

OIO No. 24/AB/ADC/SRT-AIRPT/2024-25
F.No.VIII/26-07/AIU/CUS/2024-25



अपर आयुक्त, सीमा शुल्क कार्यालय
**OFFICE OF THE ADDITIONAL COMMISSIONER
OF CUSTOMS**
सीमा शुल्क सदन, सूरत/**CUSTOMS HOUSE,SURAT**
4th Floor, Customs House, Beside SMC Ward
Office,Althan-Bhimrad Road, Althan, Surat –
395007 ; Tel. No.- 0261-2990051
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PREAMBLE

A	डी आई ऐन/DIN	20250371MN0000413912
B	फाइल संख्या / File No.	F. No. VIII/26-07/AIU/CUS/2024-25
C	कारण बताओ नोटिस संख्या और तारीख Show Cause Notice No. and date	F. No. VIII/26-07/AIU/CUS/2024-25 dated 20.09.2024
D	ऑर्डर-इन-ओरिजिनल नंबर / Order-In-Original No.	24/AB/ADC/SRT-AIRPT/2024-25
E	आदेश तारीख/ Date of Order-In-Original	18.03.2025
F	जारी करने की तिथि/ Date of Issuance	19.03.2025
G	द्वारा पारित / Passed by	Shri Anunay Bhati Additional Commissioner, Customs Surat International Airport, Surat
H	यात्री का नाम और पता Name and address of Passenger	Shri Laxman Shivabhai Ambaliya, S/o Shri Shivabhai Chanabhai Ambaliya, D-903, Shikshapati Heights, Behind Astha House, Kosad, Surat City, PIN-394107, Gujarat

1. जिस व्यक्ति के लिए आदेश जारी किया गया है उसके व्यक्तिगत उपयोग के लिए यह प्रति निशुल्क प्रदान की है ।

1. This copy is granted free of charge for the private use of the person to whom it is issued.

२. इस आदेश से अपने को व्यथित महसूस करने वाला कोई भी व्यक्ति आयुक्त (अपील), सीमा शुल्क, 4th मंजिल, हुडको बिल्डिंग, ईश्वर भवन रोड, नवरंगपुरा, अहमदाबाद- ३८०००९ के यहाँ अपील कर सकता है । इस तरह की अपील, पार्टी को इस आदेश के सौंपे जाने अथवा डाक के प्राप्त होने के साठ दिन के अन्दर सीमा शुल्क (अपील) नियम, १९८२ के अंतर्गत फार्म स सी. ए. १ और २ दी जानी चाहिए। इस अपील पर नियमानुसार कोर्ट का स्टाम्प लगा होना चाहिए ।

2. Any person deeming himself aggrieved by this order, may prefer an appeal against this order to the Commissioner of Customs (Appeals), 4th Floor, HUDCO Building, Ishwar Bhavan Road, Navrangpura, Ahmedabad-380009, in Form C. A. 1 & 2 as prescribed under Customs (Appeals), Rules, 1982. The appeal must be filed within sixty days of receipt of this order by the post or person. It should bear a court fee stamp of appropriate value.

३. अपील के साथ निम्नलिखित चीजे संलग्न की जाए ।

3. The following documents must be enclosed alongwith the appeal.

(क) अपील की प्रति, तथा (a) A copy of the appeal and

(ख) आदेश की प्रति या अन्य आदेश की प्रति, जिस नियमानुसार कोर्ट फी स्टाम्प लगा हो ।

(b) Copy of this order or another copy of the order, which must bear court fee stamp of appropriate value.

BRIEF FACTS OF THE CASE:

Shri Laxman Shivabhai Ambaliya (hereinafter referred to as the "Passenger/Noticee"), Age- 40 years, S/o Shri Shivabhai Chanabhai Ambaliya, residing at D-903, Shikshapati Heights, Behind Astha House, Kosad, Surat City, PIN-394107, Gujarat, holding Passport No. U1154503 arrived at Surat International Airport on 17.04.2024 from Dubai on Air India Express Flight No. IX-174 dated 16.04.2024.

2. Whereas, based on passenger profiling, one passenger, namely Shri Laxman Shivabhai Ambaliya, suspected to be carrying high-value dutiable/prohibited goods in-person or in the baggage was intercepted by the officers of the Air Intelligence Unit (AIU) (hereinafter referred to as the "officers"), in the presence of panchas under Panchnama proceedings dated 17.04.2024, near the green channel of the arrival hall of International Terminal of International Airport, Surat. The passenger was found to be carrying two baggage viz, one red colour trolley bag of brand "Traworld" and one blue colour backpack. The officers asked the passenger whether he had anything to declare, which the passenger denied. The officers informed the passenger that they would conduct his personal search and detailed baggage examination. The officers offered their search to the passenger, but the passenger politely denied it. Thereafter, the officers asked the passenger whether he wanted to be searched in the presence of the Executive Magistrate or the Superintendent (Gazetted Officer) of Customs; in reply, the passenger consented to be searched before the Superintendent of Customs. Thereafter, the officers and the passenger entered the room meant for Baby Care, which was located in the arrival area. Meanwhile, during frisking and physical search of the passenger, no objectionable/prohibited goods are found in person.

3. Whereas, the officers passed the luggage carried by the passenger viz, one red colour trolley bag of brand "Traworld" and one blue colour backpack through the XBIS Scanner machine located in the arrival hall of Surat International Airport. In the course of scanning the red color trolley bag of the brand "Traworld," dark images indicating the presence of some metallic object in his trolley bag were seen on the monitor attached to the scanner machine. Accordingly, the contents of the trolley bag were withdrawn, and its contents were checked thoroughly. Besides other objects like clothes, the bag contained one plastic bag containing three boxes of Apple Airpod Pro and one loose Apple AirPod. The AirPod's case in each of the boxes and the loose airpod were found to be abnormally heavy. Thereafter, one AirPods case was opened, and found that it was bound by a cello tape, which was usually not the case for such branded products. The cello tape was removed, and the AirPod was dismantled, it was found to contain a rectangle-shaped heavy metallic object, silver in color. Identically, the other three airpod cases were opened, and similar rectangle-shaped heavy metallic objects were recovered. Thus, four rectangle-shaped metal objects were recovered, total weighing 201.00 grams.

4 Whereas, while scanning the blue colour backpack, a dark image, indicating the presence of some metallic object in his backpack, was seen on the monitor attached to the scanner machine. The contents of the backpack were withdrawn and checked and found to contain one plastic bag containing one Portable and Rechargeable Battery Juice Blender of the brand "HM-03", having a capacity of 380 ml, Made in China. The said Juice Blender was again passed through the scanner machine, and a dense, dark image was seen on the monitor attached to the scanner machine. Thereupon, the Juice blender was dismantled, and its machine part was found to contain an arc-shaped metallic object black. Upon scratching its surface, a golden surface was revealed beneath the black surface. The weight of the said object was found to be 39.00 grams. Meanwhile, the customs officer, in the presence of the panchas and the passenger Shri Vikasraj Juneja, a government-approved valuer, was

in the Customs office at Surat International Airport. The Customs officer informed him about the recovery of a metal, which appeared to be gold, from the passenger and requested him to test the purity, weigh it, and evaluate the said material. After examining and weighing the items on his weighing scale, the valuer certified the same as a 24 kt gold total weighing 240.00 grams. The market value of the gold item was Rs. 18,24,000/- (Rupees Eighteen Lakh Twenty-Four Thousand Only), and its tariff value was Rs.15,64,861/- (Rupees Fifteen Lakh Sixty Four Thousand Eight Hundred Sixty One only) as per Notification No. 27/2024-Customs-(NT) dated 04.04.2024 and 29/2024 – Customs (NT) dated 15.04.2024. Thereafter, the valuer issued a valuation certificate dated 17.04.2024. The Customs officers again sealed the gold items weighing 240.00 grams and handed them to the warehouse in charge, Surat International Airport, Surat.

5. Whereas, the above-mentioned 24 kt gold item weighing 240.00 grams was having a market value at Rs. 18,24,000/- (Rupees Eighteen Lakh Twenty-Four Thousand only) and its tariff value at Rs.15,64,861/- (Rupees Fifteen Lakh Sixty Four Thousand Eight Hundred Sixty-One only) recovered from the passenger, Shri Laxman Shivabhai Ambaliya was placed under seizure under the provisions of Section 110 of the Customs Act 1962 vide Seizure order dated 17.04.2024 under Panchnama proceedings dated 17.04.2024, on a reasonable belief that the said gold was smuggled into India and was liable for confiscation under provisions of the Customs Act, 1962.

6. The following documents were withdrawn from the Passenger for further investigation:

- (i) Copy of Boarding Pass, from Dubai to Surat, of Air India Express Flight No. IX-174 dated 16.04.2024, Seat No. 27D, PNR No. D18DPS.
- (ii) Copy of Passport No. U1154503 issued at Surat on 26.11.2019 and valid up to 25.11.2029. His address as per passport is D-903, Shikshapati Heights, Behind Astha House, Kosad, Surat City, PIN-394107, Gujarat, India.
- (iii) Copy of Driving License bearing No. GJ05 20080039964. His address as per his Driving License is 405, Santoshi Nagar, Varachha Road, Surat City, PIN-395006, Gujarat.

7. Further, a statement of Shri Laxman Shivabhai Ambaliya was recorded on 17.04.2024 under the provision of Section 108 of the Customs Act, 1962, wherein he inter alia stated:

- that his local address in India was D-903, Shikshapati Heights, Behind Astha House, Kosad, Surat City, PIN-394107, Gujarat, India. However, he had been residing in Dubai for the last three and half years, having address Room No. 304, R.K. Building, Meena Bazar, Dubai; he was residing alone in Dubai; he was unmarried and his parents had already passed away; he did not have any siblings; that he was working as a waiter in Nara Pan Asian-DMCC, a hotel located in Dubai; that he had studied till 10th; that he could read, write and understand English, Gujarati and Hindi Languages;
- that he was shown and explained the panchnama dated 17.04.2024 drawn at International Airport, Surat, by the officers of Customs AIU, International Airport, Surat, which was in English. After understanding the same, he put his dated signature on the panchnama as a token of acceptance of the facts stated therein;

- that he lived in Dubai for the last three and half years and occasionally visited Surat to meet his friends; he had gone to Dubai on 19.03.2024 from Surat International Airport, Surat, after visiting his friends in Surat; that the 04 number of Airpods and 01 number of Juice Blender, containing 240.00 grams of 24 Kt gold items, recovered from his possession was handed over to him by an acquaintance named Salim bhai; that he had met Salim bhai a few times at the hotel where he worked, however, he did not know his address/contact details; that Salimbhai had asked him to carry the above items, i.e. Airpods and Juice Blender, containing gold items, to Surat and hand over the same to a person who would meet him outside the Surat Airport; that Mr Salimbhai had given him Rs. 25,000/- for tickets and other expenses and also promised him that he (Salim bhai) would pay additional Rs. 12,000/- to him once he gave the aforesaid items to his (Salim bhai's) contact person in Surat; that Salim bhai's contact person would recognize him and he had to hand over the said items to him; that he did not declare the said gold item as he was aware that import of Gold without payment of Customs duty was an offence; that he had tried to smuggle the gold into the country.
- That after clearing the immigration procedures, he collected his baggage. During checkout, the Customs officials intercepted him, and further procedures, as stated in Panchnama dated 17.04.2024, were carried out. He had committed an offence by smuggling Gold, for which he had to face the consequences as prescribed under the Customs Law.

8. LEGAL PROVISIONS RELEVANT TO THE CASE

- a) As per para 2.27 of Foreign Trade Policy 2023-“Bona-fide household goods and personal effects may be imported as part of passenger baggage as per limits, terms and conditions thereof in Baggage Rules notified by Ministry of Finance.”
- b) 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.”
- c) 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.”
- d) 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.”
- e) 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.”

- f)** As per Section 2(3) of the Customs Act, 1962 – “baggage” includes unaccompanied baggage but does not include motor vehicles.
- g)** 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;
- h)** 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, but does not include such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with.”
- i)** 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.”
- j)** As per Section 77 of the Customs Act 1962-“the owner of any baggage shall, for the purpose of clearing it, make a declaration of its contents to the proper officer.”
- k)** 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.”
- l)** Any goods which are imported or attempted to be imported or 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 shall be liable to confiscation under section 111 (d) of the Customs Act 1962.
- m)** Any dutiable or prohibited goods found concealed in any manner in any package either before or after the unloading thereof are liable to confiscation under Section 111 (i) of the Customs Act 1962.
- n)** 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 are liable to confiscation under Section 111 (j) of the Customs Act 1962.
- o)** As per Section 112 of the Customs Act 1962-“any person, (a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under Section 111, or abets the doing or omission of such an act, or (b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing or in any 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.”
- p)** As per Section 119 of Customs Act 1962 any goods used for concealing

smuggled goods shall also be liable for confiscation.

- q)** As per Section 123 of Customs Act 1962 (Burden of proof in certain cases)
(1) where any goods to which this section applies are seized under this Act in the reasonable belief that they are smuggled goods, the burden of proving that they are not smuggled goods shall be-
(a) in a case where such seizure is made from the possession of any person -
(i) on the person from whose possession the goods were seized; and
(ii) if any person, other than the person from whose possession the goods were seized, claims to be the owner thereof, also on such other person;
(b) in any other case, on the person, if any, who claims to be the owner of the goods so seized.
(2) This section shall apply to gold, [and manufactures thereof,] watches, and any other class of goods which the Central Government may by notification in the Official Gazette specify.
- r)** As per Customs Baggage Declaration Regulations, 2013- “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.”
- s)** As per DGFT Notification No. 36/2015-2020 dated 18.12.2019, Import policy of gold in any form, other than monetary gold and silver in any form, is amended from ‘Free’ to ‘Restricted’; import is allowed only through nominated agencies as notified by RBI (in case of banks) and DGFT (for other agencies).

CONTRAVENTION AND VIOLATION OF LAWS

9. It, therefore, appeared that:

- (a)** Shri Laxman Shivabhai Ambaliya had actively involved himself in the instant smuggling of gold, concealed in Airpod’s case, Airpod and Juice Blender, into India. The said passenger had improperly imported the gold weighing 240.00 grams, having a market value at Rs. 18,24,000/- (Rupees Eighteen Lakh Twenty-Four Thousand Only), and its tariff value at Rs.15,64,861/- (Rupees Fifteen Lakh Sixty Four Thousand Eight Hundred Sixty-One only), without declaring it to the Customs, by way of concealment. He concealed the gold in Airpod’s case, Airpod and Juice Blender with a deliberate and mala fide intention to smuggle the said gold into India and fraudulently circumvent the restrictions and prohibitions imposed under the Customs Act, 1962 and other Allied Acts, Rules and Regulations. The gold improperly imported by him with commercial considerations without declaration before the proper officer of Customs could not be treated as bona fide household goods or personnel effects. Shri Laxman Shivabhai Ambaliya had thus contravened the Foreign Trade Policy 2023, 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 and DGFT Notification No. 36/2015-2020 dated 18.12.2019.
- (b)** By not declaring the value, quantity and description of the goods imported by him, the said passenger had violated the provision of Baggage Rules, 2016, read with section 77 of the Customs Act, 1962, read with Regulation

3 of Customs Baggage Declaration Regulations, 2013.

- (c) The gold improperly imported by the passenger, Shri Laxman Shivabhai Ambaliya, by concealing the same in Airpod's case, Airpod and Juice Blender without declaring it to the Customs was thus liable for confiscation under Section 111(d), (i) and (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) Shri Laxman Shivabhai Ambaliya, by his above-described acts of omission and commission, had rendered himself liable to penalty under Section 112 of the Customs Act, 1962.
- (e) As per Section 123 of the Customs Act, 1962, the burden of proving that the said improperly imported gold, totally weighing 240.00 grams, having a market value of Rs. 18,24,000/- (Rupees Eighteen Lakh Twenty Four Thousand Only) and its tariff value Rs.15,64,861/- (Rupees Fifteen Lakh Sixty Four Thousand Eight Hundred Sixty One only) without declaring it to the Customs, were not smuggled goods, was upon the passenger/Noticee, Shri Laxman Shivabhai Ambaliya.

10. Accordingly, a Show Cause Notice bearing F. No. VIII/26-07/AIU/CUS/2024-25 dated 20.09.2024 was issued to Shri Laxman Shivabhai Ambaliya calling upon him to show cause in writing to the Additional Commissioner of Customs, Surat International Airport, Surat, having his office situated on 4th Floor, Customs House, Beside SMC Ward Office, Althan-Bhimrad Road, Althan, Surat- 395017 within thirty days from the receipt of the notice as to why:-

- (i) The recovered 24-carat gold weighing 240.00 grams., having a market value of Rs. 18,24,000/- (Rupees Eighteen Lakh Twenty-Four Thousand only) and its tariff value Rs.15,64,861/- (Rupees Fifteen Lakh Sixty Four Thousand Eight Hundred Sixty-One only), seized vide Seizure Order dated 17.04.2024 under panchnama proceeding dated 17.04.2024 should not be confiscated under Section 111(d), 111(i) and 111(j) of the Customs Act, 1962;
- (ii) A penalty should not be imposed upon him under Section 112(b) of the Customs Act, 1962.

11. DEFENCE REPLY

In the Show Cause Notice dated 20.09.2024 issued to the noticee, the noticee was asked to submit his written reply/defence submission to the said Notice within the stipulated time. However, no reply/defence submission to the Show Cause Notice was received from the noticee within the time specified or beyond. A defence reply dated 08.03.2025 was submitted by the authorized representative of the noticee to this office. Shri Dholariya, in reply dated 08.03.2025, has submitted as under:

- that his client, Shri Laxman Shivabhai Ambaliya, holding Passport No. U1154503, was staying in Dubai from 11-10-2020 till 17-04-2024 and was doing a job as a waiter in NARA PAN ASIAN, DMCC Area located in Dubai (UAE); his client is a responsible person and has not done any act with a guilty mind and has been involved in this case file due to lack of knowledge and mistake of fact;

- that his client is a Gujarati and completed his study till 10th standard and has attended SSC exam in the year 2020 from Jetpur, Rajkot, Gujarat; that his client is very well aware of Gujarati and Hindi language but, not English, since his client was residing in Dubai for three and a half-year he has a little understanding of English language and is not fluent in English language;
- that on 17.04.2024, his client was travelling from Dubai to Surat while arriving at Surat International Airport, his client was intercepted by the Customs officials and 240 grams of Gold was recovered from his possession and was confiscated. Due to this interception and inquiry and the strict behavior of the officials his client was scared and followed the instructions of the officials; that during which few processes had been done by the officials of which his client was unaware; that after that a statement of his client u/s 108 of the Customs Act, 1962 was taken and was instructed by the officials to sign on the statement and so was signed by him, but, his client was unaware of the facts written in the statement as he was not a well mental condition and was scared;
- that in response to show cause notice to F. No. VIII/26-07/AIU/CUS/2024-25 Dated 20-09-2024, his client has stated that he is innocent and has not made any concealment; that client was unaware of the fact to describe the Gold and what quantity should be carried for importing to India;
- that the Gold confiscated is of his client's ownership and he had purchased it from Dubai from his savings while he was serving in Dubai for three and a half years; that the purpose of carrying the 240 grams of Gold with him was to give to his cousin brother for the engagement ceremony of his son; that his client has not attempted any smuggling of Gold into India through Surat International Airport, Surat nor had any monetary benefit intention;
- that through a reply to the notice, he would call upon you to take back all the allegations made against his client and not to carry any further proceeding as the intention and motive of his client was not guilty and has not made any offence of smuggling and is wholly innocent and looking at his past there has never been commission of any offence by him; that his client requests to release the confiscated gold recovered from his possession as per the process and make him aware about the release procedure; that his client states that he will be supportive in the investigation in future as well and will produce relevant documents as a proof.

12. RECORD OF PERSONAL HEARING

“Audi alteram partem” is an essential principle of natural justice that dictates to hear the other side before passing any order. Therefore, two opportunities to be heard in person were granted to the noticee to appear for a personal hearing on 07.01.2025 and 28.02.2025 vide office letters F. No VIII/26-07/AIU/CUS/2024-25 dated 26.12.2024 & 19.02.2025 respectively. The noticee requested an adjournment to a subsequent date, and he and his authorized representative Shri Pritesh M. Dholariya (Advocate), attended a personal hearing on 04.03.2025 wherein he formally requested a four-day extension for submitting their defence submission. Shri Pritesh M. Dholariya, on behalf of the noticee, submitted his reply dated 08.03.2025.

13. DISCUSSION AND FINDINGS

I have reviewed the facts pertinent to this case, along with the referenced documents, the submission made by the noticee, the applicable legal provisions, and other materials on record. Consequently, I will now proceed to decide this matter based on the evidence and documents available on record.

14. In the instant case, I find that the main points to be decided are whether:

- (i) the recovered 24-carat gold weighing 240.00 grams, having a market value of Rs. 18,24,000/- (Rupees Eighteen Lakh Twenty-Four Thousand Only) and its tariff value Rs.15,64,861/- (Rupees Fifteen Lakh Sixty Four Thousand Eight Hundred Sixty-One only), seized vide Seizure Order dated 17.04.2024 under panchnama proceeding dated 17.04.2024 should be confiscated under Section 111(d), 111(i) and 111(j) of the Customs Act,1962 or otherwise;
- (ii) a penalty should be imposed upon him under Section 112 (b)(i) of the Customs Act, 1962 or otherwise.

15. I find that the Panchnama has accounted for the fact that the passenger, namely Shri Laxman Shivabhai Ambaliya, holding Passport No. U1154503 who had arrived at Surat International Airport from Dubai on 17.04.2024 via Air India Express Flight No. IX-174. Based on passenger profiling, the Customs officers intercepted him near the green channel in the arrival hall under Panchnama proceedings dated 17.04.2024, in the presence of panch witnesses. He was carrying two pieces of baggage: a red "Traworld" trolley and a blue bag pack. Despite his denial of carrying any dutiable goods, the baggage scan showed dark images. On examination, the trolley bag was found to contain three boxes of Apple AirPods Pro and one loose AirPods, each abnormally heavy. When dismantled, each AirPods case concealed a small rectangular metallic object. Thus, in total four number of rectangle shaped metal objects were recovered totally weighing 201.00 grams. Further, the bag pack contained a portable battery juice blender whose machine part, upon dismantling, revealed a black metallic object that was golden beneath the surface. The weight of the said object was found to be 39.00 grams. All such objects, weighing 240 grams in total, were presented to the government-approved valuer Shri Vikasraj Tilakraj Juneja, who certified them as 24-karat gold. He determined their market value at Rs. 18,24,000/- and tariff value at Rs. 15,64,861/-, as per relevant Customs notifications. The valuer issued a valuation certificate dated 17.04.2024. The officers, on the reasonable belief that the gold was smuggled and subject to confiscation under the Customs Act, 1962, placed the 24-karat gold weighing 240 grams, valued at Rs. 18,24,000/-, under seizure vide order dated 17.04.2024, pursuant to Panchnama proceedings dated 17.04.2024 in accordance with Section 110 of the Customs Act, 1962.

16. Further, I have gone through a statement of Shri Laxman Shivabhai Ambaliya recorded on 17.04.2024 under the provision of Section 108 of the Customs Act, 1962, wherein he inter alia stated:

- that he lived in Dubai for the last three and half years and occasionally visited Surat to meet his friends; he had gone to Dubai on 19.03.2024 from Surat International Airport, Surat, after visiting his friends in Surat; that the 04 number of Airpods and 01 number of Juice Blender, containing 240.00 grams of 24 Kt gold items, recovered from his possession was handed over to him by an acquaintance named Salim bhai; that he had

met Salim bhai a few times at the hotel where he worked, however, he did not know his address/contact details; that Salimbhai had asked him to carry the above items, i.e. Airpods and Juice Blender, containing gold items, to Surat and hand over the same to a person who would meet him outside the Surat Airport; that Mr Salimbhai had given him Rs. 25,000/- for tickets and other expenses and also promised him that he (Salim bhai) would pay additional Rs. 12,000/- to him once he gave the aforesaid items to his (Salim bhai's) contact person in Surat; that Salim bhai's contact person would recognize him and he had to hand over the said items to him; that he did not declare the said gold item as he was aware that import of Gold without payment of Customs duty was an offence; that he had tried to smuggle the gold into the country;

- After clearing the immigration procedures, he collected his baggage. During checkout, the Customs officials intercepted him, and further procedures, as stated in Panchnama dated 17.04.2024, were carried out. He had committed an offence by smuggling Gold, for which he had to face the consequences as prescribed under the Customs Law.

17. The noticee, in his defence submission dated 08.03.2025, has submitted that his client, the noticee, stayed in Dubai from 11-10-2020 till 17-04-2024 and was doing a job as a waiter in Nara Pan Asian-DMCC Area, Dubai (UAE); his client, a responsible person, has not done any act with a guilty mind and has been involved in this case due to lack of knowledge and mistake of fact. I find that the claim of your noticee's inadvertent involvement is untenable in light of the clear indication of deliberate concealment and intent to evade Customs duties. While it may be true that he worked as a waiter in Dubai from 11.10.2020 until 17.04.2024, his purported lack of guilty mind is contradicted by the manner in which the goods were hidden. Specifically, the gold was ingeniously concealed within AirPods and a Juice Blender, each meticulously taped or disguised in a way inconsistent with the normal packaging of such branded items. I find that the fact that these metallic objects were only discovered after thorough scanning and dismantling demonstrates a concerted effort to prevent detection. I further note that when questioned by the Customs officer near the green channel, the noticee denied possessing any dutiable or prohibited items, further indicating knowledge that the concealed gold was not lawfully imported. The repeated references to "lack of knowledge" and "mistake of fact" cannot negate the significant evidence of contraband hidden inside multiple AirPods and Juice Blender, each specially prepared to circumvent Customs checks. Under Section 110 of the Customs Act, 1962, the seizure of goods can be predicated on a reasonable belief of smuggling, and here, the intricate concealment alone provides ample grounds for such belief. It seems to me that the noticee, if genuinely acting without guilty mind, would not have attempted to introduce gold, particularly 24 kt gold worth Rs.18,24,000/, without following the requisite Customs formalities or making a proper declaration. I believe that the deliberate concealment and the false denial at the airport, when viewed together, strongly suggest culpability rather than an innocent mistake. Therefore, the assertion that the noticee acted purely out of ignorance cannot be sustained, given the overwhelming evidence indicating willful concealment and intent to evade lawful payment of Customs duty.

18. The noticee, in his defence submission, has submitted that he, being a Gujarati who completed 10th standard in 2020 from Jetpur, Rajkot, knows Gujarati and Hindi but not English. Having lived in Dubai for three and a half years, he only understands limited English. On 17.04.2024, while traveling from Dubai to Surat, he was intercepted at Surat International Airport, and 240 grams of gold was confiscated. He has further submitted that he was frightened by the officials' strict demeanors and he followed their directions. The noticee asserts that various

procedures took place without his client's full understanding and that his statement under Section 108 of the Customs Act, 1962 was signed under fear and confusion, as he was not in a sound mental state and was unaware of the exact contents of the statement. It seems to me that the noticee's contention regarding his client's inability to understand English and resultant unawareness of the contents of his Section 108 statement cannot stand against the clear evidence and circumstances on record. By his own admission in the statement recorded on 17.04.2024, he acknowledged that he had studied until the 10th standard, could read, write, and understand English, Gujarati, and Hindi, and he had placed his dated signature on the Panchnama after it was explained to him in English. I find that the deliberate concealment of 240 grams of 24 Kt gold within multiple Apple AirPods and a Juice Blender demonstrates a purposeful effort to evade Customs duty rather than an inadvertent act born of ignorance. These goods were not merely improperly imported but were hidden in a manner clearly inconsistent with normal packaging, indicating that the passenger was aware his actions were unlawful. The noticee's assertion that his client was frightened by the officials' demeanor and blindly followed their instructions cannot override the passenger's own admission that he received financial support from an acquaintance, "Salim Bhai," to transport these concealed gold items to Surat. The passenger further admitted his failure to declare these items because he knew importing gold without duty payment was an offence. The presence of panch witnesses during the interception and the thorough explanations, as reflected in the Panchnama, refute any claim of misunderstanding or mental duress. Signing a statement under Section 108 of the Customs Act, 1962, carries the presumption that it is voluntarily given, absent compelling evidence to the contrary. Hence, the totality of the evidence, including the passenger's admissions, the mode of concealment, and the statements recorded, demonstrates that the passenger was fully aware of his wrongdoing and cannot evade liability by pleading lack of English proficiency or mental distress.

19. The noticee, in his defence submission, has asserted his innocence and denied any concealment; he claims unawareness of gold declaration requirements and states that the confiscated gold was purchased from his savings during his three-and-a-half-year stay in Dubai; he intended to give the 240 grams of gold to his cousin for his son's engagement and had no intent to smuggle or gain monetary benefit. I reckon that the noticee's claim of innocence and lack of concealment is not supported by the facts on record. The passenger was intercepted based on profiling and was found carrying 240 grams of 24 Kt gold ingeniously concealed within AirPods and a Juice Blender, methods clearly inconsistent with legitimate transportation. I observe that the claim that he was unaware of the requirement to declare gold is refuted by his own statement under Section 108 of the Customs Act, 1962, wherein he admitted knowing that undeclared gold import without payment of duty is an offence. I find that his assertion that the gold was personally owned and intended for a family function does not absolve him of non-compliance with customs regulations. If the gold was legally acquired, the passenger had ample opportunity to declare it at the designated red channel upon arrival, which he deliberately failed to do. His denial at the green channel, followed by the discovery of meticulously concealed gold, establishes an intent to evade customs duty. I also find that the financial assistance received from "Salim Bhai" and the promise of further payment indicate an arrangement inconsistent with a purely personal purpose. The noticee's claim that there was no intent to smuggle is contradicted by the method of concealment, failure to declare, and admission of prior knowledge of customs duty requirements. It is significant to state that smuggling is characterized not merely by monetary gain but by deliberate evasion of Customs laws, which is evident in this case. The seizure of gold under Section 110 of the Customs Act, 1962, was justified as the reasonable belief of smuggling is well supported. Thus, I strongly believe that

the claim that the passenger acted innocently or unknowingly lacks merit, and the actions clearly fall within the ambit of smuggling under the Customs Act.

20. The noticee, in his defence submission, has requested the withdrawal of all allegations and cessation of further proceedings, asserting his client's innocence and lack of intent to smuggle. He has stated that his client has no prior offences and seeks the release of the confiscated gold, requesting guidance on the procedure. He has further assured that full cooperation in the investigation and willingness to provide relevant documents as proof. I find that the noticee's defence of innocence and lack of intent to smuggle is unsubstantiated by the facts and circumstances surrounding the case. The passenger, upon arrival at Surat International Airport on 17.04.2024 from Dubai, was intercepted based on profiling, and his baggage was found to contain concealed gold, weighing 240 grams, within AirPods and a Juice Blender. This was discovered after the officer's diligent inspection, revealing metallic objects hidden inside the AirPods, which were bound with cello tape and not packaged in the usual manner. I note that the recovery of these items, which were deliberately concealed, strongly indicates an intent to evade customs duties, contrary to the claim of ignorance presented by the noticee. Additionally, the passenger admitted to being aware that importing gold without payment of duty is an offence and failed to declare the gold upon arrival, further supporting the belief of deliberate smuggling. I also note that the passenger's statement under Section 108 of the Customs Act also clearly acknowledges his involvement in the act, confirming that the gold was not intended for personal use but rather as part of a smuggling operation facilitated by an acquaintance, Salim Bhai. The presence of the gold in concealed forms and the passenger's own admission of guilt make it clear that the actions were intentional and unlawful. Furthermore, the request for the release of the seized gold is not warranted, as the seizure was done in accordance with Section 110 of the Customs Act, 1962, based on a reasonable belief of smuggling. It seems to me that the allegations are well-supported by evidence, and the request to release the goods or drop the proceedings cannot be entertained, as the passenger is liable to legal consequences for his actions as per the Customs Law.

21. Further, I find that the noticee has never retracted his aforesaid statement dated 17.04.2024, and the offence committed by the passenger is confessed by him in his statement. Therefore, I consider his statement to be material evidence in the instant case, and for that, I place my reliance on the following observations/judgments/case laws of the Hon'ble Apex Court and others;

- The Hon'ble Apex Court has held in the case of **Surjeet Singh Chhabra vs UOI**, reported as 1997 (84) ELT 646 (SC), that the statement made before the Customs Officers though retracted within 6 days is an admission and binding, since Customs Officers are not Police Officers under Section 108 of the Customs Act, 1962;
- The confessional statement given before the Customs officers is admissible evidence as they are not the police officers. This view has been upheld by the Hon'ble Supreme Court in the case of **Badaku Joti Savant vs. State of Mysore** [1978 (2) ELT J 323 (SC)];
- The decision of the Hon'ble Madras High Court in the case of **Assistant Collector of Customs Madras-I vs. Govindasamy Raghupathy** 1998 (98) ELT 50 (Mad), in which the court held that the confessional statement under Section 108, even though later retracted is a voluntary statement and was not influenced by duress and is a true one.

- The Hon'ble Apex Court in ***Naresh J Sukhawani vs UOI*** held that the Statement before the Customs Officer is a material piece of evidence.

22. Further, I find that the noticee had neither questioned the manner of the Panchnama proceedings at the material time nor controverted the facts detailed in the Panchnama while recording his statement. Every procedure conducted during the Panchnama by the officers was well documented and made in the presence of the panchas as well as the passenger. Further, I find that the passenger had knowingly attempted to smuggle gold into India in violation of the Customs Act, 1962. The noticee, in his statement dated 17.04.2024, confessed that he was fully aware of the nature of his actions and the legal consequences thereof. He stated that he had resided in Dubai for approximately three-and-a-half years, occasionally visiting Surat. On 19.03.2024, he departed from Surat International Airport. The 04 Airpods and 01 Juice Blender, containing 240 grams of 24 Kt gold, found in his possession, were handed to him by an acquaintance named "Salim bhai," whom he knew only from the hotel where he worked and for whom he had no further contact details. The noticee further submitted that he was instructed to deliver these items in Surat to an individual who would identify him outside the Airport. Salim bhai provided Rs. 25,000/- for travel and promised an additional Rs. 12,000/- upon delivery. Aware that importing gold without paying Customs duty was an offence, he admitted his attempt to smuggle the gold into India. Upon reaching Surat International Airport on 17.04.2024, he proceeded through immigration and baggage collection without making any declaration before any Customs officer. However, during the checkout process, he was intercepted by Customs officials, leading to the discovery of the smuggled gold and subsequent legal proceedings as per the Panchnama dated 17.04.2024. By his acknowledgment, he has confessed that he had intended to smuggle the gold for financial gain and was fully aware that such an act constituted an offense under the Customs Law, for which he is liable to face the prescribed legal consequences. Upon a careful review of the preceding, I am conclusively led to the determination that the passenger has violated provisions of the Customs Act, 1962; the Baggage Rules, 2016; the Foreign Trade (Development & Regulations) Act, 1992; the Foreign Trade (Development & Regulations) Rules, 1993 and the Foreign Trade Policy 2023.

23. Further, I find that the noticee had confessed that he had not declared the said 24 kt gold total weighing 240.00 grams before the Customs authorities. Four pieces of rectangle-shaped gold objects weighing 201 grams were ingeniously concealed inside four AirPods bound by Cello tapes in the baggage of the noticee. Further, one piece of an arc-shaped gold object of 24 Karat weighing 39.00 grams was found ingeniously concealed inside a portable and rechargeable Battery Juice Blender of the brand "HM-03" capacity 380 ml, made in China kept in the baggage of the noticee belonging to him. Given the way of concealment, it can be deduced that he had not declared the same with the sole intention of smuggling the gold into India as he was working as a carrier to facilitate the smuggling of goods into India in exchange for monetary compensation as admitted by him in his statement. Further, I find the modus used by the passenger for the concealment of the gold paste ingenious, further corroborating his mala fide intent to circumvent the provisions of the Customs Act. I strongly opine that this is a clear case of non-declaration with an intent to smuggle the gold into Indian territory. Accordingly, there is sufficient evidence to affirm that the passenger was in possession of gold when he arrived at Surat Airport on 17.04.2024 and he failed to declare the same before the Customs Authorities upon his arrival at Surat International Airport, Surat. Therefore, it can be reasonably concluded that the case of gold smuggling against the passenger is conclusively established, as the gold recovered from his possession was kept undeclared with the intent to smuggle and evade the payment of Customs duty.

Thus, I find it irrefutably established that the passenger has violated Section 77, Section 79 of the Customs Act, 1962 for the import/smuggling of gold which was not for bona fide use and hence he has also contravened Rule 11 of the Foreign Trade Regulation Rules 1993, and Para 2.27 of Foreign Trade Policy 2023. I find that it is pertinent to mention here that since gold is a notified item and when goods notified thereunder are seized under the Customs Act, 1962, on the reasonable belief that they are smuggled goods, then as per Section 123 of the Customs Act, 1962, the burden to prove that they are not smuggled goods, shall be on the person from whose possession the goods have been seized. In the instant case, noticee in his statement dated 17.04.2024, has clearly confessed that he wanted to evade customs duty, and, therefore, he had not declared the same with the sole intention to smuggle the gold into India as he was working as a carrier for clearance of smuggled goods into India for monetary consideration.

24. Further, I think it would be relevant at this juncture to allude to **Section 2(39) of the Customs Act, 1962**, wherein, **“smuggling”** is defined as any act or omission that renders goods liable to confiscation under **Section 111 or Section 113** of the Act. From the facts discussed above, it is evident that Shri Laxman Shivabhai Ambaliya had carried 24 karat gold totally weighing 240.000 grams, concealed inside his luggage while arriving from Dubai to Surat, with the deliberate intent to smuggle the same into India without payment of Customs duty. His actions have rendered the said gold liable for confiscation under Sections 111(d), 111(i), and 111(j) of the Act. By concealing the gold ingeniously in his baggage and failing to declare it before the Customs authorities, it is evident that he acted with a clandestine motive to evade customs duty. Moreover, he has confessed to acting as a carrier for smuggling goods into India in exchange for monetary compensation, thereby establishing his **‘mens rea’** (guilty intent). Upon reviewing the above, I am of the considered opinion that the deliberate act of concealment by the passenger, non-disclosure of the gold before Customs, and financial gain involved in this case categorically brings his offence within the definition of smuggling, making him liable for the confiscation of the impugned goods and penal consequences under the Customs Act, 1962.

25. Further, I have observed that the noticee had not filled out the baggage declaration form and had not declared the said gold which was in his possession, as envisaged under Section 77 of the Act read with the Baggage Rules, 2016 and Regulation 3 of Customs Baggage Declaration Regulations, 2013. It has also been observed that the import was also for non-bona fide purposes, as the same was carried out for monetary benefit with the sole intent of smuggling into India. Therefore, the said improperly imported gold by the passenger, Shri Laxman Shivabhai Ambaliya, without declaring to the Customs on his arrival in India, cannot be treated as bona fide household goods or personal effects. Therefore, it is undeniably established that the passenger has contravened the Foreign Trade Policy 2023 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.

26. Further, I find that the noticee, in his statement, has confessed to carrying the gold objects weighing 240 grams, which was cleverly concealed inside AirPods and Juice blender kept in his luggage at the time of arrival at the airport on 17.04.2024 and the same was being attempted to be removed from the Surat Airport without declaration to the Customs Authorities. I find it manifestly clear from the facts that the passenger has violated Para 2.27 of Foreign Trade Policy 2023 and Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992. At this juncture, it would be relevant to refer to **Section 2(33)** of the Customs Act, 1962, wherein, **“prohibited goods”** are defined as 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. In view of the foregoing, I am of the considered opinion that in the present case, the gold improperly imported by the passenger, without following the due process of law and without adhering to the requisite conditions and procedures for import, has thereby acquired the status of "prohibited goods" under Section 2(33) of the Act. The deliberate concealment of gold and the failure to declare it before the Customs authorities clearly indicate an intent to circumvent the legal framework governing the importation of gold, making the said gold liable for confiscation and the passenger subject to penal consequences under the provisions of the Customs Act, 1962.

27. Further, I find that gold is not on the list of prohibited items, but the import of the same is controlled. The view taken by the **Hon'ble Supreme Court in the case of Om Prakash Bhatia** in very clear terms lays down the principle that if importation and exportation of goods are subject to certain prescribed conditions, which are to be fulfilled before or after clearance of goods, non-fulfilment of such conditions would make the goods fall within the ambit of '*prohibited goods*'. Non-fulfilment of the conditions has made the gold seized in the present case "prohibited goods" as the passenger who attempted to smuggle it was not an eligible passenger to bring it into India or import gold into India in baggage. Additionally, the passenger has confessed to carrying the said 24 Kt gold objects weighing 240 grams, and the same was recovered from his possession, which was kept undeclared with an intention to evade payment of customs duty as he was working as a carrier for smuggling the gold into India for monetary consideration. By using this modus, it is proved beyond doubt that the goods are offending in nature and therefore prohibited on their importation into India. Here, it is apparent that conditions necessary for the legitimate import of gold are not fulfilled by the passenger.

28. In view of the above discussions, I hold that the passenger was working as a carrier to facilitate the smuggling of goods into India in exchange for monetary compensation and, therefore, had kept the said Gold 24 Kt weighing 240 grams carried by him undeclared with an intention to clear the same illicitly from Customs Airport and evade payment of Customs duty. Therefore, the said 24 Kt gold objects weighing 240 grams are liable for absolute confiscation. Therefore, in the instant case, I am not inclined to use my discretion to give the option to redeem the said gold weighing 240 grams on payment of the redemption fine, as envisaged under Section 125 of the Act. To fortify my stand, I rely upon the following observations/judgments in the case.

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

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

30. Further, in the case of *Samynathan Murugesan [2009 (247) ELT 21 (Mad)]*, the High Court upheld absolute confiscation, ordered by the adjudicating authority, in similar facts and circumstances. Further, in the said case of smuggling of gold, the High Court of Madras in the case of Samyanathan Murugesan reported at 2009 (247)

ELT 21(Mad) has ruled that as the goods were prohibited and there was concealment, the Commissioner's order for absolute confiscation was upheld.

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

89. *While considering a prayer for provisional release, pending adjudication, whether all the above can wholly be ignored by the authorities, enjoined with a duty, to enforce the statutory provisions, rules and notifications, in letter and spirit, in consonance with the objects and intention of the Legislature, imposing prohibitions/restrictions under the Customs Act, 1962 or under any other law, for the time being in force, we are of the view that all the authorities are bound to follow the same, wherever, prohibition or restriction is imposed, and when the word, "restriction", also means prohibition, as held by the Hon'ble Apex Court in Om Prakash Bhatia's case (cited supra).*

32. Further, the Hon'ble High Court of Madras in the matter of *COMMISSIONER OF CUSTOMS (AIR), CHENNAI-I Versus P. SINNASAMY 2016 (344) E.L.T. 1154 (Mad.)* held-

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

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

33. Further, in view of the discussion in the foregoing paras, it is evident that Shri Laxman Shivabhai Ambaliya, in his statement dated 17.04.2024, had confessed that he was aware that import of gold without payment of Customs duty was an offence but as he wanted to evade customs duty, therefore, he had not declared the same to Customs Authorities with the sole intention to smuggle the gold into India. He has further confessed that as he was working as a carrier for clearance of smuggled goods into India for monetary consideration, his acquaintance, Shri Salimbhai, who instructed the passenger to deliver these items in Surat to an individual who would identify him outside the Airport. Salim bhai provided Rs. 25,000/- for travel and promised an additional Rs. 12,000/- upon delivery. Upon reaching Surat International Airport on 17.04.2024, he proceeded through immigration and baggage collection without making any declaration before any Customs officer. However, during the checkout process, he was intercepted by Customs officials, leading to the discovery of the smuggled gold and subsequent legal proceedings as per the Panchnama dated 17.04.2024. I find that the passenger has admitted that Salimbhai had provided Rs. 25,000/- for travel and promised an additional Rs. 12,000/- upon delivery to the recipient in India, who was to identify him upon his arrival in Surat thereby establishing his monetary motive in the smuggling operation. Further, after examining and testing, the government-approved valuer certified the gold as 24 Kt

weighing 240 grams. The market value of the said gold objects weighing 240 grams was determined by the valuer at Rs. 18,24,000/- (Rupees Eighteen Lakh Twenty-Four Thousand Only), and its tariff value is Rs.15,64,861/- (Rupees Fifteen Lakh Sixty-Four Thousand Eight Hundred Sixty-One only). The said gold was seized vide Seizure Order/Memo under Panchnama dated 17.04.2024 under the reasonable belief that the goods carried by the passenger appeared to be “smuggled goods” as defined under Section 2(39) of the Customs Act, 1962. Given the facts of the present case before me and the judgments and rulings cited above, the said gold objects 24 Kt weighing 240 grams, is liable for absolute confiscation under Section 111(d), 111(I), and 111(j) of the Customs Act, 1962.

34. After carefully evaluating the materials on record, I find that in the present case, the noticee was found in possession of gold objects 24 Kt weighing 240 grams. Four pieces of rectangle-shaped gold objects weighing 201 grams were found ingeniously concealed inside four AirPods bound by Cello tape in the baggage of the noticee. Further, one piece of an arc-shaped gold object of 24 Karat weighing 39.00 grams was found ingeniously concealed inside a portable and rechargeable Battery Juice Blender of the brand “HM-03” capacity 380 ml, made in China kept in the baggage of the noticee belonging to him. He has also failed to declare the said gold to Customs authorities upon his arrival at the Customs area in the Arrival hall of Surat Airport, thereby violating the statutory requirements envisaged under the Customs Act and other relevant provisions related to the legal importation of gold into India by a passenger. After a comprehensive and detailed review of the aforementioned, I am decisively led to the conclusion that such an act on the part of the passenger has rendered the goods liable for confiscation under Section 111 of the Act. It would be relevant to refer to Section 112(b)(i) of the Customs Act, 1962, which imposes penalties on any person who acquires, possesses, stores, sells, or transports goods that they know or have reason to believe are liable for confiscation under Section 111 of the Customs Act. In the instant case, I find that the deliberate act of concealing the gold by the noticee unequivocally establishes his ‘*mens rea*’ and demonstrates a wilful intent to evade Customs regulations, leaving no room for doubt regarding his knowledge and involvement in the attempted act of smuggling. I find it irrefutably established that his actions fall squarely within the ambit of Section 112(b)(i), attracting penal liability and confiscating the smuggled goods. Accordingly, I hold the noticee liable for a penalty under the said provision.

35. Accordingly, in the exercise of the powers vested as the Adjudicating Authority, I hereby order the following:

ORDER

- (i)** I order **absolute confiscation** of the recovered 24-carat gold weighing 240.00 grams, having a market value of **Rs. 18,24,000/- (Rupees Eighteen Lakh Twenty-Four Thousand only)** under Section 111(d), 111(i) and 111(j) of the Customs Act, 1962.
- (ii)** I impose a **penalty** of **Rs. 18,24,000/- (Rupees Eighteen Lakh Twenty-Four Thousand Only)** on Shri Laxman Shivabhai Ambaliya under Section 112 (b)(i) of the Customs Act, 1962.

36. This order is issued without prejudice to any other action that may be taken against the noticee under the provisions of the Customs Act, 1962 as amended or rules made thereunder or under any law for the time being in force.

OIO No. 24/AB/ADC/SRT-AIRPT/2024-25
F.No.VIII/26-07/AIU/CUS/2024-25

(Anunay Bhati)
Additional Commissioner,
Surat International Airport,
Customs, Surat

BY SPEED POST AD/E.MAIL/WEBSITE

F. No. VIII/26-07/AIU/CUS/2024-25

Date:18.03.2025

DIN: 20250371MN0000413912

To
Shri Laxman Shivabhai Ambaliya,
S/o Shri Shivabhai Chanabhai Ambaliya,
D-903, Shikshapati Heights,
Behind Astha House, Kosad,
Surat City, PIN-394107,
Gujarat, India

Copy to:

1. The Principal Commissioner of Customs, Ahmedabad. (Kind Attn: RRA Section).
2. The Deputy/Assistant Commissioner of Customs (TRC), Ahmedabad.
3. The Superintendent (Recovery), Customs, Surat International Airport.
4. The System In-Charge, Customs, H.Q., Ahmedabad, for uploading on the official website (via post and email)
5. Guard File.