



प्रधान आयुक्त का कार्यालय, सीमाशुल्क, अहमदाबाद

"सीमा शुल्क भवन", पहली मंजिल, पुराने हाईकोर्ट के सामने, नवरंगपुरा, अहमदाबाद - 380 009.

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SHOW CAUSE NOTICE

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

Shri Injamamul Haque S/o Shri Afsar Alam (herein after referred to as the 'passenger') residing at Kanhaiyabari, Post-Bishanpur, PS-Kochadhaman, Kishanganj, Pin-855101 holding Indian Passport bearing No. W3309764 arrived from Dubai to Ahmedabad by Spice-Jet Airlines Flight having number SG-16 at SVP International Airport, Ahmedabad on 09.11.2023. On the basis of suspicion, a cross sign was marked by the baggage scanning officer who has duty on belt. Therefore, the passenger was asked to scan the baggage on Red Channel and while scanning the baggage some suspicious image was observed by the red channel officer, hence, the officer of the Red Channel was asked to passenger to open the bag, the bag was opened by the passenger, in which there was three knives found and might be it is gold, the Customs Officers handed over to AIU officer for further investigation. Thorough baggage checking and personal checking of the passenger during the entire proceedings the consent of the panchas was taken by the AIU officer to present as independent witness in the said proceedings. Accordingly, in the presence of two panchas, the AIU officers asked about his identity, in reply the passenger identifies him self as Injamamul Haque, aged-29 years and shows his passport bearing number W3309764 and informed that he has travelled from Dubai to Ahmedabad by Spice-Jet Airlines, Flight No. SG-16, Boarding pass bearing Sr. No. 39. He was carrying one black coloured check-in bag and one hand bag with him.

Thereafter, in the presence of we the panchas, the AIU officers asked the passenger whether he is carrying dutiable goods or foreign currency or any restricted goods and whether wishes to declare anything before Customs Authorities, under Panchnama proceedings dated 09.11.2023 **[RUD No.-01]** in presence of two independent

witnesses, to which the said passenger replied negative. Now the AIU officers asked the passenger for personal search and examination of his baggage.

2.1 The AIU officers again asked the passenger if he had anything dutiable to declare to the Customs authorities, to which the said passenger again replied in negative. The AIU officers informed the passenger that they would be conducting his personal search and detailed examination of his baggage. The said passenger was asked by officers whether he wished to be searched before a Gazetted officer or Magistrate for which he agreed to being searched by a Gazetted officer. Before conducting the search, the AIU officers offered their personal search to which he denied and said that it is not necessary and he has full faith in the officers.

Now, the officers put/ placed all the baggage in Baggage Scanning Machine (BSM) installed near the green channel in the Arrival Hall of Terminal 2 building for examination/ checking in presence of the panchas. On examination of hand baggage, the officers of the AIU didn't notice/ observe any suspicious/ unusual but in his check-in baggage, the officers noticed something wrong/ suspicious. Therefore, in presence of the panchas, the officers asked the passenger to open the bag. While bag was opened, it found that there are three knives hidden by the passenger viz. Shri Injamamul Haque.

The officers of the AIU in presence of the panchas asked about the knives which is high valued dutiable article, in reply he said that he don't know about the cost or high valued dutiable knives, the knives were handed over to me by the unknown person saying that to deliver the same to some other person in India, for this he has arranged my tickets to come from Dubai to India. Further, he said that the unknown person did not provide his contact number and the other person who will take these knives from me, but I was told when I will reach at Ahmedabad Airport, he will contact me and these knives will take from me. After, sustained interrogation and repeated questioning, Shri Injamamul Haque shows his innocence in this matter. Now, the officers of the AIU decided/ need to cut these knives in lathe machine, the

panchas and passenger Shri Injamamul Haque, and the AIU officers leave the premises of Airport and reach at the premises of Lathe Machine. Here the knives cut and showed that rectangular solid object coated with Rhodium in each knife which appears like gold. Now, it needed to confirm that whether this is gold or not.

2.2 Thereafter, the Customs officers calls the Government Approved Valuer and informs him that three knives have been recovered from one passenger and hence, he needs to come to the Airport for testing and valuation of the said material. In reply, the Government Approved Valuer informs the Customs officer that the testing of the said material is only possible at his workshop as gold must be extracted from such paste form by melting it and informs the address of his workshop.

2.3 Thereafter, two panchas along with the passenger Shri Inmamul Haque and AIU officers leave the Airport premises in a Government Vehicle and reach at the premises of the Government Approved Valuer located at 301, Golden Signature, Bh. Ratnam Complex, C.G. Road, Ahmedabad-380006.

2.4 On reaching the above referred premises, the AIU officers introduces the panchas as well as the passenger to one person named Shri Kartikey Vasantrai Soni, Government Approved Valuer. Here, after weighing the said rectangular solid object coated with Rhodium on his weighing scale, Shri Kartikey Vasantrai Soni informs that the said material has gross weighing 292.35 Grams and photograph of the same is as under:



2.5 Thereafter, Shri Kartikey Vasantrai Soni, the Government Approved Valuer, started the process of extracting the gold from the Rhodium Coated Rectangle shape Rods. After completion of extraction, Government Approved Valuer informed that Gold Bar weighing 287.510 Grams having purity 999.0/ 24kt is derived from the 292.35 Grams of Rhodium Coated Rectangle shape Rods. The valuation Certificate No. 859/2023-24 dated 09.11.2023 prepared by Shri Kartikey Vasantrai Soni (**RUD-2**). After testing and valuation the Govt. Approved Valuer vide his Certificate No. 859/2023-24 dated 09.11.2023 confirmed that it is gold having purity 999.0/24 Kt. The Govt. Approved Valuer summarized that this gold bar is made up of 24kt gold having purity 999.0 weighing **287.510** grams derived from 292.350 grams of Rhodium Coated Rectangle shape Rods concealed inside the Knives, in check-in baggage of the passenger. Further, the Govt. Approved Valuer informed that the total Tariff Value of the said gold bar is **Rs.15,55,672/-** (Rupees Fifteen Lakhs Fifty-Five Thousand Six Hundred and Seventy-Two only) and Market value is **Rs.17,83,137/-** (Rupees Seventeen Lakhs Eighty-Three Thousand and One Hundred Thirty-Seven only) which has been calculated as per the Notification No. 79/2023-Customs (N.T.) dated 31.10.2023 (gold) and Notification No. 81/2023-Customs (NT) dated 02.11.2023 (exchange rate).

2.6 The Photograph of recovered gold bar derived from these Rhodium Coated Rectangle shape Rods is as under:-



-The outcome of the said testing is summarized in below table.

Sl. No.	Details of Items	PCS	Net Weight in Gram	Purity	Market Value (Rs.)	Tariff Value (Rs.)
1.	Gold Bar	1	287.510	999.0/ 24 Kt	17,83,137/-	15,55,672/-

3. The said pure gold of 24 kt having 999.0 purity retrieved from the Rhodium Coated Rectangle Shape Rods inside the check-in baggage of the passenger, weighing 287.510 Grams, have Tariff Value of Rs.15,55,672/- (Rupees Fifteen Lakhs Fifty-Five Thousand Six Hundred and Seventy-Two only) and Market value is Rs.17,83,137/- (Rupees Seventeen Lakhs Eighty-Three Thousand and One Hundred Thirty-Seven only). The said gold recovered from the passenger was attempted to be smuggled inside India with intent to evade payment of Customs duty and was a clear violation of the provisions of Customs Act, 1962. Thus, having a reasonable belief that the said gold Bar (1 piece) having weight 287.510 Grams was attempted to be smuggled by the passenger, were liable for confiscation under the provisions of the Customs Act, 1962; they were placed under seizure vide Panchnama dated 09.11.2023 under a reasonable belief that the subject Gold was attempted to be smuggled into India and was liable for confiscation under Section 111 of the Customs Act, 1962 (**Seizure Report dated 09.11.2023- RUD No. 03**). Further, the gold, recovered from the passenger, was placed under seizure under section 110 of the Customs Act, 1962 vide Panchnama dated 09.11.2023 drawn by the Officer of Customs, AIU, at SVPI Airport, Ahmedabad.

The following travelling documents and identity documents of the passenger were recovered and withdrawn for further investigation: -

- (i) Copy of Passport No. W3309764 issued at Patna on 31.08.2022 valid up to 31.08.2032 (**RUD No. 04**).
- (ii) Passenger Manifest of Spice-Jet Flight having number SG-16 dtd. 08.11.2023 (Dubai to Ahmedabad) depicting name of Shri Injamamul Haque (**RUD -No. 5**)

4. The statement of the passenger was recorded on 09.11.2023 under Section 108 of the Customs Act, 1962 (**RUD NO.-06**), wherein he, inter alia, stated that he arrived from Spice-Jet Flight having number SG-16 on 09.11.2023 having Sr. No. 39 and, having Passport

No. W5454770, at Sardar Vallabhbhai Patel International Airport, Ahmedabad. Furthermore, the passenger accepted that the said Gold Bar (1 Piece) having weight 287.510 Grams which was derived from Rhodium Coated Rectangle Shaped Rods having gross weight 292.350 concealed inside knives put in check-in baggage not belonged to him. Under his statement, the passenger admitted that the said gold is not purchased by him, he is just a carrier only he went to Dubai for searching a job as his broker assured him to provide job in Dubai with salary of Rs.35,000/- but almost two months passed and no job was offered to him, so, he decided to come back in India as his VISA also nearing to expire. At that time one person contacted him and arranged tickets from Dubai to India and given him one bag to hand over in India. He asked the person about the bag but he told me that nothing dangerous or illegal items is there in bag except three knives as the same is famous in Dubai and useful. As I was convinced and obliged as my ticket booked by him, I accepted to carry the bag and hand over the same in India at Ahmedabad Airport whoever will contact me at Airport on behalf of the person. But the same was clearly meant for commercial purpose and hence do not constitute bonafide baggage within the meaning of Section 79 of the Customs Act, 1962. Further, the said goods were also not declared before Customs by the pax. Further, he again confirmed the recovery of gold bar weighing 287.510 grams of 999.0/24 Kt. purity and it's Tariif value at Rs.15,55,672/- (Rupees Fifteen Lakhs Fifty-Five Thousand Six Hundred and Seventy-Two only) and Market value is Rs.17,83,137/- (Rupees Seventeen Lakhs Eighty-Three Thousand and One Hundred Thirty-Seven only) from him during the course of Panchnama dated 09.11.2023.

5. Therefore, on the basis of facts narrated above, the said gold Bar (1 Piece) weighing 287.510 grams of 999.0/24 Kt purity having Tariff value at Rs.15,55,672/- and Rs.17,83,137/- (Market value), derived from 292.350 grams hidden/ concealed in the handle of the knives recovered from the passenger, appeared liable for confiscation, was placed under seizure under Panchnama dated 09.11.2023 as said gold totally weighing 287.510 grams seized under Panchnama dated 09.11.2023 was "smuggled goods" as defined under Section 2(39) of the Customs Act, 1962. It also appeared that the said pax has

conspired to smuggle the said gold into India. The offence committed has been admitted by the said passenger in his statement recorded on 09.11.2023 under Section 108 of the Customs Act, 1962. He has committed an offence punishable under Section 135 (1) (a) & (b) of the Customs Act, 1962.

6. RELEVANT LEGAL PROVISIONS:

A. THE CUSTOMS ACT, 1962:

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

(22) "goods" includes—

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

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

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

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

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

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

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

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

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

(d) *any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being*

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

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

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

VII) "SECTION 119- 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" does not include a conveyance used as a means of transport.

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

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

II) "Section 3(3) - All goods to which any Order under sub-section (2) applies shall be deemed to be goods the import or

export of which has been prohibited under section 11 of the Customs Act, 1962 (52 of 1962) and all the provisions of that Act shall have effect accordingly."

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

C. THE CUSTOMS BAGGAGE DECLARATIONS REGULATIONS, 2013:

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

CONTRAVENTION AND VIOLATION OF LAWS

7. It therefore appears that:

- (a)** Shri Injamamul Haque improperly imported the one Gold Bar, weighing 287.510 Grams of purity 999.0 (24KT) having Tariff Value of Rs.15,55,672/- (Rupees Fifteen Lakhs Fifty Five Thousand Six Hundred and Seventy Two only) and Market value is Rs.17,83,137/- (Rupees Seventeen Lakhs Eighty Three Thousand and One Hundred Thirty Seven only) derived from the 292.350 grams of Rhodium coated rectangle shaped Rod concealed inside the handle of knives (as discussed herein above) without declaring it to the Customs by denying that he has nothing to declare to customs with a deliberate intention to evade the payment of Customs duty and fraudulently circumventing the restrictions and prohibitions imposed under the Customs Act, 1962 and other allied Acts, Rules and Regulations. The passenger had knowingly and intentionally imported the said Gold Bar improperly without declaring the same to the Customs authority under temptation to evade Customs Duty. Therefore, the gold imported by the passenger which was not declared to the Customs on arrival in India cannot be treated as bonafide household goods or personal effects. Shri Injamamul Haque has thus contravened the Foreign Trade Policy 2015-20 and Section 11(1) of the Foreign

Trade (Development and Regulation) Act, 1992 read with Section 3(2) and 3(3) of the Foreign Trade (Development and Regulation) Act, 1992.

- (b) The passenger, by not declaring the contents of his baggage which included dutiable and 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.
- (c) The improperly imported gold concealed inside the knives by the passenger without declaring it to the Customs is thus liable for confiscation under Section 111(d), 111(i) and 111(j) read with Section 2 (22), (33), (39) of the Customs Act, 1962 and further read in conjunction with Section 11(3) of the Customs Act, 1962.
- (d) The passenger, by his above-described acts of omission and commission on his part has rendered himself liable to penalty under Section 112 of the Customs Act, 1962.
- (e) As per Section 123 of Customs Act 1962, the burden of proving that the One Gold Bar, weighing 287.510 grams having purity 999.0 (24KT), Tariff Value of Rs.15,55,672/- (Rupees Fifteen Lakhs Fifty Five Thousand Six Hundred and Seventy Two only) and Market value is Rs.17,83,137/- (Rupees Seventeen Lakhs Eighty Three Thousand and One Hundred Thirty Seven only) recovered/ derived from 292.350 grams Rhodium coated rectangle shape rod concealed inside the handle of the knives without declaring it to the Customs, are not smuggled goods, is upon the passenger and Noticee, Shri Injamamul Haque.

8. Now therefore, **Shri Injamamul Haque**, resident of at Kanhaiyabari, Post-Bishanpur, PS-Kochadhaman, Kishanganj, Pin-855101 holding Indian Passport bearing No. W3309764 arrived from Dubai to Ahmedabad by Spice-Jet Airlines Flight having number SG-16

at SVP International Airport, Ahmedabad on 09.11.2023, is called upon to show cause in writing to the Additional Commissioner of Customs, SVPI Airport, Ahmedabad having his office at Custom House, Nr. All India Radio, Income Tax Circle, Navrangpura, Ahmedabad, as to why:

- i) The One Gold Bar, weighing **287.510** grams having purity 999.0 (24KT) recovered/ derived from gold capsule and transparent pouch weighing 292.350 grams, having Tariff Value of **Rs.15,55,672/-** (Rupees Fifteen Lakhs Fifty Five Thousand Six Hundred and Seventy Two only) and Market value is **Rs.17,83,137/-** (Rupees Seventeen Lakhs Eighty Three Thousand and One Hundred Thirty Seven only) placed under seizure under panchnama dated 09.11.2023 and seizure memo order dated 09.11.2023 should not be confiscated under Section 111(d), 111(f), 111(i), 111(j), 111(l) and 111(m) of the Customs Act, 1962;
- ii) The packing material i.e. Knives used for concealment of gold seized under panchnama 09.11.2023 should not be confiscated under Section 119 of the Customs Act, 1962; and
- iii) Penalty should not be imposed upon the passenger under Section 112(a) and 112(b) of the Customs Act, 1962.

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

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

11. The relied upon documents for the purpose of this notice are listed in the **Annexure-R** and copies thereof are enclosed with this notice.

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

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

Vishal
4/4/24

(Vishal Malani)

Additional Commissioner,
Customs, Ahmedabad.

F. No. VIII/10-05/SVPIA-D/O&A/HQ/2024-25

Date:04/04/2024

BY SPEED POST

To,

✓ **Shri Injamamul Haque,**
Kanhaiyabari, Post-Bishanpur,
PS-Kochadhaman,
Kishanganj, Bihar, Pin-855101.

Copy to:

- (i) The Deputy/Assistant Commissioner of Customs (AIU), SVPIA, Ahmedabad.
- (ii) The System In charge, Customs HQ, Ahmedabad for uploading on official web-site i.e. <http://www.ahmedabadcustoms.gov.in>.
- (iii) Guard File.

ANNEXURE – 'R'

LIST OF DOCUMENTS/ RECORDS RELIED UPON FOR THE PURPOSE OF SHOW CAUSE NOTICE ISSUED TO SHRI INJAMAMUL HAQUE.

S. No.	Nature of document	Remarks
1	Panchnama dated 09.11.2023 drawn at SVPI Airport, Ahmedabad.	Copy already provided
2	Valuation Report of Government Approved Valuer Shri Kartikey Vasantraai Soni vide his report dated 09.11.2023	Copy enclosed
3	Seizure memo Order dated 09.11.2023 issued under Section 110(1) of the Customs Act, 1962.	Copy enclosed
4	Copy of Passport No. W3309764 issued on 31.08.2022	Copy enclosed
5	Passenger Manifest of Spice-Jet Flight number SG-16 from Dubai to Ahmedabad dated 08.11.2023 depicting name of Shri Injamamul Haque.	Copy enclosed
6	Statement of Shri Injamamul Haque recorded on 09.11.2023	Copy enclosed