

**प्रधान आयुक्तका कार्यालय, सीमाशुल्क, अहमदाबाद**

" सीमाशुल्कभवन, "पहलीमंजिल, पुरानेहाईकोर्टकेसामने, नवरंगपुरा, अहमदाबाद - 380 009.
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SHOW CAUSE NOTICE**(Issued under Section 124 of the Customs Act, 1962)**

Shri Mahammadburhan Mohammedhanif Arab, S/o Shri Mohammedhanif Mohammadhamid Arab (herein after referred to as the 'passenger/ Noticee') residing at Haji Abdul Karim Pahelvan No Khancho, Yakutpura, Vadodara - 390006, holding Indian Passport bearing No. Z7545601 arrived from Jeddah by Indigo Flight No. 6E 92 at SVP International Airport, Ahmedabad on 16.01.2024. On the basis of specific intelligence that one Passenger is suspected to be restricted/prohibited goods and therefore a thorough search of all the baggage of the passenger as well as his personal search is required to be carried out. Also, he needed to be guided from the airplane to ensure that the goods are not handed over to someone else. The passenger would be arriving on Flight No. 6E 92 of Indigo Airline which will be landing at 10:20 hrs. on 16.01.2024.

Accordingly, in the presence of Panchas, the AIU officer reached the Airplane which had carried flight No. 6E 92 arriving from Jeddah to Ahmedabad. The officers then checked the passport of all the passengers deplaning from the flight. They found a passenger with the passport bearing No. Z7545601 and the name Mahammadburhan Mohammedhanif Arab (Seat No. 26C) and informed him that they would guide him from the airplane.

The passenger was guided to the Immigration Hall where he got his passport checked in. Thereafter, in the presence of the Panchas, the AIU officers guided the passenger to the Red Channel and asked him whether he was carrying any dutiable goods/ foreign currency or any restricted goods and whether he wished to declare anything before Customs Authorities, to which the said passenger replied in negative.

2.1 The AIU officers under Panchnama proceedings dated 16.01.2024 [**RUD No.-01**] in presence of two independent witnesses asked the passenger if he had anything dutiable to declare to the Customs authorities, to which the said passenger replied in negative. The AIU officers informed the passenger that they would be conducting his personal search and detailed examination of his baggage. The said passenger was asked by officers whether he wished to be searched before a Gazetted officer or Magistrate for which he agreed to being searched by a Gazetted officer. Before conducting the search, the AIU officers offer their personal search to which he denied and said that it was not necessary and he had full faith in the officers. The officers asked the passenger to pass through the Door Frame Metal Detector (DFMD) Machine installed near the green channel in the Arrival Hall of Terminal 2 building, after removing all metallic objects from his body/ clothes. The AIU officer was asked to passenger to pass through the Door Frame Metal Detector placed in the hall in front of Belt No.2 near green channel in the arrival hall of Terminal-2, SVPI Airport but no beep sound was heard indicating carrying any high valued dutiable goods. However, on the basis of input received that said passenger might be carrying high value dutiable/ contraband goods. The AIU officer asked the passenger put all baggage in to baggage scanning machine (BSM) and during the scan of checked-in baggage of the passenger, some dark color images appear on the X-ray screen. Therefore, the check-in baggage of the passenger was opened and thoroughly checked in front of the Panchas. On opening the baggage of the passenger, the officers noticed that 01 grinder mixture machine is present inside baggage of the passenger, the same was again scanned through the X-ray machine and the same dark images appeared on the X-ray screen. Further, the Customs officer interrogated the passenger, and again asked them about the dark images which were shown in the mixture machine, in reply of which the passenger stated that gold in solid form was concealed inside that grinder mixture machine, further, the officers started the extraction of the concealed gold inside the grinder mixture machine. Thereafter, the mixture was opened with the screwdrivers. After opening of the mixture grinder machines, 02 solid arc shaped gold cut bars from inner coil of mixture grinder machine were recovered by the officers in

presence of the Panchas. The AIU officers, in front of the Panchas, further interrogated the passenger whether he was carrying any other dutiable items apart from above mentioned arc shaped cut bars (recovered from the mixture), on sustained interrogation, Shri Mahammadburhan Mohammedhanif Arab stated that he was also carrying Plastic pouches containing semi-solid substance of gold hidden inside his clothes. Thereafter, Shri Mahammadburhan Mohammedhanif Arab took out the above-mentioned pouch of semi-solid substance from his underpants and brought the same to the officers, in the presence of the Panchas.

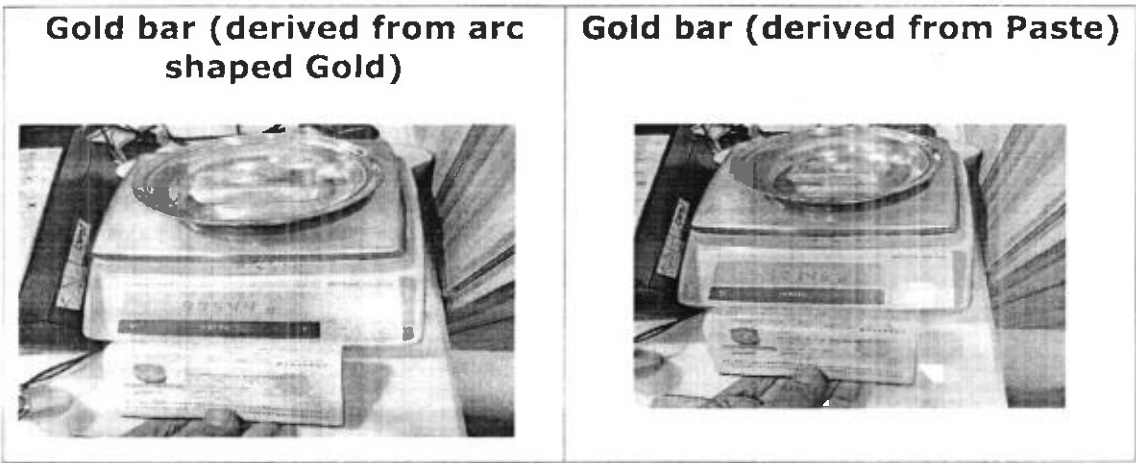
2.2 Thereafter, the officers called the Government Approved Valuer and informed him that 02 arc shaped gold cut bars and 01 plastic transparent pouch covered with white tapes have been detected from a passenger and the passenger had informed that it was gold in the form of solid or semi-solid paste material and hence, he needed to come to the Airport for testing and Valuation of the said material. In reply, the Government Approved Valuer informed the Customs (AIU) officer that the testing of the said material was only possible at his workshop as gold had to be extracted from such solid or semisolid paste material form by melting it and also informed the address of his workshop.

Thereafter, on reaching the above referred premises, the AIU officer introduces the Panchas as well as passenger to one person named Mr. Kartikey Vasantryai Soni, Government Approved Valuer.

After weighing 02 arc shape gold cut bars recovered from mixture machine and one plastic pouch found concealed inside underpants of Shri Mahammadburhan Mohammedhanif Arab, Mr. Kartikey Vasantryai Soni informed that the gross weight of said semisolid like substances in pouch was 552.930 grams and of 02 arch shaped solid cut bars was 995.670 grams. Thereafter, he leaded them to the furnace, inside his workshop. There, Mr. Kartikey Vasantryai Soni started the process of converting the said paste like substances into solid gold by putting the pouch fully into the furnace and upon heating the said semi solid substances, turned into liquid material. The said

substance in liquid state was taken out of furnace, and poured in a bar shaped plate and after cooling for some time, it become yellow coloured solid metal in form of a bar. After completion of the procedure, Government Approved Valuer informed that gold bar weighing 501.450 Grams having purity 999.0/24kt was derived from the 552.930 Grams of semisolid paste substance consisting of Gold paste and chemical mix. Similarly, 01 Gold bar weighing 995.440 grams was derived from 02 gold arc shaped cut bars having gross weight 995.670 grams.

2.3 Here, after weighing the said articles on his weighing scale, Mr. Kartikey Vasantrai Soni informed that the said gold bars total weighing 1496.890 Grams and photograph of the same is as under:



2.4 After testing the said yellow-colored metals, the Government Approved Valuer confirmed that it was pure gold. Further, he informed that the said recovered bar net weighing 501.450 Grams derived from semisolid paste/ dust substances/ material and gold bar net weighing 995.440 Grams derived from 02 gold arc shaped cut bars were consisting of Gold. The gold bars weighing **1496.890** grams have purity 999.0/24kt and Market Value at **Rs.96,20,512/-** (Rupees Ninety-Six Lakhs Twenty Thousand Five Hundred and Twelve only) and tariff value at **Rs.83,48,679/-** (Rupees Eighty-Three Lakhs Forty-Eight Thousand Six Hundred and Seventy-Nine 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. 01/2024-Customs (N.T.) dated 05.01.2024 (exchange rate).

Sl. No.	Details of Items	PCS	Net Weight in Gram	Purity	Market Value (Rs.)	Tariff Value (Rs.)
1.	Gold bar (derived from arc shaped Gold)	1	995.440	999.0 24Kt.	63,97,693/-	55,51,917/-
2	Gold bar (derived from Paste)	1	501.450	999.0 24Kt.	32,22,819/-	27,96,762/-
	Total	2	1496.890	999.0 24Kt.	96,20,512/-	83,48,679/-

3. The gold bars weighing 1496.890 grams have purity 999.0/24kt and Market Value at Rs.96,20,512/- (Rupees Ninety-Six Lakhs Twenty Thousand Five Hundred and Twelve only) and tariff value at Rs.83,48,679/- (Rupees Eighty-Three Lakhs Forty-Eight Thousand Six Hundred and Seventy-Nine only). The said gold recovered from the passenger was attempted to be smuggled inside India with intent to evade payment of Customs duty and was a clear violation of the provisions of the Customs Act, 1962. Thus, having a reasonable belief that the said gold total weighing 1496.890 Grams was attempted to be smuggled by the passenger, were liable for confiscation under the provisions of the Customs Act, 1962; they were placed under seizure vide Panchnama dated 16.01.2024 drawn by the Officer of Customs (AIU) under a reasonable belief that the subject Gold was attempted to be smuggled into India and was liable for confiscation under Section 111 of the Customs Act, 1962 (**Seizure Report dated 16.01.2024- RUD No. 03**). Further, the gold, recovered from the passenger, was placed under seizure under section 110 of the Customs Act, 1962 vide Panchnama dated 16.01.2024 drawn by the Officer of Customs, AIU, at SVPI Airport, Ahmedabad.

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

- (i) Copy of Passport No. Z7545601 issued at Ahmedabad on 15.12.2023 valid up to 14.12.2033. (**RUD No. 04**)
- (ii) Boarding pass of Indigo Flight number 6E 92 having seat no. 26C and sequence no. 0076 from Jeddah to Ahmedabad dated 16.01.2024. (**RUD No.05**)

(iii) Passenger Manifest of Indigo Flight number 6E 92 from Jeddah to Ahmedabad dated 16.01.2024 depicting name of Shri Mahammadburhan Mohammedhanif Arab **(RUD -No. 6)**

4. The statement of the passenger was recorded on 16.01.2024 under Section 108 of the Customs Act, 1962 **(RUD NO.-07)**, wherein he, inter alia, stated that he arrived from Indigo Flight number 6E 92 on 16.01.2024 having seat no. 26C, having Passport No. Z7545601 at Sardar Vallabhbhai Patel International Airport, Ahmedabad. Furthermore, the passenger accepted that the said 02 Gold bars having weight 1496.890 Grams derived from arc shaped gold bars and hidden/ concealed inside a grinder mixture and semi-solid substance pouch hidden in underpants is carried by him but does not belonged to him as it was given to him by a unknown person in Jeddah to bring the same to India in favor of which he would get Rs.20,000/-. Under his statement, the passenger admitted that he was aware that the bringing gold by way of concealment to India is illegal and it is an offence. Further, he also stated that some unknown person had given him a mixture grinder and pajama/ underpants in which gold was concealed told him to carry the same to India and some unknown person will take from him by his own from him in India. His intention was to earn speedy money by doing this illegal carrying of gold of 24 Kt. in commercial quantity in India without declaration. The same was clearly meant for commercial purpose and hence do not constitute bonafide baggage within the meaning of Section 79 of the Customs Act, 1962. Further, the said goods were also not declared before Customs by the pax. He stated that he was aware that smuggling of gold without payment of customs duty is an offence. Since, he had to clear the gold without payment of Customs duty, he did not make any declarations in this regard. He admitted that he had opted for green channel so that he could attempt to smuggle the Gold without paying customs duty. Further, he again confirmed the recovery of gold weighing 1496.890 grams of 999.0/24 Kt purity valued at Rs.83,48,679/- (Tariff value) and Rs.96,20,512/- (Market value) from him during the course of Panchnama dated 16.01.2024.

5. Therefore, on the basis of facts narrated above, the said gold weighing 1496.890 grams of 999.0/24 Kt purity valued at Rs.83,48,679/- (Tariff value) and Rs.96,20,512/- (Market value),

appeared liable for confiscation, was placed under seizure under Panchnama dated 16.01.2024 as said gold totally weighing 1496.890 grams seized under Panchnama dated 16.01.2024 was "smuggled goods" as defined under Section 2(39) of Customs Act, 1962. It also appeared that the said pax has conspired to smuggle the said gold into India. The offence committed has been admitted by the said passenger in his statement recorded on 16.01.2024 under Section 108 of the Customs Act, 1962. He has committed an offence punishable under Section 135 (1) (a) & (b) of the Customs Act, 1962.

6. In terms of Board's Circulars No. 28/2015-Customs issued from F. No. 394/68/2013-Cus (AS) dated 23/10/2015 and 27/2015-Cus issued from F. No. 394/68/2013-Cus. (AS) dated 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 amounted to Rs. 96,20,512/- totally weighing 1496.890 grams recovered from Shri Mahammadburhan Mohammedhanif Arab 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. Hence, the passenger was arrested on 16.01.2024

7. RELEVANT LEGAL PROVISIONS:

A. THE CUSTOMS ACT, 1962:

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

(22) "goods" includes—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

under Section 111,
shall be liable to penalty.

VII) "SECTION 119- Confiscation of goods used for concealing smuggled goods – Any goods used for concealing smuggled goods shall also be liable to confiscation.

Explanation. – In this section, "goods" does not include a conveyance used as a means of transport.

VIII) Section 104 of the Customs Act, 1962- The provisions of Section 104 (6) & (7) of the Customs Act, 1962 is 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.]

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

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

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

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

C. THE CUSTOMS BAGGAGE DECLARATIONS REGULATIONS, 2013:

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

CONTRAVENTION AND VIOLATION OF LAWS

8. It therefore appears that -

- (a)** Shri Mahammadburhan Mohammedhanif Arab improperly imported the 02 gold bars (derived from 02 arc shaped bars and semi solid substance pouch) weighing 1496.890 grams have purity 999.0/24kt and Market Value at Rs.96,20,512/- (Rupees Ninety-Six Lakhs Twenty Thousand Five Hundred and Twelve only) and tariff value at Rs.83,48,679/- (Rupees Eighty Three Lakhs Forty Eight Thousand Six Hundred and Seventy-Nine only) concealed/hidden inside the baggage and clothes of the passenger (as discussed herein above) without declaring it to the Customs by denying that he has nothing to declare to customs with a deliberate intention to evade the payment of customs duty and fraudulently circumventing the restrictions and prohibitions imposed under the Customs Act 1962 and other allied Acts, Rules and Regulations. The passenger had knowingly and intentionally imported the said Gold improperly without declaring the same to the Customs authority under temptation to evade Customs Duty. Therefore, the gold imported by the passenger which was not declared to the Customs on arrival in India cannot be treated as bonafide household goods or personal effects. Shri Mahammadburhan Mohammedhanif Arab has thus contravened the Foreign Trade Policy 2015-20 and Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 read with Section 3(2) and 3(3) of the Foreign Trade (Development and Regulation) Act, 1992.
- (b)** The passenger, by not declaring the contents of his baggage which included dutiable and prohibited goods to the proper officer of the Customs has contravened Section 77 of the Customs Act, 1962 read with Regulation 3 of Customs Baggage Declaration Regulations, 2013.

- (c) The improperly imported 02 gold bars (derived from 02 arc shaped bars and semi solid substance pouch) hidden/concealed inside the baggage and clothes by the passenger without declaring it to the Customs is thus liable for confiscation under Section 111(d), 111(i) and 111(j) read with Section 2 (22), (33), (39) of the Customs Act, 1962 and further read in conjunction with Section 11(3) of Customs Act, 1962.
- (d) The passenger, by his above-described acts of omission and commission on his part has rendered himself liable to penalty under Section 112 of Customs Act, 1962.
- (e) As per Section 123 of Customs Act 1962, the burden of proving that the 02 gold bars (derived from 02 arc shaped bars and semi solid substance pouch), weighing 1496.890 grams have purity 999.0/24kt and Market Value at Rs.96,20,512/- (Rupees Ninety-Six Lakhs Twenty Thousand Five Hundred and Twelve only) and tariff value at Rs.83,48,679/- (Rupees Eighty-Three Lakhs Forty Eight Thousand Six Hundred and Seventy-Nine only) hidden in the baggage and clothes by the passenger without declaring it to the Customs, are not smuggled goods, is upon the passenger and Noticee, Shri Mahammadburhan Mohammedhanif Arab.

9. Now therefore, **Shri Mahammadburhan Mohammedhanif Arab**, resident of Haji Abdul Karim Pahelvan No Khancho, Yakutpura, Vadodara-390006, India holding Indian Passport bearing No. Z7545601, is called upon to show cause in writing to **The Additional Commissioner of Customs, Ahmedabad** having his office at Custom House, Nr. All India Radio, Income Tax Circle, Navrangpura, Ahmedabad, as to why:

- (i) The 02 gold bars (derived from 02 arc shaped bars and semi solid substance pouch), weighing **1496.890** grams having purity 999.0 (24KT) having Market Value at **Rs.96,20,512/-** (Rupees Ninety-Six Lakhs Twenty

Thousand Five Hundred and Twelve only) and tariff value at **Rs.83,48,679/-** (Rupees Eighty Three Lakhs Forty Eight Thousand Six Hundred and Seventy-Nine only) placed under seizure under panchnama dated 16.01.2024 and seizure memo order dated 16.01.2024 should not be confiscated under Section 111(d), 111(f), 111(i), 111(j), 111(l) and 111(m) of the Customs Act, 1962;

- (ii) Penalty should not be imposed upon the passenger, under Section 112(a) and 112(b) of the Customs Act, 1962.

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

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

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

13. 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.

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

Vishal
29/5/24

(Vishal Malani)
Additional Commissioner,
Customs, Ahmedabad

DIN : 20240571MN0000333ED0
F. No. VIII/10-20/SVPIA-D/O&A/HQ/2024-25 Date: 29/05/2024

BY SPEED POST
To,
Shri Mahammadburhan Mohammedhanif Arab,
Haji Abdul Karim Pahelvan No Khancho,
Yakutpura, Vadodara-390006, India.

Copy to:

- (i) The Deputy/Assistant Commissioner of Customs (AIU), T-2 Terminal, Sardar Vallabhbhai Patel International Airport, Ahmedabad.
- (ii) The System In charge, Customs HQ, Ahmedabad for uploading on official web-site i.e. <http://www.ahmedabadcustoms.gov.in>.
- (iii) Guard File.

ANNEXURE ~ 'R'

LIST OF DOCUMENTS/ RECORDS RELIED UPON FOR THE PURPOSE OF SHOW CAUSE NOTICE ISSUED TO SHRI MAHAMMADBURHAN MOHAMMEDHANIF ARAB

S. No.	Nature of document	Remarks
1	Panchnama dated 16.01.2024 drawn at SVPI Airport, Ahmedabad	Copy already provided Available for Inspection at Group-D, AIU, SVPI Airport, Ahmedabad.
2	Valuation Report of Government Approved Valuer Shri Kartikey Vasantraï Soni vide his report dated 16.01.2024	
3	Seizure memo Order dated 16.01.2024 issued under Section 110(1) of the Customs Act, 1962.	
4	Copy of Passport No. Z7545601 issued on 15.12.2023.	
5	Copy of Boarding Pass showing Seat No.26C of the passenger in Indigo 6E 92 from Jeddah to Ahmedabad dated 16.01.2024.	
6	Passenger Manifest of Indigo 6E 92 from Jeddah to Ahmedabad dated 16.01.2024 depicting name of Shri Mahammadburhan Mohammedhanif Arab.	
7	Statement of Shri Mahammadburhan Mohammedhanif Arab recorded on 16.01.2024.	