under seizure under panchnama proceedings dated 27.05.2025 and Seizure Memo Order dated 27.05.2025, should not be confiscated under the provisions of Section 119 of the Customs Act, 1962.
- (iii) Penalty should not be imposed upon **Shri Kutbuddin Bagidorawala**, under the provisions of Section 112 of the Customs Act, 1962, for the omissions and commissions mentioned hereinabove.

DEFENSE REPLY AND RECORD OF PERSONAL HEARING:

10. **Defense Reply:** The noticee has submitted his written submission vide letter dated **13.12.2025** through Shri Rishikesh Mehra, Advocate and Authorized Representative wherein he denied all the allegation against his client made under the SCN. He said that it was true that his client had brought 01 Gold Kadiwali Chain, weighing 250.00 Grams having purity of 24Kt of Rs.22,20,480/- (tariff value) which was in the right pocket of jeans worn by him, was placed under

seizure. The statement recorded under Section 108 of the Customs Act 1962 was given under fear and duress of being arrested. The statements recorded under section 108 of the Customs Act, 1962 were taken under duress and therefore they are not true and for the reasons cannot be relied to be true for the purpose of invoking the violations as alleged in the impugned SCN. From the facts and submissions narrated above, the gold jewellery is neither prohibited nor restricted, hence the goods in question are not liable for confiscation under section 111(d),111(i),111(l) and 111(m) of the Customs Act, 1962. The noticee is also not liable for penal action under section 112 of the Customs Act,1962.

10.1 He submitted that his client **Shri Kutbuddin Bagidorawala**, residing at Saifee Pura, Nai Abadi, Banswara, Rajasthan-327001; it was true that he had 01 Gold Kadiwali Chain, weighing 250.00 Grams having purity of 24Kt of Rs.22,20,480/- (Tariff Value) which was inside his pocket of jeans pent worn by him, was placed under seizure. His client was coming back to India from Kuwait and purchased Gold from Kuwait, for his personal use and not in commercial quantity. He further submitted that the noticee was Residing at **Kuwait Since 2015** having **Civil Id Card No. 283041506457**, that he was doing job as Electrician in Kuwait, which was incorporated during the Statement, hence is an NRI, he is eligible passenger, he has not stay more than **Thirty Day stay** in India he is eligible passenger to bring gold jewellery on payment of duty @ 06% and other taxes (**as per Notification No: 12/2012-CUS dated 17/03/2012**). Meanwhile, the Noticee also produced Bills of Gold in the name of the Noticee showing the legitimate purchase from **(1) Nafees Gold & Precious Metal Wholesale Co. Weighing 150.00 Grams Invoice No. 13172 Dated 30.06.2025 (2) Nafees Gold & Precious Metal Wholesale Co. Weighing 100.00 Grams Invoice No. 14525 Dated 26.09.2025** at Kuwait, which is not taken on record at any stage of Investigation. The statements recorded under section 108 of the Customs Act, 1962 were taken under duress and therefore they are not true and for the reasons cannot be relied to be true for the purpose of invoking the violations as alleged in present case. The gold jewellery was inside his pocket of pent hidden due to safety purpose, as he was having the fear of Loot/Theft; as he travel from Ahmedabad to Banswara around 260KM to his native by Road through, Jeep and Bus, he have to travelled through Tribal belt were many cases of loot/theft /Highway Robbery and murder cases are booked as per police Record, hence the question of concealment does not arise., gold is not prohibited, as he was first time brought the gold jewellery along with him was unable to declare it, due to ignorance of Customs law/Rules. As he has orally declared but nobody has bothered to help him to file the declaration form, as noticee was in the airport premises, reference is invited to instructions as stipulated under **Circular No: 9/2001-Cus dated 22.02.2001** has not been followed. He submitted that his client is Electrician at Kuwait, he brought gold Chain for his personal use and purchased by himself from **(1) Nafees Gold & Precious Metal Wholesale Co. Weighing 150.00 Grams Invoice No. 13172 Dated 30.06.2025 (2) Nafees Gold & Precious Metal Wholesale Co. Weighing 100.00 Grams Invoice No. 14525 Dated 26.09.2025** for his family from his hardworking and personal savings. He also reference invited to **Notification No. 12/2012-CUS dated 17.03.2012**. Noticee is an Illiterate Person and he study up to 09th stander he is not known the what is written in the panchnama and statement which he was only asked the general questions about his family, he was forced to sign in fear of arrest, he simply signed the papers. There is plethora of judgements wherein release of gold jewellery has been allowed on payment redemption fine, wherein the pax had been allowed for release/ Re-Export in lieu of fine. In the circumstances narrated above, the goods seized in question may be

allowed for released on payment of fine, re-export of goods or as per the procedure laid down under the Customs Act, 1962.

10.2 He further submitted that the statement was recorded under section 108 of the Customs Act, 1962 wherein the noticee interilic stated that the gold jewellery was brought by Noticee the said gold jewellery from his personal savings and hardworking earned money from Kuwait at the material time he was carrying the bill in this regard, but prior to his declaration he was intercepted and resulting in booking of the case; as carrying of gold jewellery without payment of duty means smuggling as per the impugned SCN. It is therefore, very clear, that the goods in question clearly belongs to the noticee. Moreover, the noticee had repeatedly requested the officers to release the gold jewellery on payment of duty, fine and penalty, but the same fell on the deaf ears. However, a copy of Invoice in the name of noticee, which was produced/recover from noticee; was not incorporated at any were during the Panchanama, but to during statement u/s 108, shows noticee's is the legitimate purchaser of gold. Noticee has produced the gold bill. The noticee did not know what was written in panchnama as well as statement has been recorded in English, he was an Illiterate Person and he study up to 09th stander he was not known the what was written in the panchnama and statement which he was only asked the general questions about his family, he was forced to sign in fear of arrest, he simply signed the papers. It may also be reiterated that the instructions as stipulated under **Circular No: 9/2001-Cus dated 22.02.2001** has not been followed.

10.3 He further submitted that, the department had stressed upon declaration to be filed upon section 77 of the Customs Act, 1962 and which had not been filled by the noticee on his arrival in India; moreover, the airlines staff had neither bothered to provide the customs declaration form nor the same was handed during the time of disembarkation. The declaration form, if provided would have been definitely filed before the authorities and necessary duty payment would have been made without any difficulty; that the statement taken under section 108 of the Customs Act,1962 was given under duress and fear of being arrested and the threat was given by the officers as such; furthermore the same would have been immediately retracted after knowing the Department's statement under the provisions of section 108 of the Customs Act,1962, hence the same is contrary to law. He further submitted that the noticee had made very clearly on 27.05.2025 that the seized goods belonged to him.

10.4 He stated that in addition of the said SCN, it had been stated as to why penalty should not be imposed upon his under section 112 of the Customs Act, 1962. The noticee had not acquired possession of or in any way concerned in carrying, removing, depositing, harboring, 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(d), (i), (j), (l), (m). Also penalty has been proposed under section 112 of the Customs Act, 1962. He also stated that the noticee is not a repeated offender that he has simply failed to declare the gold jewellery in the declaration.

10.5 He submitted that the statement taken under section 108 of the Customs Act,1962 was given under duress and fear of being arrested and the threat was given by the officers and also not allowed to read and not allowed to write in his own handwriting in Gujrati which he knows very well as such; furthermore, the same would have been immediately retracted after knowing the Department's statement under the provisions of section 108 of the Customs Act,1962, hence the

same is contrary to law. He, further submitted that the statement was recorded under duress and threat and the statement recorded is not sustainable as can be seen from the below mentioned provisions of section 138B of the Customs Act,1962.

Section 138B in the Customs Act, 1962

Relevancy of statements under certain circumstances —

(1) A statement made and signed by a person before any gazette officer of customs during the course of any inquiry or proceeding under this Act shall be relevant, for the purpose of proving, in any prosecution for an offence under this Act, the truth of the facts which it contains, —

(a) when the person who made the statement is dead or cannot be found, or is incapable of giving evidence, or is kept out of the way by the adverse party, or whose presence cannot be obtained without an amount of delay or expense which, under the circumstances of the case, the court considers unreasonable; or

(b) when the person who made the statement is examined as a witness in the case before the court and the court is of opinion that, having regard to the circumstances of the case, the statement should be admitted in evidence in the interests of justice.

(2) The provisions of sub-section (1) shall so far as may be apply in relation to any proceeding under this Act, other than a proceeding before a court, as they apply in relation to a proceeding before a court.]

In the case of **Noor Aga v/s State of Punjab** in the Hon'ble Supreme Court of India, the same has been reiterated which is reproduced as under: -

There is another aspect of the matter which cannot also be lost sight of. A search and seizure or an arrest made for the purpose of proceeding against a person under the Act cannot be different only because in one case the authority was appointed under the Customs Act and in the other under another. What is relevant is the purpose for which such arrest or search and seizure is made and investigation is carried out. The law applicable in this behalf must be certain and uniform. Even otherwise Section 138B of the 1962 Act must be read as a provision containing certain important features, namely:

(a) There should be in the first instance statement made and signed by a person before a competent custom official.

(b) It must have been made during the course of enquiry and proceedings under the Customs Act.

Only when these things are established, a statement made by an accused would become relevant in a prosecution under the Act. Only then, it can be used for the purpose of proving the truth of the facts contained therein. It deals with another category of case which provides for a further clarification. Clause (a) of sub-section (1) of Section 138B deals with one type of persons and clause (b) deals with another. The Legislature might have in mind its experience that sometimes witnesses do not support the prosecution case as for example Panch witnesses and only in such an event an additional opportunity is afforded to the prosecution to criticize the said witness and to invite a finding from the court not to rely on the assurance of the court on the basis of the statement recorded by the Customs Department and for that purpose it is envisaged that a person may be such whose statement was recorded but while he was examined before the court, it arrived at an opinion that is statement should be admitted in evidence in the interest of

justice which was evidently to make that situation and to confirm the witness who is the author of such statement but does not support the prosecution although he made a statement in terms of Section 108 of the Customs Act. We are not concerned with such category of witnesses. Confessional statement of an accused, therefore, cannot be made use of in any manner under Section 138B of the Customs Act. Even otherwise such evidence is considered to be of weak nature.

Article 20 (3) of the Indian Constitution: Clause (3) of Article 20 declares that no person accused of an offence shall be compelled to be a witness against himself. 3. it is a protection against such compulsion resulting in his giving evidence against himself.

10.6. He submitted that the noticee cannot be penalized under section 112 as the department has no evidence proving that the noticee in any way has done any of the action enumerated above in the manner alleged contrary to the provisions of the Customs Act,1962. It has been consistently held by the Hon'ble Courts, Tribunals and Revisionary Authority of Govt. of India that if the import of commodities is not completely banned, Gold is not prohibited then such commodities or articles could be released on redemption fine.

Section 112(b) in the Customs Act, 1962

(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, shall be liable, —

(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty [not exceeding the value of the goods or five thousand rupees], whichever is the greater;

(ii) in the case of dutiable goods, other than prohibited goods, to a penalty [not exceeding the duty sought to be evaded on such goods or five thousand rupees], whichever is the greater;

(iii) in the case of goods in respect of which the value stated in the entry made under this Act or in the case of baggage, in the declaration made under section 77 (in either case hereafter in this section referred to as the declared value) is higher than the value thereof, to a penalty [not exceeding the difference between the declared value and the value thereof or five thousand rupees], whichever is the greater;]

(iv) in the case of goods falling both under clauses (i) and (iii), to a penalty [not exceeding the value of the goods or the difference between the declared value and the value thereof or five thousand rupees], whichever is the highest;]

(v) in the case of goods falling both under clauses (ii) and (iii), to a penalty [not exceeding the duty sought to be evaded on such goods or the difference between the declared value and the value thereof or five thousand rupees], whichever is the highest.]

10.7 He submitted that his client cannot be penalized under section 112 as the department has no evidence proving that he in any way has done any of the action enumerated above in the manner alleged contrary to the provisions of the Customs Act,1962. It has been consistently held by the Hon'ble Courts, Tribunals and Revisionary Authority of Govt. of India that if the import of commodities is not

completely banned, Gold is not prohibited then such commodities or articles could be released on redemption fine. Further, he submitted there is a plethora of Judgements both for and against the release of gold seized in Customs Cases. A combined reading of all the cases with specific reference to the policy/Rules in vogue at the relevant times, will show that depending on circumstances of each case in hand and the profile of the person involved, the goods in question may become "Prohibited" which are otherwise not listed in the prohibited categories. However, despite the goods being prohibited the same can be released or re-exported in the discretion of the Adjudicating Authority, which discretion has to be exercised as per the canons laid down by the Hon. Apex Court as discussed above. He submitted following case law in his defense: -

1. Yakub Ibrasher Yousuf 2011(263) ELT-685(Tri.Mum) and subsequently 2014-TIOL-277-Cestst-Mum

The Hon Tribunal while allowing redemption of gold not declared before Customs held: -

Redemption Fine- option of- Option of redemption has to be given to person from whose possession impugned goods are recovered. – On the facts of the case option of redemption fine allowed to person who illicitly imported gold with a view to earn profit by selling it, even though she had not claimed its ownership - Section 125 of Customs Act 1962. [para5.6]

2. Shaikh Jameel Pasha Vs Govt. Of India 1997(91) ELT277(AP)

The Hon. High Court of Andhra Pradesh in the above case, while deciding the Scope of section 125 to allow redemption of gold brought by passenger unauthorisedly held that: -

Redemption Fine –Customs– Gold in the form other than ornaments imported unauthorisedly– Option to pay fine lieu of confiscation to be given to the importer in terms of the second part of section 125(1) of Customs Act, 1962, goods being otherwise entitled to be imported on payment of duty,

3. Kadar Mydeen V/s Commissioner of Customs (Preventive), West Bengal 2011(136) ELT 758): -

Gold brought as a baggage by the appellant not declared – Confiscation under section 111(d) of the Customs Act,1962 sustainable- However, option given to appellant to redeem the same on payment of a fine of Rs.1.5 lakhs Section 125 ibid.

4. Order No: 426/04 issued vide File No: 380/57/8 2004-RA-Cus dated 21.9.2004 passed by the Revisionary Authority, Government of India, upholding the order of the Commissioner of Customs (Appeals) Mumbai Airport order redemption of the non-declared seized gold imported by an eligible passenger on payment of fine, penalty and duty. Latest judgement of the Revisionary Authority, New Delhi are also enclosed herewith which is self-explanatory:

Further, he submitted the following RA Orders: -

1. Order No: 73/2020-Cus (Wz)/Asra/Mumbai Dt. 28.05.2020 in c/a Commissioner, Customs, Ahmedabad v/s Shri Sajjan. (Ingenious Concealed on Knee Case granted RF, PP)

2. Order No: 58/2020-Cus (Wz)/Asra/Mumbai Dt. 21.05.2020 IN C/A/ Commissioner, Customs, Ahmedabad v/s Shabbir Taherally Udaipurwala. (Eligible passenger granted re-export)
3. Order No: 61/2020-Cus (Wz)/Asra/Mumbai Dt. 21.05.2020 in c/a Commissioner, Customs, Ahmedabad v/s Basheer Mohammed Mansuri. (Eligible passenger granted re-export)
4. Order No: 126/2020 Cus (Wz)/Asra/Mumbai Dt. 07.08.2020 in c/a Commissioner, Customs, Ahmedabad v/s Hemant Kumar.
(Concealment in Jeans Pocket Case granted RF, PP)
5. Order No: 123-124/2020-Cus(Wz)/Asra/Mumbai Dt.07.08.2020 in c/a Commissioner, Customs, Ahmedabad v/s Rajesh Bhimji Panchal.
6. 2019(369) E.L.T.1677(G.O.I) in c/a Ashok Kumar Verma.
7. Order No: 20/2021-Cus(Wz)/Asra/Mumbai Dt. 11.02.2021 in c/a Commissioner, Customs, Ahmedabad v/s Divyesh Dhanvantray Gandhi. (Eligible passenger granted RF, PP.)
8. Order No: 954/2018-CUS(Wz)/Asra/Mumbai Dt. 22.11.2018 in c/a Commissioner, Customs, Ahmedabad v/s Nayankumar Bhatiya (Eligible passenger granted RF,PP.)
9. Order No: 29/2018-Cus(Wz)/Asra/Mumbai Dt. 31.01.20128 in c/a Commissioner, Customs, Chennai v/s Smt. Navene Elangovan (Eligible passenger granted RF, PP.)
10. Order No: 140/2021 Cus(Wz)/Asra/Mumbai Dt. 25.06.2021 in c/a Mohammed Gulfam v/s Commissioner of Customs Ahmedabad. (Ingenious Concealed Rectum Case granted RF,PP)
11. Order No: 14/2018-CUS dated 05.01.2018 of the Government of India Passed by Shri. R. P. Sharma Commissioner & Additional Secretary to the Government of India, under section 129DD of the Customs Act 1962. in c/a Parvez Ahmed Zargar, Delhi. V/s Commissioner of Customs New Delhi. (Ingenious Concealed in Shoes Case granted RF, PP).
12. Order No: 245/2021-Cus(Wz)/Asra/Mumbai Dt. 29.09.2021 in c/a Memon Anjum v/s Commissioner of Customs Ahmedabad. (Ingenious Concealed Silver Coated Case granted RF, PP)
13. Order No: 214/2021-Cus(Wz)/Asra/Mumbai Dt. 26.08.2021 in c/a Ramesh Kumar v/s Commissioner of Customs Ahmedabad. (Ingenious Concealed strips wrapped on his ankles Case granted RF, PP)
14. Order No: 10/2019-Cus(Wz)/Asra/Mumbai Dt. 30.09.2021 in c/a Faithimth Raseea Mohammad v/s Commissioner of Customs CSI Airport Mumbai. (Ingenious Concealment Case Undergarment granted RF, PP).
15. Order No. 277 to 279/2022 CUS(WZ)/ASRA/MUMBAI DT 23.09.2022 in c/a (1) Sanjay Ananth Surve (2) Smt. Rakhi Rahul Manjrekar (3) Suresh kumar Jokhan Singh V/s. Pr. Commissioner of Customs, CSMI, Mumbai. (Ingenious Concealment Case in soles of Sandals)

16. Order No. 243 & 244/2022-Cus(Wz)/Asra/Mumbai Dt 24.08.2022 in c/a (1) Pradip Sevantilal Shah (2) Rajesh Bhikhabhai Patel V/s. Pr. Commissioner of Customs, Ahmedabad. (Ingenious Concealment Silver/Rhodium Coated Case granted RF, PP)
17. Order No. 282/2022-Cus(Wz)/Asra/Mumbai Dt. 29.09.2022 in c/a Dipesh Kumar Panchal V/s. Pr. Commissioner of Customs, Ahmedabad. (Ingenious Concealment Case).
18. Order No. 287/2022-Cus(Wz)/Asra/Mumbai Dt 10.10.2022 in c/a Upletawala Mohammed Fahad Akhtar V/s. Pr. Commissioner of Customs, Ahmedabad. (Ingenious Concealment Case granted Re-Export on RF, PP).
19. Order No. 282/2022-Cus(Wz)/Asra/Mumbai Dt 29.09.2022 in c/a Dipesh Kumar Panchal V/s. Pr. Commissioner of Customs, Ahmedabad. (Ingenious Concealment Case granted RF, PP)
20. Order No. 284/2022-CUS(WZ)/ASRA/MUMBAI DT 04.10.2022 In C/A Prakash Gurbani V/s. Pr. Commissioner of Customs, Ahmedabad. (Ingenious Concealment Case Re-Export, granted RF, PP)
21. Order No. 314/2022-Cus(Wz)/Asra/Mumbai Dt 31.10.2022 in c/a Sanjay Kumar Bhavsar V/s. Pr. Commissioner of Customs, Ahmedabad. (Ingenious Concealment Chrome Plated Gold Buckles & Hooks Case granted RF, PP)
22. Order No. 56/2023-Cus(Wz)/Asra/Mumbai Dt 19.01.2023 in c/a Jayesh Kumar Kantilal Modh Patel V/s. Pr. Commissioner of Customs, Ahmedabad. (Ingenious Concealment in wallet Case granted RF, PP)
23. Order No. 10/2019-Cus(Wz)/Asra/Mumbai Dt 30.09.2019 in C/A Pr. Commissioner of Customs, CSI Airport, Mumbai Vs. Smt. Faithimath Raseena Mohammed. (Ingenious Concealment in Undergarments Case granted RF, PP)
24. Order No. 404 & 405/2023-Cus(Wz)/Asra/Mumbai Dt 30.03.2023 in c/a (1) Huzefa Khuzem mamuwala (2) Shabbir Raniwala V/s. Pr. Commissioner of Customs, Ahmedabad. (Ingenious Concealment Socks and Trouser Pockets Case granted Re-Export & RF, PP)
25. Order No. 349/2022-Cus(Wz)/Asra/Mumbai Dt 29.11.2022 in c/a Mr. Fakhardi Hasan Abu Mohammed V/s. Pr. Commissioner of Customs, CSI Airport, Mumbai (Ingenious Concealment in wallet Case granted RF, PP)
26. Order No. 395-396/2023-Cus(Wz)/Asra/Mumbai Dt 28.03.2023 in c/a (1) Shri Tohid Wahid Motiwala (2) Smt. Saika Tohid Motiwala V/s. Pr. Commissioner of Customs, CSI Airport, Mumbai. (Ingenious Concealment in wallet Case granted RF, PP)
27. Order No. 352/2022-Cus(Wz)/Asra/Mumbai Dt 30.11.2022 in c/a Shri Mr. Meiraj Mahiuddin Ahmed V/s. Pr. Commissioner of Customs, CSI Airport, Mumbai. (Ingenious Concealment in wallet Case granted RF, PP)
28. Order No. 309/2022-Cus(Wz)/Asra/Mumbai Dt 01.11.2022 in c/a Mr. Mohammad Amahdi Hemati V/s. Pr. Commissioner of Customs, CSI Airport, Mumbai. (Ingenious Concealment in wallet Case granted RF, PP)

29. Order No. 380/2022-Cus(Wz)/Asra/Mumbai Dt 14.12.2022 in c/a Mr. Mohammad Murad Motiwala V/s. Pr. Commissioner of Customs, CSI Airport, Mumbai. (Ingenious Concealment in Gold Dust/Paste Case granted RF, PP)
30. Order No. 516-517/2023-Cus(Wz)/Asra/Mumbai Dt 30.06.2023 in c/a (1) Saba Parveen Irfan Khan (2) Anwar M.T. V/s. Pr. Commissioner of Customs, CSI Airport, Mumbai. (Ingenious Concealment in Gold Dust/Paste 1478.3415 grams Case granted RF, PP)
31. Order No. 786/2023-Cus(Wz)/Asra/Mumbai Dt 25.10.2023 In C/A Shri Kapil Makhanlal V/s. Pr. Commissioner of Customs, Ahmedabad. (Case granted RF, PP)
32. Order No. 885/2023-Cus(Wz)/Asra/Mumbai Dt 07.12.2023 in c/a Ma Mansi C. Trivedi V/s. Pr. Commissioner of Customs, Ahmedabad. (Case granted RF, PP)
33. Order No. 883/2023-Cus(Wz)/Asra/Mumbai Dt 05.12.2023 in c/a Shri Shankarlal Nayak V/s. Pr. Commissioner of Customs, Ahmedabad. (Case granted RF, PP)
34. Order No. 907-909/2023-Cus(Wz)/Asra/Mumbai Dt 12.12.2023 in c/a Mr. Shahrukkhan Muniruddin Pathan V/s. Pr. Commissioner of Customs, Ahmedabad. (Case granted RF, PP)
35. Order No. 899/2023-Cus(Wz)/Asra/Mumbai Dt 11.12.2023 in c/a Mr. Miteshkumar C. Dhakan V/s. Pr. Commissioner of Customs, Ahmedabad. (Case granted RF, PP)
36. Order No. 898/2023-Cus(Wz)/Asra/Mumbai Dt 11.12.2023 in c/a Mr. Radheshyam R. Tiwari V/s. Pr. Commissioner of Customs, CSI Airport, Mumbai. (Ingenious Concealment in Gold Dust/Paste Case granted RF, PP)
37. Order No. 880-882/2023-Cus(Wz)/Asra/Mumbai Dt 05.12.2023 in c/a Mr. Shri Santosh Suresh Vaswani V/s. Pr. Commissioner of Customs, Ahmedabad. (Gold Case granted RF, PP)
38. OIA No. AHD-CUSTM-000-APP-176-23-24 DT 25.09.2023 IN c/a Ms Shaikh Anisa Mohammed Amin V/s Commissioner of Customs (Appeals), Ahmedabad. (Ingenious Concealment in Gold Dust/Paste Case granted RF, PP)
39. OIA No. AHD-CUSTM-000-APP-179-23-24 DT 26.09.2023 IN c/a Mr Shaikh Imran Abdul Salam V/s Commissioner of Customs (Appeals), Ahmedabad. (Ingenious Concealment in Gold Dust/Paste Case granted RF, PP)
40. Order No. 961/2023-Cus(Wz)/Asra/Mumbai Dt 29.12.2023 in c/a Mr. Lokesh Panchal V/s. Pr. Commissioner of Customs, Ahmedabad. (Gold Case granted RF, PP)
41. Customs, Excise & Service Tax Appellate Tribunal (WZ) Bench at Ahmedabad. (Customs Appeal No. 11971 of 2016-SM) Final Order No. 10254/2024 dated 29.01.2024 Shri Lookman Mohamed Yusuf V/S. CC- Ahmedabad (Ingenious Concealment Gold Case of 4999.180 grams granted RF, PP)
42. Order No. 830-831/2023-Cus(Wz)/Asra/Mumbai Dt 05.12.2023 in c/a 1. Mr. Muneer Bellipady Mohammed and 2. Mr. Rashid Bannoor Ahmed V/s. Pr. Commissioner of Customs, Ahmedabad. (Gold Case granted RF, PP)

NRI Passenger Order's

1. Order no: 404-405/2023-CUS (WZ) /ASRA/MUMBAI/ DATED. 30.03.2023 IN C/A Pr. Commissioner of Customs, CSI Airport Mumbai v/s Shri Huzefa Khuzefa Mamuwala (2. Shri Shabbir Ranijiwala (10 Pieces of Gold Bars 1166.700 grams Concealed Re-Export Nee Case granted RF, PP)
2. Order no: 58/2020-CUS (WZ) /ASRA/MUMBAI/ DATED. 21.05.2020 IN C/A Pr. Commissioner of Customs, Ahmedabad v/s Shri Shabbir Taherally Udaipurwala (Gold WEIGHING 466.640 grams Concealed Re-Export Nee Case granted RF, PP)
3. Order no: 605/2023-CUS (WZ) /ASRA/MUMBAI/ DATED. 22.08.2023 IN C/A Pr. Commissioner of Customs, CSI Airport Mumbai v/s Shri Hitesh laxmichand gagani (1 Gold kada and 1 gold chain 350.890 grams Concealed Re-Export Nee Case granted RF, PP)
4. Order no: 61/2020-CUS (WZ) /ASRA/MUMBAI/ DATED. 21.05.2020 IN C/A Pr. Commissioner of Customs, Ahmedabad v/s Shri Basheer Mohammed Mansuri (10 Pieces of Gold Bars 1166.700 grams Concealed Re-Export Nee Case granted RF, PP)
5. Order In Original No: JC/PK/ADJN/381/2021-22 Date Of Order 31.03.2022 And Date of Issue 12.04.2022 Joint Commissioner Of customs CSMI Airport Mumbai V/s Ms. Rashmi Satish Mandelia (3 Gold Biscuits (Bars) 349.000 Concealed Concealed Re-Export Nee Case granted RF, PP)
6. Order no: 280/2022-CUS (WZ) /ASRA/MUMBAI/ DATED. 26.09.2022 IN C/A Pr. Commissioner of Customs, CSI Airport Mumbai v/s Ms. Priyal Sanjay Chokshi (3 Pieces of crude Gold Bangles 140.00 Grams Concealed Re-Export Nee Case granted RF, PP)
7. Order no: 281/2022-CUS (WZ) /ASRA/MUMBAI/ DATED. 26.09.2022 IN C/A Pr. Commissioner of Customs, CSI Airport Mumbai v/s Ms. Bina Sanjay Chokshi (2 Pieces of crude Gold Bangles 175.00 grams Concealed Re-Export Nee Case granted RF, PP)
8. Order no: 389/2023-CUS (WZ) /ASRA/MUMBAI/ DATED. 29.03.2023 IN C/A Pr. Commissioner of Customs (Appeals), Mumbai Zone-III v/s Ms. Ruby Paul Vincent Chettiar (crude Gold Chain 200.00 grams Concealed Re-Export Nee Case granted RF, PP)
9. Order no: 65/2023-CUS (WZ) /ASRA/MUMBAI/ DATED. 30.01.2023 IN C/A Pr. Commissioner of Customs, CSI Airport Mumbai v/s Ms. Jahida Bano (2 crude Gold Bangles and 4 gold Bangles total weighing 304.00 grams Concealed Re-Export Nee Case granted RF, PP)
10. Order no: 402/2022-CUS (WZ) /ASRA/MUMBAI/ DATED. 16.12.2022 IN C/A Pr. Commissioner of Customs, CSI Airport Mumbai v/s Mr. Taheri (1 cute Pieces of crude/raw Gold Bar 195.00 grams Concealed Re-Export Nee Case granted RF, PP)
11. Order no: 349/2022-CUS (WZ) /ASRA/MUMBAI/ DATED. 29.11.2022 IN C/A Pr. Commissioner of Customs, CSI Airport Mumbai v/s Mr. Kakali

Sardar (8 Gold Bangles 2 Gold Rings 550.000 Grams Concealed Re-Export granted on RF, PP)

12. OIA No. AHD-CUSTM-000-APP-082-25-26 Dated 18.06.2025 In c/a Mr. Ramesh Chandra Patel V/s. Additional Commissioner of Customs Ahmedabad. (Eligible passenger granted re-export)
13. OIA No. AHD-CUSTM-000-APP-083-25-26 Dated 18.06.2025 In c/a Mr. Lokesh Kalal V/s. Additional Commissioner of Customs Ahmedabad. (Eligible passenger granted re-export)
14. OIA No. AHD-CUSTM-000-APP-088-25-26 Dated 19.06.2025 In c/a Mr. Kesari Singh V/s. Additional Commissioner of Customs Ahmedabad. (Eligible passenger granted re-export)
15. OIA No. AHD-CUSTM-000-APP-103-25-26 Dated 25.06.2025 In c/a Mr. Zaidkhan Qayyumkhaan Pathan V/s. Additional Commissioner of Customs Ahmedabad. (Eligible passenger granted re-export)

10.8 He further submitted that it has also been held by the Hon'ble CESTAT: That there may be consistency in the approach of the adjudicating authorities while deciding similar issues. Reliance in this regard is placed on the decision rendered in the case of Copier Company Vs Commissioner of Customs, Chennai 2007 (218) ELT- 142 (Tribunal) order of the lower authority for the gold/absolutely: -"The word prohibited" occurring in sub-section-(1) above and the word prohibition' occurring in section 111(d) have to be construed on similar considerations as 'Prohibition' has been held to include (restriction' vide Shaikh Mohd. Omer (Supra). The word 'Prohibited' occurring in section 125(1) can also be understood in the sense of 'restricted'.

It would follow that in the case of second-hand photo-copiers restricted for import, the adjudicating authority, may, in its discretion, consider allowing the importer/owner of the goods to redeem the same against payment of fine. In exercising this discretion, the authority may take the relevant factors into account. We are of the view that these factors must be relatable to the goods in question. For instance, if the goods are unconditionally prohibited from importation, reasons for claiming redemption. On the other hand, if the goods are conditionally prohibited from importation (i.e. no importation without specific licence), the importer owner may claim redemption of easier grounds. In the instant case, absolute confiscation which has its roots in the provisions of section 125(1) of the Customs Act,1962. For the reasons already recorded, we set aside the impugned orders and allow these appeals by way of remand directing the Commissioner to fine the appellants, can option to redeem the goods under section 125 of the Customs Act,1962, against payment of a reasonable fine which shall be determined after shearing the party."

Further, he relied upon the judgments in cases as: -

- In the case of **Union of India Vs Dhanak M Ramji 201 (252) ELT A 102 (S.C.)** the Hon'ble Supreme Court has held that the goods can be released to the passenger on redemption and in case the Owner is someone else, the department can very well ask the owner if she is claiming the ownership or it should be released to the passenger.
- **A. Rajkumari vs CC (Chennai) 2015(321) ELT540(Tri-Chennai)** In this case redemption of absolutely confiscated gold was allowed against reasonable in

despite the fact that 70(Seventy) gold bars (10 Tolas each) were found concealed in the Air Conditioner brought by the passenger. This case was also affirmed by the Hon. Apex Court vide 2015(321) ELTA 207 (SC). Therefore, what transpires from this recent judgement of the Hon. Supreme Court (Supra) is that even in case of clever (ingenious) concealment of gold, the option of redemption under section 125 of Customs Act 1962 can be exercised to secure ends of Justice. The ratio of this judgement is squarely applicable to the present case. Relying on the latest judgments in which Hon'ble High Court has decided Gold is Not Prohibited and large quantity of gold has been on redemption Fine and personal Penalty.

Further, *relying on the latest judgements in which Hon'ble High Court has decided Gold is Not Prohibited and large quantity of gold has been released on redemption Fine and Personal Penalty: -*

- High Court of Judicature at Allahabad Sitting at Lucknow, in Civil Misc Review Application No. - 156 of 2022 in case of Sri Rajesh Jhamatmal Bhat and Another
- Rajasthan High Court, Manoj Kumar Sharma S/o Late Shri ... vs Union of India on 17 February, 2022

He further submitted that the statement was recorded under duress and threat and that he had never on the previous occasion brought any gold or for that matter any offending goods while he travelled to India. Department has been unable to show that the noticee did travel on occasions with offending goods. This being the first instance on him entire life, he may be pardoned of the consequences just because he failed to seek timely directives from the customs officials at the airport. This prayer before the authority may be taken into consideration for causing justice and arriving at a favorable decision against the noticee. He submitted that his client has been accused of carrying goods himself, no Indian or foreign currency or any other offending goods or even offending documents was recovered from his person which would remotely indicate his involvement in a transaction in the nature of smuggling. He further states that the goods may be released to his client at the earliest even provisionally for which his client is ready to give bond or pay customs duty amount as ordered against the goods mentioned in the said SCN. He further submitted his written submission on dated 16.01.2026, wherein he stated that his client Shri Kutubuddin Bagidorawala, is an NRI having Residence permit of Kuwait since 2015. He submitted that his client is an eligible passenger. As per travel history, he went to Kuwait on dated 07.08.2024 and return to India on 06.04.2025 and his client has stayed for 18 days only in India. As his client has not stayed more than 30 days in India in last 6 months. He requested to release the gold kadiwali chain on payment of fine and penalty and order for Re-Export to be granted.

11. RECORD OF PERSONAL HEARING:

To follow the principle of natural justice, personal hearing in the matter was fixed on 22.12.2025. Shri Rishikesh Mehra, Advocate and Authorized Representative appeared for the personal hearing on 22.12.2025 on behalf of his client i.e. Shri Kutubuddin Bagidorawala. He re-iterated his written submission dated 13.12.2025. The Noticee came from Kuwait to India and 01 Gold Kadiwali Chain brought not in commercial quantity. He produced the Bills of purchase gold. The noticee had put gold kadiwali chain in his pocket of jeans pent, which was not ingenious concealment. He is an illiterate person was unable to declare goods due to ignorance of Customs Rules and regulations. Reference is invited under Circular

No. 09/2001-Cus Dated 22.02.2001. He Requested to payment of duty and penalty. He has relied on order of OIA NO. AHD/CUSTOM-000-APP-088-25-26 DT. 25.06.2025 In case of Mr. Zaidkhan Qayyumkhan Pathan Vs. Additional Commissioner of Customs, Ahmedabad in which Commissioner (A), Ahmedabad has re-export was granted. He, further, requested to take lenient view in the matter and allow to release the gold on payment of fine and penalty and re-export.

DISCUSSION AND FINDINGS:

12. I have carefully gone through the facts of the case. The Noticee had submitted his written submission through his Advocate and Authorized Representative, Sh. Rishikesh Mehra on dated 13.12.2025. The noticee has availed the opportunity of personal hearing granted to him on 22.12.2025 and reiterated the written submission dated 13.12.2025 in the personal hearing. He further submitted written submission on dated 16.01.2026. Accordingly, I take up the case for adjudication on the basis of evidences available on record and submission made by the noticee during the personal hearing.

13. In the instant case, I find that the main issue to be decided is whether the 01 gold kadiwali chain, weighing 250.00 Grams (Net Weight) is having purity 999.0/24Kt. and is having Market Value of Rs.24,87,000/- (Rupees Twenty-Four Lakhs Eighty-Seven Thousand Only) and Tariff Value of Rs.22,20,480/- (Rupees Twenty-Two Lakhs Twenty Thousand Four Hundred and Eighty Only), seized vide Seizure Memo/Order dated 27.05.2025 under Panchnama Proceedings dated 27.05.2025 on a reasonable belief that the same is liable for confiscation under Section 111 of the Customs Act, 1962 (hereinafter referred to as 'the Act') or not; and whether the passenger is liable for penal action under the provisions of Section 112 of the Act.

14. I find that the Panchnama has clearly drawn out the fact that on the basis of specific intelligence regarding carrying restricted/prohibited goods, the officers of AIU intercepted Shri Kutbuddin Bagidorawala, while he was attempting to exit through green channel without making any declaration. The said passenger was questioned by the AIU officers as to whether he was carrying any contraband goods in person or in his baggage to which he denied. Not being satisfied with the reply of the passenger, the AIU officer informs the said passenger that he along with his accompanied officers would be conducting his personal search. The AIU officers asked the said passenger to pass through the Door Frame Metal Detector (DFMD) Machine, after removing all metallic objects from his body/clothes and passed through the DFMD machine. During DFMD, strong beep sound was heard at the lower and upper part of the metal detector machine indicating that there was still some objectionable/ metal item on his body/ clothes. Thereafter, the AIU officer again asked the passenger if he has anything to declare to the customs to which the passenger again denies. Further, during detailed frisking of the passenger, it was observed that he was having 01 Gold Kadiwali Chain concealed inside the chain pocket of the handkerchief in the left pocket of the jeans that he was wearing. Further, the Govt. Approved Valuer informed that the total Market Value of the said gold kadiwali chain was **Rs.24,87,000/-** and Tariff Value of **Rs.22,20,480/-**. Hence, I find that the passenger was well aware about the fact that the gold is dutiable item and he intentionally wanted to clear the same without payment of Customs duty which is also admitted by him in his statement dated 27.05.2025. Further, the Baggage Rules, 2016 nowhere mentions anything about import of gold in commercial quantity. It simply mentions the restrictions on import of gold which

are found to be violated in present case. Ignorance of law is not an excuse but an attempt to divert adjudication proceedings.

15. I find that Shri Rishikesh Mehra, Advocate of noticee appeared in personal and submitted that his client is Electrician at Kuwait, he brought gold Chain for his personal use and purchased by himself from **(1) Nafees Gold & Precious Metal Wholesale Co. Weighing 150.00 Grams Invoice No. 13172 Dated 30.06.2025 (2) Nafees Gold & Precious Metal Wholesale Co. Weighing 100.00 Grams Invoice No. 14525 Dated 26.09.2025** for his family from his hardworking and personal savings. He further submitted that the noticee was Residing at **Kuwait Since 2015** having **Civil Id Card No. 283041506457**, that he was doing job as Electrician in Kuwait and being an NRI requested to allow release of gold on redemption fine with a permission to re-export. He has further added that gold is not prohibited and not in commercial quantity, the genuine lapse took place and thus a case has been booked against his client.

16. In this regard, I find that the Customs Baggage Rules, 2016 nowhere mentions about carrying gold in commercial quantity. It simply mentions about the restrictions on gold carried by the international passengers. Further, the Hon'ble Apex Court in Om Prakash Bhatia case reported at 2003 (155) ELT 423 (SC) has held that if importation and exportation of goods are subject to certain prescribed conditions, which are to be fulfilled before or after clearance of goods, goods would fall within the ambit of 'prohibited goods' if such conditions are not fulfilled. In the instant case, the passenger had hidden the gold and did not declare the same even after asking by the Customs officers until the same was detected on his passing through the Door Frame Metal Detector (DFMD). Hence, I find that in view of the above-mentioned case citing, the passengers by their act of secreting the gold with an intention of clearing the same illicitly from Customs area by not declaring the same to Customs have held the impugned gold liable for confiscation under Section 111 of the Customs Act, 1962.

17. I find that the said 01 Gold Kadiwali Chain, was placed under seizure vide Seizure Order dated 27.05.2025 under Panchnama proceedings dated 27.05.2025. The seizure was made under Section 110 of Customs Act, 1962 on a reasonable belief that the said gold kadiwali chain was attempted to be smuggled into India and liable for confiscation. In the statement recorded on 27.05.2025, the passenger had admitted that he did not want to declare the seized gold carried by him to the Customs on his arrival at SVPIA, with an intent to clear it illicitly and evade the payment of Customs duty payable thereon. It is also on record that the Government Approved Valuer has tested and certified that the said 01 Gold Kadiwali Chain are weighing 250.00 grams of 24kt/999.00 purity gold; having Tariff Value of Rs.22,20,480/- (Rupees Twenty-Two Lakhs Twenty Thousand Four Hundred Eighty Only) and Market Value of Rs.24,87,000/- (Rupees Twenty-Four Lakhs Eighty-Seven Thousand Only). The recovered 01 Gold Kadiwali Chain was accordingly seized vide Seizure Order dated 27.05.2025 under Panchnama proceedings dated 27.05.2025 in the presence of the passenger and Panchas.

18. I also find that the passenger has neither questioned the manner of panchnama proceedings nor controverted the facts detailed in the panchnama during the course of recording his statement. Every procedure conducted during the panchnama proceedings by the Customs Officers is well documented and made in the presence of the panchas as well as the passenger. The passenger in his statement dated 27.05.2025 has clearly admitted that he had intentionally not

declared the gold recovered and seized from him on his arrival before the Customs with an intent to clear it illicitly and evade payment of Customs duty which is an offence under Customs Act, 1962 and the Rules and Regulations made under it. In fact, in his statement dated 27.05.2025, the passenger admitted that he had intentionally not declared the seized gold of 24Kt/999.0 purity having net weight of 250.00 Grams on his arrival before the Customs officer with an intent to clear it illicitly and evade payment of Customs duty.

19. I thus find that the recovery of gold kadiwali chain from the possession of the passenger which was concealed in his pocket of jeans pant and not declared to the Customs with an intention to illicitly clear it from the Customs Airport to evade the payment of Customs duty is an act of smuggling and the same is conclusively proved. By his above act of commission, it is proved beyond doubt that the passenger has violated Section 77 of the Customs Act, 1962 read with Regulation 3 of Customs Baggage Declaration Regulations, 2013. I also find that the gold imported by the passenger was purchased by him from Kuwait, however the same has not been declared before Customs to evade payment of tax. Therefore, the gold imported by the passenger in the form of 01 gold kadiwali chain and deliberately not declared before the Customs on his arrival in India cannot be treated as a bonafide household goods and thus the passenger has contravened the Para 2.26 of the Foreign Trade Policy 2015-20 and thereby Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 read with Section 3(2) and 3(3) of the Foreign Trade (Development and Regulation) Act, 1992 read in conjunction with Section 11(3) of Customs Act, 1962 and the relevant provisions of Baggage Rules, 2016, Customs Baggage Declaration Regulations, 2013 and Notification No. 50/2017-Customs dated 30.06.2017 as amended.

20. 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;

"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).

21. Given the facts of the present case before me and the judgement and rulings cited above, 01 Gold Kadiwali Chain made of 24Kt/999.0 purity gold totally weighing 250.00 Grams, recovered from the said passenger, that was kept undeclared and placed under seizure would be liable to confiscation under Section 111(d), 111(f), 111(i), 111(j), 111(l) & 111(m) of the Act. I find that the passenger is not a carrier and the said gold was brought by him under proper purchase bills in the name of him, who is NRI having residency permit of UAE and not carried on behalf of some other person with a profit motive.

22. I further find that the passenger had involved himself and abetted the act of carrying 01 Gold Kadiwali Chain made up of 999.0/ 24Kt. purity gold having net weight of 250.00 grams by hidden in his pocket of jeans. He has agreed and admitted in the statement recorded that he travelled with 01 Gold Kadiwali Chain of 24Kt/999.0 purity having net weight of 250.00 grams hidden in his pocket of jeans' worn by him from Kuwait to Ahmedabad. Despite his knowledge and belief that the gold kadiwali chain carried and undeclared by him is an offence under the provisions of the Customs Act, 1962 and the Regulations made under it, the passenger attempted to clear the said gold without making any declaration. The passenger in his statement dated 27.05.2025 stated that he did not declare the impugned gold as he wanted to clear the same illicitly and evade the Customs Duty. Thus, it is clear that the passenger has actively involved himself in carrying, removing, keeping, concealing and dealing with the smuggled gold which he knows very well and has reason to believe that the same are liable for confiscation under Section 111 of the Customs Act, 1962. Therefore, I find that the passenger is liable for penal action under provisions of Sections 112 of the Act and I hold accordingly.

23. I also refer, CBIC Circular No: 495/5/92-Cus. VI dated 10.05.1993 which talks about concealment of gold in order to smuggle it into India. So, I find that ingenious concealment is one of the important aspects of deciding on redemption/non-redemption of the goods. Accordingly, I proceed to decide the issue.

24. In view of the above discussions, I hold that the 01 Gold Kadiwali Chain recovered from the noticee is liable for confiscation. However, since the impugned gold kadiwali chain carried by the passenger was for personal use and not brought for another person for profit motive. Passenger also produce copy of Invoice **(1) Nafees Gold & Precious Metal Wholesale Co. Weighing 150.00 Grams Invoice No. 13172 Dated 30.06.2025 (2) Nafees Gold & Precious Metal Wholesale Co. Weighing 100.00 Grams Invoice No. 14525 Dated 26.09.2025** issued in the name of passenger Shri Kutbuddin Bagidorawala an NRI as he is having residency permit of Kuwait. Further the passenger has hidden gold kadiwali chain in his pocket of jeans worn, which cannot be termed as an ingenious concealment. As such, I use my discretion to give an option to redeem the impugned seized gold on payment of a redemption fine, as provided under Section 125 of the Act.

25. I find that this issue of re-demption of gold has travelled through various appellate fora. I find that in the following cases, Hon'ble Supreme Courts, High Courts, the appellate fora allowed redemption of seized goods;

- i. *Sapna Sanjeev Kohli vs. Commissioner – 2010(253) E.L.T.A52(S.C.).*
- ii. *Union of India vs. Dhanak M Ramji – 2010(252) E. L. T. A102(S.C.)*
- iii. *Shaikh Jamal Basha Vs. G.O.I. – 1997(91) E. L. T. 277(A. P.)*
- iv. *Commissioner of Cust. & C. Ex. Nagpir-I Vs. Mohd. Ashraf Armur – 2019(369) E. L. T. 1654 (Tri. Mumbai)*
- v. *Shri R. P. Sharma, Additional Secretary in RE Ashok Kumar Verma – 2019(369) E. L. T. 1677 (G. O. I.)*
- vi. *Suresh Bhosle Vs. Commissioner of Customs (Rev.) Kolkatta – 2009(246) E. L. T. 77(Cal.)*
- vii. *T. Elavarasan Versus Commissioner of Customs (Airport), Chennai reported at 2011 (266) E.L.T. 167 (Mad.)*

26. I find that when there are judgements favoring redemption, there are contra judgement which provide for absolute confiscation of seized gold attempted to be smuggled into India as follows;

- i. *Abdul Razak Vs., U. O. I. – 2012(275) E. L. T. 300 (Ker.) maintained by Hon'ble Supreme Court – 2017(350) E. L. T. A173(SC)*

27. I further find that ingenious concealment is one of the important aspects for deciding on the redemption/ non-redemption of the goods.

Further, while deciding the case, the CBIC Circular/ Instruction F. No: 275/17/2015-CX. 8A dated 11.03.2015 is also looked into, which emphasized that Judicial discipline should be followed while deciding pending show cause notices/appeals.

28. I find that the option to redemption has been granted and absolute confiscation is set-a-side vide order No.12/2021-CUS(WZ)/ASAR dated 18.01.2021 by the Revision authority, GOI issued under F. No: 371/44/B/2015-RA/785 dated 29.01.2021. Similar view was taken by Revision Authority vide Order No. 287/2022-CUS(WZ)/ASAR/Mumbai dated 10.10.2022; Order No. 245/2021-CUS(WZ)/ASAR dated 29.09.2021 issued under F. No: 371/44/B/15-RA/2020 dated 06.10.2021 and Order No: 314/2022-Cus(WZ)/ASAR/Mumbai dated 31.10.2022 issued from F. No: 371/273/B/WZ/2018 dated 03.11.2022. All the above mentioned 3 orders of RA has been accepted by the department.

29. I also find that in Order No: 245/2021-CUS9WZ)/ASAR/MUMBAI dated 29.09.2021 in case of Shri Memon Anjum, the Revisionary Authority set aside the order of absolute confiscation. The Revisionary Authority in Para 14 observed as under:

“Government notes that there is no past history of such offence/violation by the applicant. The part of impugned gold jewellery was concealed but this at times is resorted to by travelers with a view to keep the precious goods secure and safe. The quantity/type of gold being in form of gold chain and 3 rings is jewellery and is not commercial in nature. Under the circumstance, the Government opines that the order of absolute confiscation in the impugned case is in excess and unjustified. The order of the Appellate authority is therefore liable to be set aside and the goods are liable to be allows redemption on suitable redemption fine and penalty.”

30. I find that hiding the seized gold *kadiwali* chain in his jeans pocket cannot be considered an ingenious method of concealment, even though the charge of non-declaration of the gold is established.

Further, the ownership of the seized gold by Shri Kutbuddin Bagidorawala cannot be denied, as he has claimed ownership of the seized gold in his written submissions dated 13.12.2025 and 16.01.2026 and has also produced purchase invoices in support of his claim. Moreover, this was the first instance of bringing gold by him, and therefore, the case does not involve a habitual offender.

Considering the above facts, and as this is not a case of ingenious concealment, I am of the considered opinion that, under Section 125 of the Customs Act, 1962, an option for redemption of the seized gold may be granted.

I further find that the passenger has submitted copies of the purchase invoices, namely: (i) Invoice No. 13172 dated 30.06.2025 issued by *Nafees Gold & Precious Metal Wholesale Co.* for gold weighing 150.00 grams, and (ii) Invoice No. 14525 dated 26.09.2025 issued by *Nafees Gold & Precious Metal Wholesale Co.* for gold weighing 100.00 grams, both issued in his name.

Further, the passenger is holding a valid residency permit of Kuwait and, as such, qualifies as a Non-Resident Indian (NRI).

31. I further find that the passenger involved himself in and abetted the act of carrying one gold *kadiwali* chain made of gold of 999.0/24 karat purity, having a net weight of 250.00 grams, by concealing the same inside the pocket of the jeans worn by him.

The passenger has admitted in his statement that he travelled from Kuwait to Ahmedabad while carrying the said gold *kadiwali* chain concealed inside the pocket of the jeans worn by him. He was fully aware and had reason to believe that carrying gold by concealing it under clothing and without declaration amounts to an offence under the provisions of the Customs Act, 1962 and the Regulations made thereunder.

Further, in his statement dated 27.05.2025, the passenger categorically stated that he did not declare the impugned gold *kadiwali* chain as he intended to clear the same illicitly and evade payment of applicable Customs duty.

Thus, it is evident that the passenger has involved himself in carrying, removing, keeping, concealing, and dealing with the undeclared gold *kadiwali* chain, which he knew or had reason to believe was liable to confiscation under Section 111 of the Customs Act, 1962.

Therefore, I hold that the passenger is liable for penal action under the provisions of Section 112 of the Customs Act, 1962, and I hold accordingly.

32. Accordingly, I pass the order as under:

O R D E R

- i.** I order confiscation of the impugned 01 Gold Kadiwali Chain made up of 999.0/ 24Kt. purity gold having net weight of 250.00 Grams and having **Market Value of Rs.24,87,000/-** (Rupees Twenty Four Lakhs Eighty Seven Thousand Only) and Tariff Value of Rs.22,20,480/- (Rupees Twenty Two Lakhs Twenty Thousand Four Hundred Eighty Only) recovered and seized from passenger Shri Kutbuddin Bagidorawala vide Seizure Order dated 27.05.2025 under Panchnama Proceedings dated 27.05.2025 under the provisions of Section 111(d), 111(f), 111(i), 111(j), 111(l) & 111(m) of the Customs Act, 1962;
- ii.** I order confiscation of the Handkerchief having chain pocket of the passenger, inside of which, the said thick gold kadiwali chain was recovered used for concealing the above-mentioned gold kadiwali chain by **Shri Kutbuddin Bagidorawala** placed under seizure under panchnama proceedings dated 27.05.2025 and Seizure Memo Order dated 27.05.2025, under the provisions of Section 119 of the Customs Act, 1962.
- iii.** I give an option to Shri Kutbuddin Bagidorawala to redeem the impugned 01 Gold Kadiwali Chain of 24Kt/999.0 purity gold having net weight of 250.00 Grams on payment of redemption fine of **Rs.5,00,000/-** (Rupees Five Lakhs Only) under Section 125(1) of the Customs Act, 1962 **only for the purpose of re-export**. In addition to redemption fine, the passenger would be liable for payment of applicable duties and other levies/charges in terms of Section 125(2) of the Customs act, 1962.

iv. I impose a penalty of **Rs.2,50,000/-** (Rupees Two Lakhs and Fifty Thousand Only) on Shri Kutbuddin Bagidorawala under the provisions of Section 112(a)(i) and Section 112(b)(i) of the Customs Act 1962.

33. Accordingly, the Show Cause Notice No. VIII/10-51/SVPIA-C/O&A/HQ/2025-26 dated 10.11.2025 stands disposed of.

(Shree Ram Vishnoi)
Additional Commissioner
Customs Ahmedabad

DIN: DIN: 20260171MN0000000EDA

F. No. VIII/10-51/SVPIA-C/O&A/HQ/2025-26

Date-30.01.2026

By Speed Post/ Email

To

Shri Kutbuddin Bagidorawala,
C/o Shabbir Husain Bagidorawala,
Saifee Pura, Nai Abadi, Banswara (Rural),
Banswara, Rajasthan-327001

Copy to:

- (i) The Principal Commissioner of Customs, Ahmedabad (Kindly Attention to RRA)
- (ii) The Deputy/Assistant Commissioner of Customs, Recovery Cell
- (iii) The Deputy/Assistant Commissioner of Customs, SVPIA, Ahmedabad
- (iv) The Deputy Commissioner of Customs (AIU), SVPIA, Ahmedabad
- (v) The System In-Charge, Customs, HQ., Ahmedabad for uploading on the official web-site i.e. <http://www.ahmedabadcustoms.gov.in>
- (vi) Guard File.