प्रधान आयुक्त का कार्यालय, सीमा शुल्क, अहमदाबाद
"सीमा शुल्क भवन", पहली मंजिल, पुराने हाईकोर्ट के सामने, नवरंगपुरा, अहमदाबाद – 380 009.
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DIN No. 20260971MN0000394FAF

PREAMBLE

A	फ़ाइल संख्या/ File No.	:	VIII/10-21/SVPIA-B/O&A/HQ/ 2026-27
B	कारण बताओ नोटिस संख्या–तारीख / Show Cause Notice No. and Date	:	VIII/10-21/SVPIA-B/O&A/HQ/ 2026-27 dated 22.07.2026
C	मूल आदेश संख्या/ Order-In-Original No.	:	**74/ADC/SRV/O&A/2026-27**
D	आदेश तिथि/ Date of Order-In-Original	:	**01.09.2026**
E	जारी करनेकी तारीख/ Date of Issue	:	**01.09.2026**
F	द्वारापारित/ Passed By	:	**Shree Ram Vishnoi**, Additional Commissioner, Customs, Ahmedabad.
G	आयातक का नाम औरपता / Name and Address of Importer / Passenger	:	"Whom so ever it may concern" (1) To be pasted on the Notice Board of Custom House, Navrangpura, Ahmedabad – 380 009. (2) To be pasted on the Notice Board of Customs, SVPI Airport, Ahmedabad.
(1)	यह प्रति उन व्यक्तियों के उपयोग के लिए निःशुल्क प्रदान की जाती है जिन्हे 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 मंज़िल, 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:

The officers of AIU, SVPIA, Ahmedabad conducted a thorough rummaging of Indigo flight no. 6E-1478 which was arrived from Dubai to Ahmedabad on 12.06.2026. During the Course of rummaging, the officers Shri Shree Ram Vishnoi, Additional Commissioner, Shri Dinesh Kumar Superintendent, AIU SVPIA Ahmedabad and Shri Sunil Kumar, Inspector, AIU, SVPIA Ahmedabad recovered two pouches wrapped in black adhesive tape. These pouches were found meticulously concealed inside a speaker box installed within the front-side lavatory of the aircraft which was arrived from Dubai to SVPIA Ahmedabad on 12.06.2026 and parked at Bay No. 31 Alpha terminal 2 of SVPIA Ahmedabad. Based on preliminary examination, the contents of the recovered pouches were strongly suspected to be gold. The entire proceedings were recorded under Panchnama dated 12.06.2026, in the presence of independent witnesses.

2. Thereafter the said officers alongwith panchas returned to the green channel located in the International Arrival Hall, Terminal-2, SVPI Airport. In the presence of the panchas, the two suspicious pouches wrapped in black adhesive tape were subjected to examination using the X-ray Baggage Inspection Machine. The X-ray screening revealed high-density, dark-colored images indicative of gold. Consequently, the AIU officers carefully unwrapped the two black-taped pouches in the presence of the panchas. The

unwrapping resulted in the recovery of 24 (twenty-four) rectangular-shaped, yellow-colored solid metal bars. To establish the precise quantity, the recovered 24 bars were weighed on an electronic weighing scale. The gross weight of the recovered yellow-colored solid metal bars was found and recorded to be 2799.300 grams.

3. Thereafter, the officers called the Government Approved Valuer (Shri Kartikey Vasantrai Soni). The Valuer was briefly apprised of the facts regarding the recovery of 24 rectangular-shaped, yellow-colored solid metal bars from two black-taped pouches during the rummaging of Indigo Flight No. 6E-1478 on 12.06.2026. The officers asked him to come to the Airport for verification, examination and valuation of the recovered item. Thereafter, Shri Kartikey Soni Vasantrai Government approved valuer reached at SVPI airport and tested/examined the said 24 rectangular shapes yellow metal bars which were recovered from Two black colour pouches and the Valuer certified that the recovered 24 yellow-colored metal bars were composed of Gold of 24 Karat purity, possessing an aggregate net weight of 2799.30 grams. Photographs of the same areas under:

3.1 Following the examination and testing of recovered material, the Government Approved Valuer issued a formal Certificate of Verification and Valuation Report bearing No. 065/2026-27 dated 12.06.2026**.** Vide the said report, the Valuer certified that the recovered 24 yellow-colored metal bars were Gold of 999.0 purity (24 Karat), possessing an aggregate net weight of 2799.300 grams. The Valuer determined the total Market Value of the seized gold to be **Rs. 4,26,89,325/- (Rupees Four Crore Twenty-Six Lakh Eighty-Nine Thousand Three Hundred Twenty-Five only)** and the Tariff Value at **Rs. 3,84,79,682/- (Rupees Three Crore Eighty-Four Lakh Seventy-Nine Thousand Six Hundred Eighty-Two only)**. The Valuer further affirmed that the valuation and assessable worth of the said 24 gold bars were meticulously calculated in strict compliance with the prevailing statutory guidelines, specifically applying the gold tariff rates under **Notification No. 49/2026-Customs (N.T.) dated 29.05.2026** and the foreign exchange conversion rates prescribed under **Notification No. 17/2026-**

Customs (N.T.) dated 05.06.2026. The details of the Valuation of the said 24 gold bars are tabulated in below table:

Sl. No.	Details of Items	PCS	Net Weight In Gram	Purity	Market Value (Rs.)	Tariff Value (Rs.)
1.	TEN GOLD BARS - PROMISE GOLD REFINERY 10 TOLAS GOLD 999.0 PGR MELTER ASSAYER 10 PCS TEN GOLD BARS-MWG UAE 10 TOLAS 999.0 MWG MELTER ASSAYER FOUR GOLD BARS-RG REFINERY 10 TOLAS GOLD 999.0 RG MELTER ASSAYER	24	2799.300	999.0 24 Kt	Rs. 4,26,89,325	Rs. 3,84,79,682
	Total	24	2799.300	999.0 24 Kt	Rs. 4,26,89,325	Rs. 3,84,79,682

SEIZURE OF THE ABOVE GOLD BARS:

4. Whereas, the aforementioned 24 Gold Bars were recovered from a state of deliberate concealment inside a speaker box installed within the front-side lavatory of Indigo Flight No. 6E-1478 upon its arrival from Dubai at Terminal-2, SVPI Airport, Ahmedabad on 12.06.2026, immediate on-spot identification of the owner or carrier of the contraband was not possible. Due to nature of the concealment and the absence of any legitimate claimant, the ownership of the recovered gold could not be established on the spot. Consequently, the said 24 Gold Bars were legally categorized and

treated as 'Unclaimed', since the identity of the true, proper, and legitimate owner remains unascertained

4.1 The said 24 gold bars totally weighing 2799.300 Grams were found unclaimed and the same were recovered without any legitimate Import documents inside the Customs Area, therefore the same fall under the category of Smuggled Goods and stand liable for confiscation under the Customs Act, 1962. Therefore, the said 24 gold Bar totally weighing 2799.300 grams having purity 999 (24Kt) having Tariff value of Rs. 3,84,79,682/- (Three Crore Eighty Four Lakhs Seventy Nine Thousand Six Hundred and Eighty Two only) and Market value of Rs. 4,26,89,325/- (Four Crore Twenty Six Lakhs Eighty Nine Thousand and Three Hundred Twenty Five only), were placed under seizure vide seizure order dated 12.06.2026 issued under the provisions of Section 110(1) and (3) of the Customs Act, 1962 under reasonable belief that the subject unclaimed Gold is liable for confiscation under Section 111 of the Customs Act, 1962.

5. Whereas, from the investigation conducted in the case, it appears that the aforesaid gold was imported into India in violation of the provisions of the Baggage Rules, 2016, as amended, in as much as gold or silver in any form, other than ornaments is not allowed to be imported free of duty. In the instant case, 24 gold bars having total weight of 2799.300 grams of purity of 24 KT/999.0 concealed in two pouches wrapped with black colour tape were concealed in speaker box installed in Front side Lavatory of the Indigo bearing No.6E-1478 arrived from Dubai to Ahmedabad at Terminal -2, SVPIA Ahmedabad on 12.06.2026. Further, the said quantity of gold is more than the permissible limit allowed to a passenger under the Baggage Rules, and for these reasons alone it cannot be considered as a bonafide baggage under the Customs Baggage Rules 2016 as amended. According to Section 77 of the

Customs Act, 1962, the owner of any baggage, for the purpose of clearing it, is required to make a declaration of its contents to the proper officer. In the instant case, no passenger had declared the said 24 gold bars totally weighing 2799.300 Grams having purity of 24 KT/999.0 because of malafide intention and thereby contravened the provision of Section 77 of the Customs Act, 1962. It therefore, appears that the said 24 gold bars totally weighing 2799.300 Grams having purity of 24 KT/999.0 concealed in two pouches wrapped with black colour tape were attempted to be smuggled into India with an intention to clear the same without discharging duty payable thereon. It, therefore, appears that the said 24 gold bars totally weighing 2799.300 Grams having purity of 24 KT/999.0 is liable for confiscation under the provision of Section 111 of the Customs Act, 1962. Consequently, the said 24 gold bars totally weighing 2799.300 Grams concealed in two pouches wrapped with black colour tape found concealed in speaker box installed in Front side Lavatory of the Indigo bearing No.6E-1478 arrived from Dubai to Ahmedabad at Terminal -2, SVPIA Ahmedabad on 12.06.2026 were placed under seizure vide Panchnama dated 12.06.2026 and Seizure order dated 12.06.2026 by the AIU Officers of Customs under the reasonable belief that the subject Unclaimed Gold is liable for confiscation.

SUMMATION:

6. The aforementioned proceedings indicate that some unknown person/s had attempted to smuggle the aforesaid gold into India and thereby rendered the aforesaid gold having **Tariff value of Rs. 3,84,79,682/-** (Three Crore Eighty-Four Lakhs Seventy-Nine Thousand Six Hundred and Eighty-Two only) and **Market value of Rs. 4,26,89,325/-** (Four Crore Twenty-Six Lakhs Eighty-Nine Thousand and Three Hundred Twenty-Five only), liable for

confiscation under the provisions of Section 111 of the Customs Act, 1962 and therefore the same were placed under Seizure.

7. LEGAL PROVISIONS RELEVANT TO THE CASE:

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

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

7.3. In terms of Para 2.26 (a) of the Foreign Trade Policy 2015-2020, as amended vide FTP, 2023 (Para 2.45) only bona fide household goods and personal effects are allowed to be imported as part of passenger baggage as per limits, terms and conditions thereof in Baggage Rules notified by the Ministry of Finance. The Gold can be imported by the banks (authorized by RBI) and the agencies nominated for the said purpose under Para 4.41 of Chapter-4 of Foreign Trade Policy or by "Eligible Passenger" as per the provision of Notification No. 50/2017- Customs dated 30.06.2017 (Sr. No. 356). As per Notification No. 50/2017- Customs dated 30.06.2017, the 'eligible passenger' means passenger of Indian origin or a passenger

holding valid passport issued under the Passport Act, 1967 who is coming to India after a period of not less than 6 months of stay abroad.

The above said legal provisions are reproduced below:

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

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

Para 4.41 of the Foreign Trade Policy 2015-2020:

Nominated Agencies: -

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

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

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

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

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

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

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

If,

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

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

2. the gold or silver is, -

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

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

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

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

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

7.5. Baggage Rules, 2016 –

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

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

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

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

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

7.7. Further, as per Section 2(33) of the Customs Act, 1962, 'prohibited goods' means any goods the import or export of which is

subject to any prohibition under this Act or any other law for the time being in force but does not include any goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with, implying that any goods imported in violation of the conditions subject to which the goods are permitted to be imported are nothing but prohibited goods. Hence, the smuggling of 2799.30 gms of gold in form of bars having purity of 999.00/24 Kt. found concealed in speaker box installed in Front side Lavatory of the Indigo bearing No.6E-1478 arrived from Dubai to Ahmedabad at Terminal -2, SVPIA Ahmedabad on 12.06.2026 are in contravention of the Foreign Trade Policy 2015-20 read with the relevant notification issued under the Customs Act, 1962 & rules made thereunder, shall have to be treated as prohibited, by virtue of not being in conformity with the conditions imposed in the said Regulations. It is pertinent to note that any prohibition applies to every type of prohibition which may be complete or partial and even a restriction on import or export is to an extent a prohibition. Hence the restrictions imposed on the said imports are to an extent a prohibition and any violation of the said conditions/restrictions would make the impugned goods liable for confiscation under Section 111 of Customs Act, 1962.

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

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

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

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

Section 123: Burden of proof in certain cases. –

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

(a) In a case where such seizure is made from the possession of any person, -

(i) on the person from whose possession the goods were seized; and

(ii) if any person, other than the person from whose possession the goods were seized, claims to be the owner thereof, also on such other person.

(b) In any other case, on the person, if any, who claims to be the owner of the goods so seized.

(2) This section shall apply to gold and manufactures thereof, watches, and any other class of goods which the Central Government may by notification in the Official Gazette specify.

7.10 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.

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

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

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

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

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

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

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

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

Any person, -

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

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

7.13. Section 119: Confiscation of goods used for concealing smuggled goods:

"Any goods used for concealing smuggled goods shall also be liable to confiscation".

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

9. Contravention and violation of laws:

It therefore appears that:

(i) An unknown passenger(s)/person(s) had attempted to smuggle/improperly import 24 Gold Bars weighing 2799.300 Grams having purity 24KT /999.0 and having Market value of **Rs. 4,26,89,325/-** (Four Crore Twenty Six Lakhs Eighty Nine Thousand and Three Hundred Twenty Five only) and tariff Value **Rs. 3,84,79,682/-** (Three Crore Eighty Four Lakhs Seventy Nine Thousand Six Hundred Eighty two only) wrapped with Black tape concealed in speaker box installed in Front side Lavatory of the said aircraft, with a deliberate intention to evade the payment of customs duty and fraudulently circumventing the restrictions and prohibitions imposed under the Customs Act 1962 other allied Acts, Rules and Regulations. The unknown passenger(s)/person(s) had knowingly and intentionally smuggled the said gold bars wrapped with black tape which were found concealed in the speaker box in the front side lavatory of the Indigo bearing No.6E-1478 arrived from Dubai to Ahmedabad at Terminal -2, SVPIA Ahmedabad to clear it illicitly to evade payment of the Customs duty. Therefore, the

improperly imported gold by the unknown passenger(s)/person(s) by way of concealment without declaring it to the Customs on arrival in India cannot be treated as bonafide household goods or personal effects. The unknown passenger(s)/person(s) has/have 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) The unknown passenger(s)/person(s) who is/are claiming the ownership, by not declaring the contents of the 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.

(iii) The improperly imported/ smuggled gold by unknown passenger(s)/ person(s) who is/ are claiming the ownership, concealed in the form of gold bars in the form of two pouches wrapped with black tape which was found concealed in the speaker box in the front side lavatory of the Indigo bearing No.6E-1478 arrived from Dubai to Ahmedabad at Terminal -2, SVPIA Ahmedabad for the purpose of the smuggling without declaring it to the Customs is thus liable for confiscation under Section 111(d), 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) The unknown passenger(s)/person(s) who is/are claiming the ownership, by the above-described acts of omission/commission

and/or abetment has/have rendered themselves liable to penalty under Section 112 of Customs Act, 1962.

(v) As per Section 123 of Customs Act 1962, the burden of proving that the said 24 Gold bars totally weighing 2799.300 grams recovered from two pouches wrapped with black tape found concealed in the speaker box in the front side lavatory of the Indigo bearing No.6E-1478 arrived from Dubai to Ahmedabad at Terminal - 2, SVPIA Ahmedabad are not smuggled goods, is upon the said unknown passenger(s)/person(s) who is/are claiming the ownership of the said gold, who are the Noticee(s) in this case.

10. Accordingly, a Show Cause Notice dated 22.07.2026 was issued to **the unknown passenger/ original importer** of the aforesaid 2799.300 grams of the gold and whoever claiming the ownership of the said gold, as to why:

(i) The **24 Gold Bars weighing 2799.300 Grams** having purity 24KT /999.0 and having Market Value of **Rs. 4,26,89,325/-** (Rupees Four Crore Twenty Six Lakhs Eighty Nine Thousand and Three Hundred Twenty Five only) and tariff Value **Rs. 3,84,79,682/-** (Rupees Three Crore Eighty Four Lakhs Seventy Nine Thousand Six Hundred Eighty two only) concealed in two pouches wrapped with black tape, which was found concealed in the speaker box in the front side lavatory of the Indigo bearing No.6E-1478 arrived from Dubai to Ahmedabad at Terminal -2, SVPIA Ahmedabad placed under seizure under panchnama proceedings dated 12.06.2026 and Seizure Memo Order dated 12.06.2026, should not be confiscated

under the provisions of Section 111 (d), 111(l) and 111(m) of the Customs Act, 1962.

(ii) Penalty should not be imposed upon the unknown passenger(s)/person(s) who is/are claiming the ownership of the said gold, under Sections 112 of the Customs Act, 1962, for the omissions and commissions mentioned hereinabove.

Defense reply and record of personal hearing: -

11. The noticee i.e. unknown person(s)/ passenger(s)/ original importer or any other claimant has not submitted any written submission to the Show Cause Notice issued.

12. The noticee i.e. unknown person(s)/ passenger(s) / original importer or any other claimant has not appeared for personal hearing granted on 31.08.2026. The letter for personal hearing was served by way of placing on the Notice Board of Customs House Building and SVPI Airport. In view of above, it is obvious that the Noticee is not bothered about the ongoing adjudication proceedings and has no defense to offer. I am of the opinion that sufficient opportunities have been extended to the noticee in conformity with the principles of natural justice, and it would not be prudent to keep the matter in abeyance indefinitely.

12.1 I find that as per Section 122A of the Customs Act, 1962, the Adjudicating Authority shall give an opportunity of being heard to the Noticee in a proceeding, if the Noticee so desires. Accordingly, in the present case opportunity was granted to noticee/unknown person/s but the noticee did not participate in the adjudication proceedings inspite of the fact that service of letter for personal hearing was done in terms of Section 153 of Customs Act, 1962.

Section 153 of the Customs Act reads as under -

(1) An order, decision, summons, notice or any other communication under this Act or the rules made thereunder may be served in any of the following modes, namely:—

a) by giving or tendering it directly to the addressee or importer or exporter or his customs broker or his authorised representative including employee, advocate or any other person or to any adult member of his family residing with him;

b) by a registered post or speed post or courier with acknowledgement due, delivered to the person for whom it is issued or to his authorised representative, if any, at his last known place of business or residence;

c) by sending it to the e-mail address as provided by the person to whom it is issued, or to the e-mail address available in any official correspondence of such person;

d) by making it available on the common portal;

e) by publishing it in a newspaper widely circulated in the locality in which the person to whom it is issued is last known to have resided or carried on business; or;

f) by affixing it in some conspicuous place at the last known place of business or residence of the person to whom it is issued and if such mode is not practicable for any reason, then, by affixing a copy thereof on the notice board of the office or uploading on the official website, if any.

(2) Every order, decision, summons, notice or any communication shall be deemed to have been served on the date on which it is tendered or published or a copy thereof is affixed or uploaded in the manner provided in sub-section (1).

(3) When such order, decision, summons, notice or any communication is sent by registered post or speed post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by such post in transit unless the contrary is proved.]

Therefore, in terms of Section 153 of the Customs Act, 1962, it is observed that Personal Hearing letter was duly served to the Noticee, but the noticee did not respond as if he did not have anything to submit in his defense. Under such circumstance, there is no option left for me but to proceed with the adjudication proceedings ex-parte in terms of merit of the case.

12.2. With regard to proceeding to decide the case ex-parte, support is drawn from the following case laws:

12.2.1. Hon'ble High Court of Kerala in the case of United Oil Mills Vs. Collector of Customs & C.Ex. Cochin reported in 2000 (124) ELT 53 (Ker.) has held that:

> 19. No doubt hearing includes written submissions and personal hearing as well but the principle of *Audi Alteram Partem* does not make it imperative for the authorities to compel physical presence of the party concerned for hearing and go on adjourning the proceeding so long the party concerned does not appear before them. What is imperative for the authorities is to afford the opportunity. It is for the party concerned to avail the opportunity or not. If the opportunity afforded is not availed of by the party concerned, there is no violation of the principles of natural justice. The fundamental principles of natural justice and fair play are safeguards for the flow of justice and not the instruments for delaying the proceedings and thereby obstructing the flow of justice. In the instant case as stated in detail in preceding paragraphs, repeated adjournments were granted to the petitioners, dates after dates were fixed for personal hearing, petitioners filed written submissions, the administrative officer of the factory appeared for personal hearing and filed written submissions, therefore, in the opinion of this Court there is sufficient compliance of the principles of natural justice as adequate opportunity of hearing was afforded to the petitioners.
>
> 21. It may be recalled here that the requirement of natural justice varies from cases to cases and situations to situations.

> Courts cannot insist that under all circumstances personal hearing has to be afforded. Quasi-judicial authorities are expected to apply their judicial mind over the grievances made by the persons concerned but it cannot be held that before dismissing such applications in all events the quasi-judicial authorities must hear the applicants personally. When principles of natural justice require an opportunity before an adverse order is passed, it does not in all circumstances mean a personal hearing. The requirement is complied with if the person concerned is afforded an opportunity to present his case before the authority. Any order passed after taking into consideration the points raised in such applications shall not be held to be invalid merely on the ground that no personal hearing had been afforded. This is all the more important in the context of taxation and revenue matters. See *Union of India and Another* v. *M/s. Jesus Sales Corporation* [1996 (83) E.L.T. 486 (S.C.) = J.T. 1996 (3) SC 597].

12.2.2. Hon'ble Tribunal of Mumbai in the case of Sumit Wool Processors v. CC, Nhava Sheva reported in 2014 (312) E.L.T. 401 (Tri. - Mumbai) has observed as under:

> "8.3 We do not accept the plea of Mr. Sanjay Kumar Agarwal and Mr. Parmanand Joshi that they were not heard before passing of the impugned orders and principles of natural justice has been violated. The records show that notices were sent to the addresses given and sufficient opportunities were given. If they failed in not availing of the opportunity, the mistake lies on them. When all others who were party to the notices were heard, there is no reason why these two appellants would not have been heard by the adjudicating authority. Thus the argument taken is only an *alibi* to escape the consequences of law. Accordingly, we reject the plea made by them in this regard."

12.2.3. Hon'ble High Court of Delhi in the case of Saketh India Ltd Vs. Union of India reported in 2002 (143) ELT 274 (Del), has observed that:

> "Natural justice - Ex parte order by DGFT - EXIM Policy - Proper opportunity given to appellant to reply to show cause notice

issued by Addl. DGFT and to make oral submissions, if any, but opportunity not availed by appellant - Principles of natural justice not violated by Additional DGFT in passing ex parte order - Para 2.8(c) of Export-Import Policy 1992-97 - Section 5 of Foreign Trade (Development and Regulation) Act, 1992. - Admittedly, the appellant herein did not respond to the show cause notice. Thereafter, the appellant was called for personal hearing on six subsequent dates. According to the Additional DGFT nobody appeared on behalf of the appellant inspite of various dates fixed for personal appearance of the appellant and in these circumstances, the Additional DGFT proceeded with the matter ex parte and passed the impugned order. The appellant had the knowledge of the proceedings but neither any reply to the show cause notice was given nor it chose to appear before the Additional DGFT to make oral submissions. Thus it is a clear case where proper opportunity was given to the appellant to reply to show cause notice and to make oral submissions, if any. However, fault lies with the appellant in not availing of these opportunities. The appellant cannot now turn around and blame the respondents by alleging that the Additional DGFT violated principles of natural justice or did not give sufficient opportunity to the appellant to present its case."

12.2.4. The Hon'ble CESTAT, Mumbai in the case of Gopinath Chem Tech. Ltd Vs. Commissioner of Central Excise, Ahmedabad-II reported in 2004 (171) ELT 412 (Tri. Mumbai) has held that:

"Personal hearing fixed by lower authorities but not attended by appellant and reasons for not attending also not explained - Appellant cannot now demand another hearing - Principles of natural justice not violated."

12.2.5. The Hon'ble Supreme Court in the case of Jethmal Vs. Union of India reported in 1999 (110) ELT 379 (S.C.) has held as under:

7. Our attention was also drawn to a recent decision of this Court in *A.K. Kripak* v. *Union of India* - 1969 (2) SCC 340, where some of the rules of natural justice were formulated in Paragraph 20 of the judgment. One of these is the well-known principle of *audi alteram partem* and it was argued that an *ex*

parte hearing without notice violated this rule. In our opinion this rule can have no application to the facts of this case where the appellant was asked not only to send a written reply but to inform the Collector whether he wished to be heard in person or through a representative. If no reply was given or no intimation was sent to the Collector that a personal hearing was desired, the Collector would be justified in thinking that the persons notified did not desire to appear before him when the case was to be considered and could not be blamed if he were to proceed on the material before him on the basis of the allegations in the show cause notice. Clearly, he could not compel appearance before him and giving a further notice in a case like this that the matter would be dealt with on a certain day would be an ideal formality.

12.2.6. Hon'ble Delhi Tribunal in the case of Commissioner of C.Ex. Vs. Pee Iron & Steel Co. (P) Ltd. reported in as 2012 (286) E.L.T. 79 (Tri. – Del) [upheld by Hon'ble Punjab & Haryana High Court reported in **2015 (316) E.L.T. A118 (P&H.)]** has observed that:

"9. Notice to the respondent has been received back undelivered with the report that address is not correct. No other address of the respondent is available on record, therefore, the respondent cannot be served with the notice without undue delay and expense. Accordingly, we are constrained to proceed *ex parte* order against the respondent."

12.3 In view of the discussion held in Para 12 to 12.2.6. above, I proceed to adjudicate the Show Cause Notice No. VIII/10-21/SVPIA-B/O&A/HQ/2026-27 dated 22.07.2026 ex parte.

Discussion and Findings:

13. In the instant case, I find that the **main issues** to be decided are as follows:

- **Whether** the seized gold consisting of 24 gold bars weighing **2799.300 grams**, with a Tariff Value of **Rs. 3,84,79,682/-** and a Market Value of **Rs. 4,26,89,325/-** was found concealed

inside a speaker box wrapped in two black-taped pouches within the forward lavatory of indigo flight **6E-1478** (arriving from Dubai to Ahmedabad at Terminal-2, SVPIA) by an unknown person/passenger, and was subsequently seized under a Seizure Memo and Panchnama proceedings, both dated **12.06.2026,** is liable for confiscation under Section 111 of the Customs Act, 1962 or otherwise.

- **Whether** the unknown person(s)/passenger(s) are liable for a personal penalty under the provisions of **Section 112** of the Act or not.

14. On 12.06.2026, officers of the Air Intelligence Unit (AIU), SVPI Airport, Ahmedabad, acting on vigilance measures, conducted a rummaging of IndiGo Flight 6E-1478 in presence of two independent panchas. The aircraft was parked at Bay 31, Terminal-2, SVPIA, Ahmedabad. During the rummaging operation, officers recovered two unclaimed pouches wrapped in black tape, which were found concealed inside a speaker box installed in front side lavatory of the aircraft. Given the unusual and heavy weight of the recovered packages, a prima facie suspicion arose that the contents consisted of smuggled gold. The said pouches were subsequently brought to the Green Channel of the International Arrival Hall at Terminal-2 and passed through the X-ray Baggage Inspection Machine, which revealed distinct, suspicious dark images. Thereafter, a formal inventory and weighing mechanism was executed at the AIU Office. In the presence of two independent Panchas, and under a Panchnama dated 12.06.2026, the contents of the pouches were confirmed to be 24 rectangular-shaped, yellow-colored solid metal bars weighing a total of 2799.300 grams, which were subsequently seized under the reasonable belief that they were liable to confiscation under the Customs Act, 1962.

It is also on the record that that the recovered twenty-four (24) yellow-colored metal bars, extracted from the two black-taped pouches, were subjected to detailed testing and examination by the Government Approved Valuer, Shri Kartikey Vasantrai Soni. Upon comprehensive examination, the Government Approved Valuer certified and confirmed that the said twenty-four (24) bars were composed of Gold of 24 Karat purity. The aggregate net weight of the authenticated gold was precisely determined and recorded as 2799.300 grams. Photographs of the same are as under:

The findings of the expert examination were formalized vide Valuation Report No. 065/2026-27 dated 12.06.2026, wherein the Government Approved Valuer certified that the recovered twenty-four (24) yellow-colored metal bars comprised Gold of 999.0 purity (24 Karat), with a definitive aggregate net weight of 2,799.300 grams. Further, the valuer assessed and quantify that the Market Value of Seized goods were **Rs. 4,26,89,325/-** *(Rupees Four Crore Twenty-Six*

*Lakh Eighty-Nine Thousand Three Hundred Twenty-Five only) a*nd Tariff Value of the gold comes to **Rs. 3,84,79,682/-** *(Rupees Three Crore Eighty-Four Lakh Seventy-Nine Thousand Six Hundred Eighty-Two only)* by applying the gold tariff rates under Notification No. 49/2026-Customs (N.T.) dated 29.05.2026 and the foreign exchange conversion rates prescribed under Notification No. 17/2026-Customs (N.T.) dated 05.06.2026. The details of the Valuation of the said 24 gold bars are tabulated in below table:

Sl. No.	Details of Items	PCS	Net Weight In Gram	Purity	Market Value (Rs.)	Tariff Value (Rs.)
1.	TEN GOLD BARS - PROMISE GOLD REFINERY 10 TOLAS GOLD 999.0 PGR MELTER ASSAYER 10 PCS TEN GOLD BARS- MWG UAE 10 TOLAS 999.0 MWG MELTER ASSAYER FOUR GOLD BARS- RG REFINERY 10 TOLAS GOLD 999.0 RG MELTER ASSAYER	24	2799.300	999.0 24 Kt	Rs. 4,26,89,325	Rs. 3,84,79,682
	Total	24	2799.300	999.0 24 Kt	Rs. 4,26,89,325	Rs. 3,84,79,682

15. I further observe from the record that no claimant, importer, or unknown passenger has come forward to challenge the validity of the Panchnama proceedings, nor have they controverted any facts detailed therein. The entire search, seizure, and documentation process executed by the AIU officers was meticulously recorded and conducted in strict conformity with statutory regulations, in the continuous presence of independent Panchas. The modus operandi

clearly establishes that an unknown passenger(s)/importer had deliberately concealed the said twenty-four (24) rectangular gold bars, weighing 2,799.300 grams, inside the speaker box located in the front side lavatory of IndiGo Flight 6E-1478 arriving from Dubai. This concealment was executed with a manifest intent to illicitly smuggle the gold into the country, evade the payment of appropriate Customs duty, and bypass statutory entry channels. Such acts constitute a direct violation and contravention of the provisions of the Customs Act, 1962, and the rules and regulations framed thereunder. Since the seized gold bars recovered from the aircraft remain entirely unclaimed, it is reasonably established that the contraband was illegally imported into India by an unidentified international passenger who intentionally abandoned or hid the goods within the aircraft infrastructure to evade detection. Consequently, the well-documented Panchnama proceedings and the uncontroverted evidence on record conclusively prove the illicit nature of the importation.

16. I find that the unknown passenger has improperly imported the said gold, by concealing/hiding it in two pouches placed meticulously in the speaker box installed at front side lavatory of Flight arrived from Dubai to Ahmedabad. By such an act of improperly importation/ smuggling of gold, the unknown passenger has contravened the provisions of Para 2.26 of 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 further read in conjunction with Section 11(3) of the Customs Act, 1962 and the relevant provisions of the Baggage Rules, 2016 as amended vide Baggage Rules, 2026, Customs Baggage Declaration Regulations, 2013 as amended vide Customs Baggage Declaration Regulation,

2026 and Notification No. 50/2017-Customs dated 30.06.2017 as amended.

17. Whether the seized goods are falls under "prohibited goods" as defined under Section 2(33) of the Customs Act, 1962?

Section 2(33) of the Customs Act, 1962 defines 'prohibited goods' 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*'. The said definition implies that in cases where the conditions applicable for import of goods are not complied with, such goods would fall under the category of 'prohibited goods'. In the instant case, the gold has not been brought in India by a nominated agency notified by the RBI or DGFT, as the case maybe and as such the same would be covered under the category of 'prohibited goods'. My above finding is aptly supported by the case law of **Om Prakash Bhatia reported at 2003 (155) ELT 423 (SC)** wherein it has been held by the Hon'ble Supreme Court as under:

> *From the aforesaid definition, it can be stated that (a) if there is any prohibition of import or export of goods under the Act or any other law for the time being in force, it would be considered to be prohibited goods; and (b) this would not include any such goods in respect of which the conditions, subject to which the goods are imported or exported, have been complied with.* ***This would mean that if the conditions prescribed for import or export of goods are not complied with, it would be considered to be prohibited goods.*** *This would also be clear from Section 11 which empowers the Central Government to prohibit either 'absolutely' or 'subject to such conditions' to be fulfilled before or after clearance, as may be specified in the notification, the import or export of the goods of any specified description. The notification can be issued for the purposes specified in sub-section (2).* ***Hence, prohibition of importation or exportation could be subject to certain prescribed conditions to be fulfilled before or after clearance of goods. If conditions are***

> ***not fulfilled, it may amount to prohibited goods.*** *This is also made clear by this Court in Shekih Mohd. Omer v. Collector of Customs, Calcutta and Others [(1970) 2 SCC 728] wherein it was contended that the expression 'prohibition' used in Section 111(d) must be considered as a total prohibition and that the expression does not bring within its fold the restrictions imposed by clause (3) of the Import Control Order, 1955. The Court negatived the said contention and held thus:-*
> *'…What clause (d) of Section 111 says is that any goods which are imported or attempted to be imported contrary to "any prohibition imposed by any law for the time being in force in this country" is liable to be confiscated. "Any prohibition" referred to in that section applies to every type of "prohibition". That prohibition may be complete or partial.* ***Any restriction on import or export is to an extent a prohibition.*** *The expression "any prohibition" in Section 111(d) of the Customs Act, 1962 includes restrictions. Merely because Section 3 of the Imports and Exports (Control) Act, 1947, uses three different expressions "prohibiting", "restricting" or "otherwise controlling", we cannot cut down the amplitude of the word "any prohibition" in Section 111(d) of the Act. "Any prohibition" means every prohibition. In other words all types of prohibitions. Restrictions is one type of prohibition. From item (I) of Schedule I, Part IV to Import Control Order, 1955, it is clear that import of living animals of all sorts is prohibited. But certain exceptions are provided for. But nonetheless the prohibition continues."*

The above judgment has been followed by the Hon'ble High Court of Gujarat in the case of **Bhargavraj Rameshkumar Mehta reported at 2018 (361) ELT 260 (Guj)** wherein it has been observed as under:

> ***15.****We may recall, the contention of the Counsel for the petitioner in this respect was that the gold at the relevant time was freely importable. Import of gold was not prohibited. Case of the petitioner would therefore, fall under clause (ii) of Section 112 and penalty not exceeding 10% of the duty sought to be evaded would be the maximum penalty imposable. Such contention shall have to be examined in the light of the statutory provisions noted above. As noted, Section 111 of the Act provides for various eventualities in which the goods brought from a place outside India would be liable for confiscation. As per clause (d) of Section 111, goods which are imported or attempted to be imported or are brought within the Customs quarters for import contrary to any prohibition imposed by or under the Act or any other law for the time being in force, would be liable for confiscation. Similarly, for dutiable or prohibited goods found concealed in any manner in any conveyance would also be liable to confiscation. As per Section 2(39) the term 'smuggling' would mean in relation to any goods, any act or omission which will render such*

goods liable to confiscation under Section 111 or Section 113. ***Thus, clearly Section 111 of the Customs Act prohibits any attempt at concealment of goods and bringing the same within the territory of India without declaration and payment of prescribed duty.*** *Term 'prohibited goods' as defined under Section 2(33) means any goods, the import or export of which is subject to any prohibition under the 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. This definition therefore, comes in two parts. The first part of the definition explains the term 'prohibited goods' as to mean those goods, import or export of which is subject to any prohibition under the law. The second part is exclusionary in nature and excludes from the term 'prohibited goods', in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with. From the definition of term 'prohibited goods', in case of goods, import of which is permitted would be excluded subject to satisfaction of the condition that conditions for export have been complied with.* ***By necessary implication therefore in case of goods, import of which is conditional, would fall within the definition of prohibited goods if such conditions are not complied with.***

16. *Further clarity in this respect would be available when one refers to the term 'dutiable goods' as to mean any goods which are chargeable to duty and on which duty has not been paid. We refer to this definition since Section 112 makes the distinction in respect of goods in respect of which any prohibition is imposed and dutiable goods other than prohibited goods. When clause (ii) of Section 112 therefor, refers to dutiable goods other than prohibited goods, it shall necessarily have the reference to the goods, import of which is not prohibited or of which import is permissible subject to fulfilment of conditions and such conditions have been complied with. Condition of declaration of dutiable goods, their assessment and payment of customs duties and other charges is a fundamental and essential condition for import of dutiable goods within the country. Attempt to smuggle the goods would breach all these conditions. When clearly the goods are sought to be brought within the territory of India concealed in some other goods which may be carrying no duty or lesser duty, there is clear breach of conditions of import of goods though per se import of goods may not be prohibited.*

Further, in case of Malabar Diamond Gallery P. Ltd. Vs ADG, DRI, Chennai [2016(341) ELT65(Mad.)], the Hon'ble Madras High Court has summarized the position on the issue, specifically in respect of gold, as under:

> *"64. Dictum of the Hon'ble Supreme Court and High Courts makes it clear that gold, may not be one of the enumerated goods, as prohibited goods, still, if the conditions for such import are not complied with, then import of gold, would squarely fall under the definition "prohibited goods", in Section 2 (33) of the Customs Act, 1962----."*

Moreover, the Hon'ble High Court of Delhi in its order dated 23.11.2023 in Writ Petition No. 8976 of 2020 in the matter of Kiran Juneja Vs. Union of India & Ors. has held that *"A fortiori and in terms of the plain language and intent of Section 2(33), an import which is affected in violation of a restrictive or regulatory condition would also fall within the net of "prohibited goods"*. Relying on the ratio of the judgments cited above, there is no doubt that the goods seized in the present case are to be treated as "prohibited goods" within the meaning assigned to the term under Section 2(33) of the Customs Act, 1962.

18. In view of the undisputed facts discussed hereinabove, it stands conclusively established that the acts of omission and commission on the part of the said unknown passenger(s) / original importer(s) constitute flagrant contraventions of the law. These actions have rendered the seized **2,799.300 grams** of gold (of 24 Karat/999.0 purity), valued at a **Tariff Value of Rs. 3,84,79,682/-** and a **Market Value of Rs. 4,26,89,325/-**, liable to **confiscation** under the provisions of **Sections 111(d), 111(l), and 111(m) of the Customs Act, 1962**. The modus operandi of concealing the gold within the aircraft's speaker box installed at front side of lavatory leaves no room for doubt that the unknown passenger(s)/importer(s) acted with complete mens rea and were fully aware that the goods were heavily offending in nature. By actively engaging in the carriage, possession, concealment, and illicit handling of the impugned gold, the unidentified individual(s) dealt with the contraband in a manner

that they knew, or had reasonable belief to know, would render the goods liable to confiscation under the Act.

19. It is seen that for the purpose of customs clearance of arriving passengers, a two-channel system is adopted i.e Green Channel for passengers not having dutiable goods and Red Channel for passengers having dutiable goods and all passengers have to ensure to file correct declaration of their baggage. I also find that the definition of "eligible passenger" is provided under Notification No. 50/2017- Customs New Delhi, the 30th June, 2017 wherein it is mentioned as - *"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*. It is also observed in the instant case that the imports were also for non-bonafide purposes. Therefore, the said improperly imported gold weighing 2799.300 grams in form of 24 gold rectangular bars concealed in two pouches wrapped in black tape recovered from speaker box installed at front side of lavatory of aircraft, cannot be treated as bonafide household goods or personal effects. The noticee(s)/passenger(s)/Unknown Person(s) 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.

20. I find that as per paragraph 2.26 of Foreign Trade Policy (FTP) 2015-20, *bona fide* household goods and personal effects may be imported as a part of passenger's baggage as per the limit, terms and

conditions thereof in Baggage Rules, 2016 as amended by Baggage Rules, 2026 notified by Ministry of Finance. Further, in terms of EXIM Code 98030000 under the **statutory ITC (HS) Classification of Export and Import Items, as amended from time to time**, import of all dutiable articles by a passenger in his baggage is 'Restricted' and subject to the fulfillment of conditions imposed under the Customs Act, 1962 and the Baggage Rules, 2016 as amended.

Further, as per the Notification No. 12/2012-Cus dated 17.03.2012 (S.I-321) and Notification No. 50/2017-Cus dated 30.06.2017, 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 and gold in any form including tola bars and ornaments are allowed to be imported upon payment of applicable rate of duty as the case may be subject to conditions prescribed. As per the prescribed condition the duty is to be paid in convertible foreign currency, on the total quantity of gold so imported not exceeding 1 kg only when gold is carried by the "eligible passenger" at the time of his arrival in India or imported by him within 15 days of his arrival in India. It has also been explained for purpose of the notifications, "eligible passengers" means a passenger of India origin or a passenger holding a valid passport issued under Passport Act, 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 06 months shall be ignored, if the total duration of such stay does not exceeds 30 days and such passenger have not availed of the exemption under this notification.

20.1. Further, it is pertinent to highlight that pursuant to Notification No. 49/2015-2020 dated 05.01.2022 issued under the Foreign Trade Policy (FTP), 'gold in any form' explicitly includes gold of any form above 22 carats falling under Chapter 71 of the ITC (HS), 2017, Schedule-1 (Import Policy). The import of such gold is strictly classified as 'Restricted' and is permissible only against a valid license issued by the DGFT, which is entirely absent in this case. Furthermore, I find that 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 the bonafide baggage, 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*. I must explicitly note that while the Baggage Rules, 2026, amended these provisions by omitting the erstwhile monetary caps (previously fixed at Rs. 50,000/- and Rs. 1,00,000/- respectively), the quantitative limitations regarding the weight of permissible gold jewelry remain unchanged. Further, the Board has reinforced these statutory restrictions by issuing strict compliance directives vide Circular No. 06/2014-Customs dated 06.03.2014. These circular mandates rigorous verification of the credentials of an 'eligible passenger' to ensure that duty concessions on gold are not exploited or misused by unscrupulous elements/syndicates acting as carriers.

20.2. A combined reading of the above-mentioned legal provision under the Foreign Trade regulations, Customs Act, 1962 and the notification issued thereunder, clearly indicates that import of gold including gold bars and Jewellery through baggage is restricted and condition have been imposed on said import by a passenger such as he/she should be of Indian origin or an Indian passport holder with minimum six months stay abroad etc. only passengers who satisfy

these mandatory conditions can import gold as a part of their bona fide personal baggage and the same has be declared to the Customs at their arrival and pay applicable duty in foreign currency/exchange. I find that these conditions are nothing but restrictions imposed on the import of the gold through passenger baggage. I find that unknown person/s/passenger/noticee has brought the gold bars having total weight 2799.300 grams which is more than the prescribed limit. This massive quantity vastly exceeds the statutory allowances and explicitly breaches the quantitative restrictions mandated by the law. The deliberate avoidance of the declaration mechanism proves beyond doubt that the item was never intended for bonafide passenger clearance, but was rather a calculated operation by unscrupulous elements to circumvent the safeguards prescribed under Circular No. 06/2014-Cus dated 06.03.2014.

21. From the facts and evidence discussed above, it is conclusively established that the unknown passenger/noticee brought 24-karat gold items of 999.0 purity, weighing 2799.300 grams in the form bars, and intentionally concealed them in the speaker box installed at front side of lavatory of aircraft upon his arrival from Dubai to Ahmedabad. His deliberate actions were aimed at smuggling and removing the goods without the payment of appropriate customs duty. Consequently, the gold weighing 2799.300 grams, seized under the panchnama dated 12.06.2026, is liable for confiscation under the provisions of Sections 111(d), 111(l), and 111(m) of the Customs Act, 1962. By secreting the gold bars and failing to declare them before the customs authorities, the unknown person/passenger/noticee's clear and premeditated intent to clandestinely smuggle the gold and evade customs duty is fully proved. The commission of the aforementioned acts squarely brings the impugned goods within the ambit of 'smuggling' as defined under Section 2(39) of the Customs Act, 1962.

21.1. As per the provisions of Section 111(d) of the Customs Act, 1962, the following goods brought from a place outside India shall 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;

Import of gold into India is regulated under various provisions and subject to strict conditions. According to Notification No. 50/2017-Customs dated 30.06.2017, as amended Gold, with description as below, is allowed to be imported by eligible passengers upon payment of applicable rate of duty subject to specific conditions as below being fulfilled.

Serial No. 356 (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, subject to fulfillment of Condition No. 41 of the Subject Notification.

Serial No. 356 (ii) Gold in any form other than (i), including tola bars and ornaments, but excluding ornaments studded with stones or pearls, subject to fulfillment of Condition No. 41 of the Subject Notification. Condition 41 of the said Notification No. 50/2017 dated 30.06.2017, as amended states that:-

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

From the facts of the case available on record, it is clearly appeared that conditions stipulated above were not fulfilled. I find that well defined and exhaustive conditions and restrictions are imposed on import of various forms of gold by eligible passenger(s)/nominated banks/nominated agencies/premier or star trading houses/SEZ units/EOUs. These conditions are nothing but restrictions imposed on import of gold. In the subject case, it appears that no such conditions were satisfied rendering it a clear case of smuggling. It is pertinent to mention here that ***Hon'ble Supreme Court of India in Sheikh Mohd. Omer Vs. Collector of Customs, Calcutta [1983 (13) ELT 1439] clearly laid down that any prohibition applies to every type of prohibitions which may be complete or partial and even a restriction on import or export is to an extent a prohibition.*** Hence, the restriction on import of various forms of gold is to an extent a prohibition and any violation of the said conditions/restrictions would make the subject goods i.e 24 gold bars weighing 2799.300 in this case, liable for confiscation under Section 111(d) of the Customs Act, 1962.

21.2 In terms of Section 111 (l) of the Customs Act, 1962, the following goods brought from a place outside India shall be liable to confiscation –

(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;

I find that the said unknown passenger/person failed to make any declaration regarding the imported gold to the Proper Officer of Customs, as mandatorily required under Section 77 of the Customs Act, 1962. Instead, the contraband was deliberately wrapped in two pouches and concealed inside the speaker box of Indigo Flight. The

evidence on record conclusively demonstrates that no declaration form, prescribed under the regulations, was executed for the 24 gold bars. Had the AIU officers not exercised due diligence and intercepted the contraband during their rummaging operation, the gold would have been successfully smuggled out of the statutory customs barrier by an unidentified individual. Also, I find that the unknown person/s/passenger was not eligible to import gold and that too undeclared in substantial quantity and hence the same constitute prohibited goods, which are liable to confiscation under Section 111 (l) of the Customs Act, 1962.

21.3 in terms of Section 111(m) of the Customs Act, 1962, the following goods brought from place outside India shall liable to confiscation-

> *(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 trans-shipment, with the declaration for trans-shipment referred to in the proviso to sub-section (1) of section 54];*

In this regard, I find that gold bars weighing 2799.300 Grams found concealed and recovered from speaker box installed at front side of Lavatory of said Indigo Flight having market value of **Rs. 4,26,89,325/-**. On test, the gold bars were found to be of purity of 999.0/24kt. Furthermore, I find that no person or importer has produced any valid documentation or evidentiary proof to substantiate the legal importation, lawful acquisition, safe possession, or domestic transportation of the said gold. Under the provisions of **Section 123 of the Customs Act, 1962**, gold is a notified commodity wherein the statutory '**burden of proof**' lies squarely upon the person from whose

possession or custody the goods are recovered, or the owner thereof, to prove that they are not smuggled. Since no claimant or passenger has come forward to assert ownership over the seized gold or to discharge this mandatory burden of proof, the statutory presumption that the goods are smuggled in nature stands legally uncontroverted and absolute. Consequently, the foreign-origin gold bars are held to be illicitly imported contraband, brought into the country in deliberate defiance of the statutory customs framework. This illicit nature is further corroborated by the complete absence of a declaration under **Section 77 of the Customs Act, 1962**, which mandates:

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.*

Accordingly, the said gold bars are liable for confiscation under Section 111(d), 111(l) & 111 (m) of the Customs Act, 1962.

22. Once the seized goods are held to be liable for confiscation, the next question before me to decide is whether to allow the release of the impugned goods on Redemption Fine or order for absolute confiscation of the same. The provisions related to redemption of confiscated goods are stipulated in Section 125 of the Customs Act, 1962; sub-section (1) of the said section 125 says that:-

"Option to pay fine in lieu of confiscation. - (1) whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods or, where such owner is not known, the person from whose possession, or custody such goods have been seized, an option to pay in lieu of confiscation such fine as the said officer thinks fit. It is, amply clear from the said Section that, where the confiscated goods

are not prohibited for import or export, the Adjudicating Authority is under obligation to release the same. However, in those cases where the confiscated goods are prohibited for import or export, discretion has been vested in the Adjudicating Authority to decide the issue on the basis of the facts and circumstances involved.

I find that the said 24 rectangular gold bars of 24 Kt., totally weighing 2799.300 grams found concealed in two pouches wrapped in black tape and recovered from the speaker box installed at front side of lavatory of aircraft, as discussed above, was to smuggle without declaring it to Customs authorities and by this act, the unknown passenger(s)/importer(s) or any other claimant has held the said goods liable for confiscation. **I, therefore, refrain from using my discretion to give an option to redeem the gold on payment of redemption fine, as envisaged under Section 125 of the Customs Act, 1962.**

22.1. In the case of ***Samynathan Murugesan [2009 (247) ELT 21 (Mad)], the Hon'ble High Court upheld the absolute confiscation, ordered by the adjudicating authority, in similar facts and circumstances. Further, in the said case of smuggling of gold, the High Court of Madras has ruled that as the goods were prohibited and there was concealment, the Commissioner's order for absolute confiscation was upheld.***

22.2. Further I find that in a case decided by the ***Hon'ble High Court of Madras reported at 2016-TIOL-1664-HC-MAD-CUSin 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)."

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

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

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

22.4. In [2019 (370) E.L.T. 1743 (G.O.I.)], before the Government of India, Ministry of Finance, [Department of Revenue - Revisionary Authority]; Ms. Mallika Arya, Additional Secretary in Abdul Kalam Ammangod Kunhamu vide Order No. 17/2019-Cus., dated 7-10-2019 in F. No.375/06/B/2017-RA stated that it is observed that C.B.I. & C. had issued instruction vide Letter F. No. 495/5/92-Cus. VI, dated 10-5-1993 wherein it has been instructed that *"in respect of gold seized for non-declaration, no option to redeem the same on redemption fine under Section 125 of the Customs Act, 1962 should be given except in very trivial cases where the adjudicating authority is satisfied that there was no concealment of the gold in question"*.

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

> *"**23.** There is no merit in the contention of learned counsel for the Petitioner that he was not aware of the gold. Petitioner was carrying the packet containing gold. The gold items were concealed inside two pieces of Medicine Sachets which were kept inside a Multi coloured zipper jute bag further kept in the White coloured zipper hand bag that was carried by the Petitioner. The manner of concealing the gold clearly establishes knowledge of the Petitioner that the goods were liable to be confiscated under section 111 of the Act. The Adjudicating Authority has rightly held that the manner of concealment revealed his knowledge about the prohibited nature of the goods and proved his guilt knowledge/mens-rea."*
>
> *24……**.***
>
> ***25……..***
>
> *"**26.** The Supreme Court of India in State of Maharashtra v. Natwarlal Damodardas Soni [1980] 4 SCC 669/1983 (13) E.L.T. 1620 (SC)/1979 taxmann.com 58 (SC)* ***has held that smuggling particularly of gold, into India affects the public economy and financial stability of the country****."*

23. Given the facts of the present case before me and the judgements and rulings cited above, I find that the manner of concealment, in this case clearly shows that the unknown passenger (s) had attempted to smuggle the seized gold to avoid detection by the

Customs Authorities. Further, no one has come forward to claim the ownership of the seized goods and /or has submitted any documents, whatsoever in support of legal acquisition and/or importation of said gold. Thus, the unknown passenger (s) has failed to discharge the burden placed on him in terms of Section 123. Further, from the SCN and content of Panchnama, I find that the manner of concealment of the gold is **ingenious** in nature, as 24 gold bars were put in two pouches covered with black tape concealed in speaker box installed at front side of lavatory of the aircraft with intention to smuggle the same into India and evade payment of customs duty. Therefore, recovered gold in form of bars weighing 2799.300 grams of 24Kt./999.0 purity, is therefore, liable to be **confiscated absolutely**. **I therefore hold in unequivocal terms that the 24 gold bars weighing 2799.300 grams of 24Kt./999.0 purity, placed under seizure would be liable to absolute confiscation under Section 111(d), 111(l) and 111(m) of the Act.**

24. The act of concealing the gold, with intention to smuggle the same into India by evading Customs Duty has also rendered the unknown passenger(s)/ importer(s)or any other claimant liable for penalty under Section 112 of the Customs Act, 1962. However, since the passenger/ owner of the imported impugned gold is not known and nobody else has come forward to claim the impugned gold/ goods, therefore, I desist from imposing personal penalty under the provisions of Section 112 of the Act on unknown passenger/ person in this case.

25. Accordingly, I pass the following Order.

O R D E R

i. I order **absolute confiscation** of 24 Gold Bars of 24 Kt./999 purity gold, totally weighing **2799.300 grams**, having Market

Value of **Rs.4,26,89,325/-** (Rupees Four Crore, Twenty Six lakhs, Eighty Nine Thousand Three Hundred and Twenty Five Only) and Tariff Value of **Rs.3,84,79,682/-** (Rupees Three Crore Eighty-Four Lakhs Seventy Nine Thousand Six Hundred and Eighty Two Only), found concealed in two pouches wrapped with black tape, which was found concealed in the speaker box in the front side lavatory of the Indigo Flight No.6E-1478 arrived from Dubai to Ahmedabad at Terminal -2, SVPIA Ahmedabad placed under seizure under panchnama proceedings dated 12.06.2026 and Seizure Memo Order dated 12.06.2026, under the provisions of Sections 111(d), 111(l) and 111(m) of the Customs Act, 1962;

ii. I refrain from imposing the penalty on unknown person(s)/passenger(s)/or other claimant under Section 112 of Customs Act, 1962.

26. Accordingly, the Show Cause Notice No. VIII/10-21/SVPIA-B/O&A/HQ/2026-27 dated 22.07.2026 stands disposed of.

Digitally signed by
Shree Ram Vishnoi
Date: 01-09-2026
20:47:38

(Shree Ram Vishnoi)
Additional Commissioner
Customs, Ahmedabad

DIN : 20260971MN0000394FAF
F. No. VIII/10-21/SVPIA-B/O&A/HQ/2026-27 Date:01.09.2026

To,

"Whom so ever it may concern"

1) To be pasted on the Notice Board of Customs House, Navrangpura, Ahmedabad-380009;

2) To be pasted on the Notice Board of Customs, SVPI Airport, Ahmedabad.

Copy to:-

1. The Principal Commissioner of Customs, Ahmedabad (Kind Attn: RRA Section)
2. The Deputy Commissioner of Customs (AIU), SVPIA, Ahmedabad.
3. The Deputy Commissioner of Customs, SVPIA, Ahmedabad.
4. The Deputy Commissioner of Customs (Task Force), Ahmedabad.
5. The System In-Charge, Customs, HQ., Ahmedabad for uploading on the official web-site i.e. http://www.ahmedabadcustoms.gov.in.
6. Guard File.