



પ્રધાન આયુક્તકા કાર્યાલય, સીમાશુલ્ક, અહમદાબાદ

“સીમાશુલ્કભવન, પહલીમંજિલ, પુરાનેહાઈકોટ્કેસામને, નવરંગપુરા, અહમદાબાદ – 380 009.
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SHOW CAUSE NOTICE

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

Shri Nooruddin S/o Shri Alauddin, DOB: 10.10.1972, (hereinafter referred to as the said “passenger/Noticee”), residential address as per passport is House No. 79/1, Gali No -1, Nala Road, Jafrabad, Delhi, Pin 110053 and holding Indian Passport No. Y9963681, arrived by Spice jet Flight No. SG 58 from Dubai to Ahmedabad on 25.01.2024 at Sardar Vallabhbhai Patel International Airport (SVPIA), Terminal-2, Ahmedabad. On the basis of specific input from DRI Zonal Unit Ahmedabad, the passenger was intercepted by the officers of DRI Ahmedabad and Air Intelligence Unit (AIU) officers, SVPIA, Customs, Ahmedabad while the passenger was attempting to exit through green channel without making any declaration to Customs, under Panchnama proceedings dated 25.01.2024 (**RUD - 01**) in presence of two independent witnesses for passenger’s personal search and examination of his baggage.

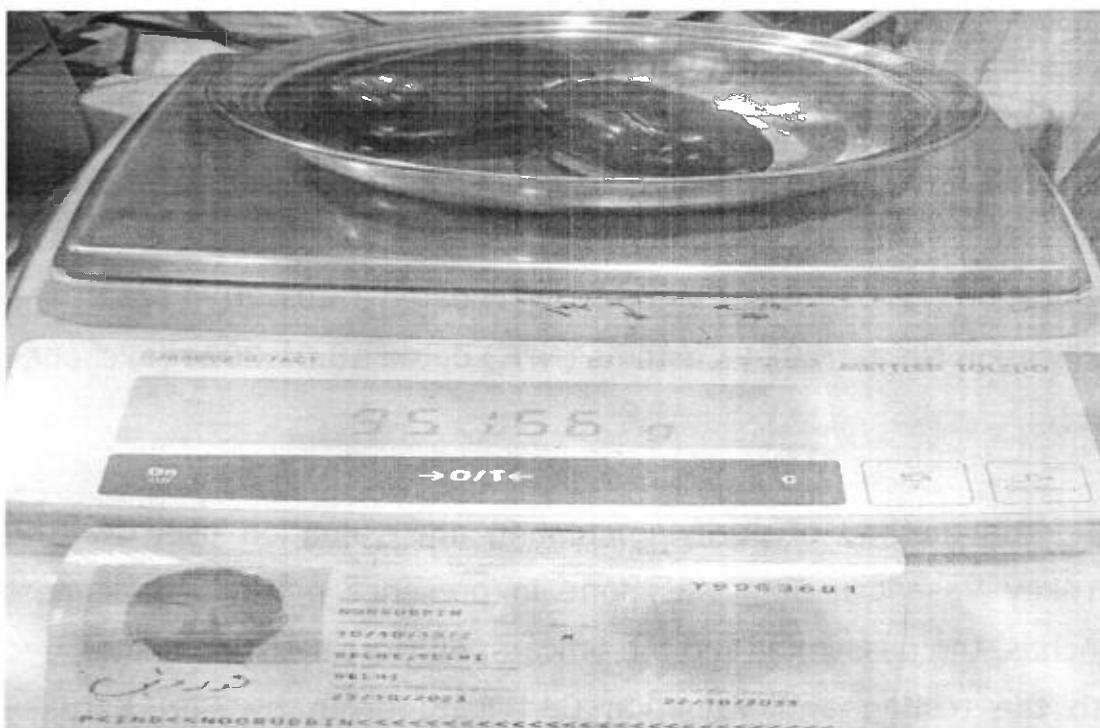
2. The officers asked the passenger whether he was carrying any contraband/ dutiable goods in person or in baggage to which he denied. The officers informed the passenger that they would be conducting his personal search and detailed examination of his baggage. The officers offered their personal search to the passenger, but the passenger denied the same politely. Then officers asked the passenger whether he wanted to be checked in presence of the Executive Magistrate or the Superintendent (Gazetted officer) of Customs, in reply to which the passenger in presence of four independent witnesses gave his consent to be searched in presence of the Superintendent of Customs. The passenger was asked to walk through the Door Frame Metal Detector (DFMD) machine after removing all the metallic objects he was wearing on his body/clothes. Thereafter the passenger, removed the metallic substances from his body such as mobile, purse etc., and kept it in a

tray placed on the table there and after that he was asked to pass through the Door Frame Metal Detector (DFMD) machine and while he passed through the DFMD Machine, no beep sound was heard indicating that nothing objectionable/ dutiable was on his body/ clothes. Further, the AIU officers asked the passenger to keep his baggage into X-Ray Baggage Scanning Machine installed near the Green Channel counter at terminal 2 of SVPI Ahmedabad. The passenger kept his baggage into X-Ray Baggage Scanning Machine for scanning of his baggage. On scanning of his baggage, no suspicious image appeared on the screen of the X-Ray machine.

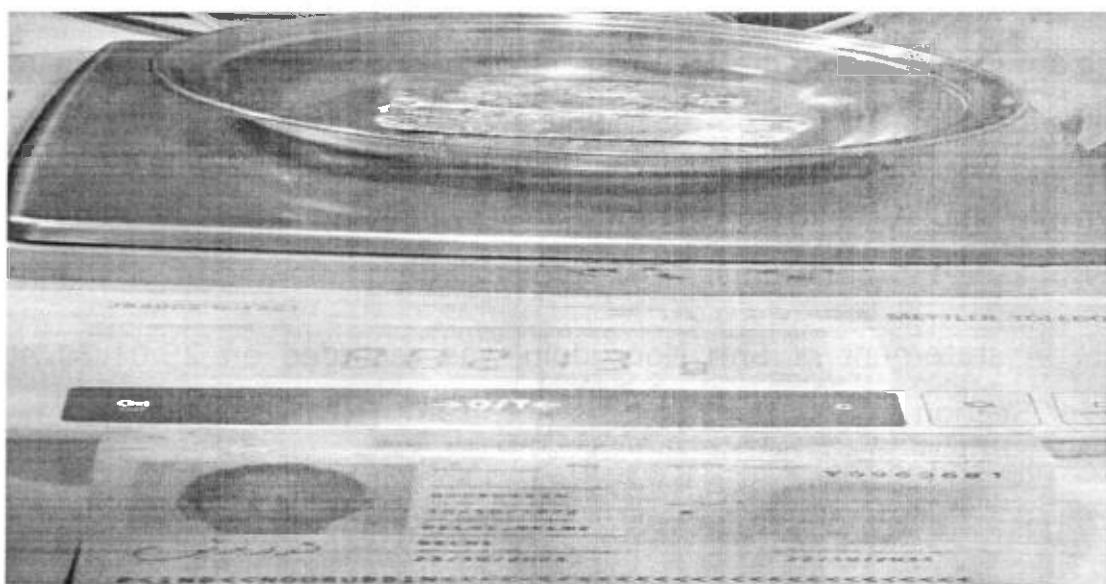
Thereafter, the officers, in presence of the panchas, asked the passenger whether he has concealed any substance in his body, to which he replies in negative. After thorough interrogation by the officers, Shri Nooruddin accepted that he is hiding two capsules covered with black plastic adhesive tape inside his rectum and the capsules contain gold paste with chemical mix in semi solid paste form. The officers, then lead the passenger to the washroom located near belt No. 5 of arrival hall, terminal 2, SVPI Airport, Ahmedabad and the passenger come out of the washroom with two capsules wrapped in black coloured plastic adhesive tape.

2.1 The officers informed the panchas that the capsules recovered from Shri Nooruddin contains semi solid substance comprising of gold and chemical mix, which required to be confirmed and also to be ascertained its purity and weight. For the same, Shri Kartikey Vasantrai Soni, the Government Approved Valuer was contacted, who informed that the facility to extract the gold from such semi solid substance comprising of gold and chemical mix and to ascertain purity and weight of the same, is available at his shop only. Accordingly, the officers, the panchas and the passenger visited his shop situated at 301, Golden Signature, Behind Ratnam Complex, Nr. National Handloom, C.G. Road, Ahmedabad-380006 in Government vehicle. Shri Kartikey Vasantrai Soni, the Government Approved Valuer weighed the said 02 capsules of semi solid substance comprising of gold and chemical mix on his weighing scale and informed that it was weighing 951.560 grams

(weight inclusive of black coloured adhesive tape). The photograph of the same is as under :



2.2 Thereafter, the Government approved valuer Shri Kartikey Vasantrai Soni started the process of converting the said semi solid substances concealed in the said capsules into solid gold. After completion of the procedure, Government Approved Valuer informed that 1 Gold bar weighing 882.130 grams having purity 999.0/24 Kt. is derived from 951.560 grams of 02 capsules containing semi solid paste consisting of gold and chemical mix wrapped in the black colored adhesive plastic tape. The photograph of the extracted gold bar is as under:



After testing the said gold bar, the Government Approved Valuer confirmed that it was pure gold. Shri Soni Kartikey Vasantrai vide certificate no. 1229/2023-24 dated 25.01.2024 (**RUD - 02**) certified that 1 Gold bar weighing **882.130** grams is having purity 999.0/ 24kt, tariff value of **Rs.49,11,188/-** (Rupees Forty-Nine Lakhs Eleven Thousand One Hundred Eighty-Eight only) and Market value of **Rs.56,80,035/-** (Rupees Fifty-Six Lakhs Eighty Thousand Thirty-Five only). The value of the gold bar has been calculated as per the Notification No. 02/2024-Customs (N.T.) dated 15.01.2024 (gold) and Notification No. 04/2024-Customs (N.T.) dated 18.01.2024 (exchange rate).

2.3 The method of purifying, testing and valuation used by Shri Kartikey Vasantrai Soni was done in presence of the independent panchas, the passenger and the officers. All were satisfied and agreed with the testing and Valuation Certificate given by Shri Kartikey Vasantrai Soni and in token of the same, the Panchas and the passenger put their dated signature on the said valuation certificate.

The following documents produced by the passenger were withdrawn under the Panchnama dated 25.01.2024.

i) Copy of Stamped pages of Passport No. Y 9963681 issued on 23.10.2023 at Delhi valid up to 22.10.2033.

3. Accordingly, the said gold bar having purity 999.0/24 Kt. weighing 882.130 grams, derived from the semi solid substance comprising of gold and chemical mix recovered from Shri Nooruddin was seized vide Panchnama dated 25.01.2024, under the provisions of the Customs Act 1962, on the reasonable belief that the said gold bar was smuggled into India by the said passenger with an intention to evade payment of Custom duty and accordingly the same was liable for confiscation under the Customs Act, 1962 read with Rules and Regulation made thereunder.

A statement of Shri Nooruddin was recorded on 25.01.2024, under Section 108 of the Customs Act, 1962 (**RUD-03**), wherein he inter alia stated that -

- (i) he works as a truck driver in Delhi;
- (ii) he went to Dubai on 15.01.2024 and returned back on 25.01.2024 by Spicejet Flight No. SG 58 from Dubai to Ahmedabad; that he had never indulged in any smuggling activity in the past and this was first time he had carried gold;
- (iii) While visiting Dubai, his friend suggested to carry gold from Dubai to India; gold in Dubai is cheaper than India therefore he is advised to purchase the gold from Dubai and sell in India; his friend advised him to conceal the gold in form of capsule containing semi-solid gold paste with chemical mix in rectum so that it cannot be found during check at Airport;
- (iv) he had been present during the entire course of the Panchnama dated 25.01.2024 and he confirmed the events narrated in the said panchnama drawn on 25.01.2024 at Terminal-2, SVPI Airport, Ahmedabad;
- (v) he is aware that smuggling of gold without payment of Custom duty is an offence; he is well aware of the gold concealed in 02 capsules containing gold and chemical mix in semi-solid form in his rectum but he did not make any declarations in this regard with an intention to smuggle the same without payment of Custom duty.

4. The above said gold bar weighing 882.130 grams recovered from Shri Nooruddin, was allegedly attempted to be smuggled into India with an intent to evade payment of Customs duty by way of concealing the same in the form of semi solid substance comprising of gold and chemical mix, which is clear violation of the provisions of the Customs Act, 1962. Thus, on a reasonable belief that the gold bar weighing 882.130 grams is attempted to be smuggled by Shri Nooruddin, liable for confiscation as per the provisions of Section 111 of the Customs Act, 1962. Hence, the above said gold bar weighing 882.130 grams derived from the above said semi solid gold paste with chemical mix along with its packing material used to conceal the semi solid gold paste in 04 capsules, was placed under seizure under the provision of Section 110 and Section 119 of the Customs Act, 1962 vide Seizure memo Order dated 25.01.2024 (**RUD - 04**).

4.1. In view of the above, the said gold totally weighing 882.130 grams seized under panchnama dated 25.01.2024 is to be treated as "smuggled goods" as defined under Section 2(39) of the Customs Act, 1962. It also appears that the said passenger has conspired to smuggle the said gold into India. The offence committed has also been admitted by the said passenger in his statement recorded on 25.01.2024 under Section 108 of the Customs Act, 1962. He, therefore, committed an offence punishable under Section 135 (1) (a) & (b) of the Customs Act,

1962 and therefore, liable to be arrested under Section 104 of the Customs Act, 1962.

In terms of Board's Circulars No. 28/2015-Customs issued from F.No.394/68/2013-Cus (AS) dtd. 23/10/2015 and 27/2015-Cus issued from F.No. 394/68/2013-Cus. (AS) dtd. 23/10/2015, as revised vide Circular No. 13/2022-Customs, 16-08-2022, the prosecution and the decision to arrest may be considered in cases involving outright smuggling of high value goods such as precious metal, restricted items or prohibited items where the value of the goods involved is Rs.50,00,000/- (Rupees Fifty Lakhs) or more. Since the market value of gold amounting to Rs.56,80,035/-, for 882.130 grams gold recovered from Shri Nooruddin, is more than Rs.50,00,000/-, hence this case is fit for arrest of the said passenger under Section 104 of the Customs Act, 1962.

4.2. The provisions of Section 104 (6) & (7) of the Customs Act, 1962 are reproduced as under:-

(6) Notwithstanding anything contained in the Code of [(6) Criminal Procedure, 1973, (2 of 1974) an offence punishable under section 135 relating to —

(a) evasion or attempted evasion of duty exceeding fifty lakh rupees; or

(b) prohibited goods notified under section 11 which are also notified under sub-clause (C) of clause (i) of sub-section (1) of section 135; or

(c) import or export of any goods which have not been declared in accordance with the provisions of this Act and the market price of which exceeds one crore rupees; or

(d) fraudulently availing of or attempt to avail of drawback or any exemption from duty provided under this Act, if the amount of drawback or exemption from duty exceeds fifty lakh rupees, shall be non-bailable.

(7) Save as otherwise provided in sub-section (6), all other offences under this Act shall be bailable.

4.3. From the above, it is clear that cases other than those mentioned in 104 (6) are bailable offences. In the instant case, tariff value of Rs.49,11,188/- (Rupees Forty Nine Lakhs Eleven Thousand One Hundred Eighty Eight only) and Market value of Rs.56,80,035/- (Rupees Fifty Six Lakhs Eighty Thousand Thirty Five only), therefore, the offence committed by the above passenger was bailable offence as

the value of goods was not more than Rs. 1 Crore. Therefore, Superintendent of Customs (AIU), SVPI Airport, Ahmedabad was authorized to arrest Shri Nooruddin under Section 104 of the Customs Act, 1962 and after arresting the passenger, he was offered bail subject to conditions in terms of Circular No. 38/2013-Cus dated 17.09.2013. The passenger, accepting the bail conditions, deposited bail bond amount of Rs.1,00,000/- and released on bail.

5. RELEVANT LEGAL PROVISIONS:

A. THE CUSTOMS ACT, 1962:

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

(22) "goods" includes—

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

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

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

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

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

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

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

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

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

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

imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;

(f) any dutiable or prohibited goods required to be mentioned under the regulations in an arrival manifest or import manifest or import report which are not so mentioned;

(i) any dutiable or prohibited goods found concealed in any manner in any package either before or after the unloading thereof;

(j) any dutiable or prohibited goods removed or attempted to be removed from a customs area or a warehouse without the permission of the proper officer or contrary to the terms of such permission;

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

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

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

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

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

VII) Section 119 in the Customs Act, 1962:

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

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

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

II) "Section 3(3) - All goods to which any Order under sub-section (2) applies shall be deemed to be goods the import or export of which has been prohibited under section 11 of the Customs Act, 1962 (52 of 1962) and all the provisions of that Act shall have effect accordingly."

III) "Section 11(1) - No export or import shall be made by any person except in accordance with the provisions of this Act, the

rules and orders made thereunder and the foreign trade policy for the time being in force."

C. THE CUSTOMS BAGGAGE DECLARATIONS REGULATIONS, 2013:

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

Contravention and violation of law:

6. It therefore appears that:

(a) The passenger Shri Nooruddin had dealt with and knowingly indulged himself in the instant case of smuggling of gold into India. The passenger had improperly imported gold weighing 882.130 grams having purity 999.0/24kt, Tariff value of Rs.49,11,188/- (Rupees Forty-Nine Lakhs Eleven Thousand One Hundred Eighty Eight only) and Market value of Rs.56,80,035/- (Rupees Fifty-Six Lakhs Eighty Thousand Thirty Five only). The said semi solid gold paste was concealed in 02 capsules covered with black adhesive plastic tape containing gold and chemical mix in semi-solid paste form and not declared to the Customs. The passenger opted green channel to exit the Airport with deliberate intention to evade the payment of Customs Duty and fraudulently circumventing the restrictions and prohibitions imposed under the Customs Act 1962 and other allied Acts, Rules and Regulations. Thus, the element of *mens rea* appears to have been established beyond doubt. Therefore, the improperly imported gold bar weighing 882.130 grams of purity 999.0/24 Kt. by the passenger by way of concealment and without declaring it to the Customs on arrival in India cannot be treated as bonafide household goods or personal effects. The passenger has thus contravened the Foreign Trade Policy 2015-20 and Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 read with Section 3(2) and 3(3) of the Foreign Trade (Development and Regulation) Act, 1992.

(b) By not declaring the value, quantity and description of the goods imported by him, the said passenger violated the provision of Baggage Rules, 2016, read with the Section 77 of the Customs

Act, 1962 read with Regulation 3 of Customs Baggage Declaration Regulations, 2013.

(c) The improperly imported gold by the passenger found concealed in 02 capsules containing gold and chemical mix in semi-solid paste form without declaring it to the Customs is thus liable for confiscation under Section 111(d), 111(f), 111(i), 111(j), 111(l) and 111(m) read with Section 2 (22), (33), (39) of the Customs Act, 1962 and further read in conjunction with Section 11(3) of Customs Act, 1962.

(d) As per Section 119 of the Customs Act, 1962 any goods used for concealing smuggled goods shall also be liable for confiscation.

(e) Shri Nooruddin by his above-described acts of omission and commission on his part has rendered himself liable to penalty under Section 112 of the Customs Act, 1962.

(f) As per Section 123 of the Customs Act, 1962, the burden of proving that the gold bar weighing 882.130 grams having purity 999.0/ 24kt derived from semi solid gold paste concealed in 02 capsules containing gold and chemical mix in semi-solid paste form in rectum, without declaring it to the Customs, is not smuggled goods, is upon the passenger.

7. Now, therefore, **Shri Nooruddin**, residing at House No. 79/1, Gali No -1, Nala Rod, Jafrabad, Delhi, Pin 110053, Delhi, India and holding Indian Passport No. Y9963681, is hereby called upon to show cause in writing to the Additional Commissioner of Customs, Ahmedabad having his office at 2nd Floor, Customs House, Opp. Old High Court, Navrangpura, Ahmedabad - 380009, as to why:

(i) One Gold Bar weighing **882.130** grams having purity 999.0/24kt, Tariff value of **Rs.49,11,188/-** (Rupees Forty-Nine Lakhs Eleven Thousand One Hundred Eighty-Eight only) and Market value of **Rs.56,80,035/-** (Rupees Fifty Six Lakhs

Eighty Thousand Thirty Five only), derived from semi solid gold paste concealed in 02 capsules containing gold and chemical mix in semi-solid paste form in rectum by the passenger and placed under seizure under panchnama proceedings dated 25.01.2024 and Seizure Memo Order dated 25.01.2024, should not be confiscated under the provision of Section 111(d), 111(f), 111(i), 111(j), 111(l) and 111(m) of the Customs Act, 1962;

- (ii) The packing material i.e. Black colored plastic adhesive tapes used for concealment of the said semi solid gold paste, seized under panchnama dated 25.01.2024 and Seizure memo order dated 25.01.2024, should not be confiscated under Section 119 of the Customs Act, 1962; and
- (iii) Penalty should not be imposed upon the passenger, under Section 112 of the Customs Act, 1962, for the omissions and commissions mentioned hereinabove.

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

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

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

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

12. The relied upon documents for the purpose of this notice are listed in Annexure 'A' and copies thereof are enclosed with this notice.

Vishal
29/5/24

(Vishal Malani)
Additional Commissioner
Customs, Ahmedabad.

DIN: 20240571MN000000CCCD

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

Date: 29/05/2024

BY SPEED POST

To,

Shri Nooruddin

House No. 79/1, Gali No -1, Nala Road,
Jafrabad, Delhi, Pin 110053, Delhi.

Copy to:

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

Annexure 'A'

List of documents relied upon in the show cause notice issued to Shri Nooruddin residing at House No. 79/1, Gali No -1, Nala Road, Jafrabad, Delhi, Pin 110053, Delhi, India:

Sr. No	Document	Remarks
1	Panchnama drawn on 25.01.2024 at SVP International Airport, Ahmedabad	Copy enclosed
2.	Valuation certificate dated 25.01.2024 issued by Shri Karitkey Soni, Government Approved Valuer.	Copy enclosed
3.	Statement dated 25.01.2024 of Shri Nooruddin	Copy enclosed
4.	Seizure memo Order dated 25.01.2024 issued under Section 110(1) & (3) of the Customs Act, 1962 in respect of the gold bar weighing 882.130 grams along with its packing material.	Copy enclosed