



प्रधान आयुक्ता कार्यालय, सीमाशुल्क, अहमदाबाद

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SHOW CAUSE NOTICE

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

Shri Mahavoov Ahamad, S/o Shri Mohammad Raoof (herein after referred to as the said 'passenger/ Noticee') residing at House No. 94, Chak No. 11, Tehsil Tanda, Rampur, Uttar Pradesh - 244925 holding Indian Passport bearing No. M0438739 arrived from Dubai by SpiceJet Flight No. SG 16 dated 15.01.2024 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 was required to be carried out.

The passenger had opted for green channel at arrival hall of terminal-2 of Sardar Vallabhbhai Patel International Airport (SVPI), Ahmedabad but on the basis of input received from DRI Ahmedabad Zonal Unit, thorough checking of the said passenger as well as examination of his baggage was required to be checked. The passenger was intercepted when he crossed the Red Channel and further exiting the Green Channel. The officers then check the passport and found the passengers namely Shri Mahavoov Ahamad, in the presence of the Panchas.

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 the officers whether he wished to be searched before a Gazetted officer or Magistrate for which he agreed to being

searched by a Gazetted officer. Before conducting the search, the AIU officers offered him 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 asked the 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's officer asked the passenger put all baggage in to baggage scanning machine (BSM) and during the scan of checked-in baggage of the passenger, nothing suspicious appeared on the screen on the X-ray screen.

2.2. Thereafter, the Customs officer interrogated the passenger, Shri Mahavoov Ahamad and again asked him if he was carrying any dutiable goods with him, on sustained interrogation, the said passenger confessed that he was carrying high valued dutiable goods i.e. 01 gold capsule in his rectum covered with black tape. Thereafter, the passenger took out the capsule from his body in bathroom 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 01 gold capsules covered with black tape have been detected from a passenger and the passenger had informed that it was gold in the form of 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 material form by melting it and informed the address of his workshop.

2.3 Thereafter, on reaching the premises of the valuer, the AIU officer introduced the Panchas as well as the passenger to one person named Shri Kartikey Vasantrai Soni, Government Approved Valuer.

Thereafter, Shri Mr. Kartikey Vasantrai Soni, weighed the said semi solid paste/ dust substance in capsule form recovered from the passenger on his weighing scale. After, weighing the semi-solid paste/ dust substance in capsule form recovered from Shri Mahavoov Ahamad, Shri Kartikey Vasantrai Soni informed that the gross weight of said substance is 275.190 grams.

2.5 Thereafter, he leads us to the furnace, inside his workshop. Here, Mr. Kartikey Vasantrai Soni started the process of converting the said paste like substances recovered from Shri Mahavoov Ahamad into solid gold by putting the capsule containing paste fully into the furnace and upon heating the said semi-solid substances, turned into liquid materials. The said substance in liquid state is taken out of furnace and poured in a bar shaped plate and after cooling for some time, it became yellow colored solid metal in form of a bar. After completion of the procedure, Government Approved Valuer informed that gold bar weighing 248.180 Grams having purity 999.0/24kt is derived from 275.190 Grams of semisolid paste substance consisting of Gold paste and chemical mix which is recovered from Shri Mahavoov Ahamad.

Gold bar (derived from semisolid paste substance in capsule form)



2.6 After testing the said yellow-colored metal, the Government Approved Valuer confirmed that it was pure gold. Further, he informed that the said recovered bar net weighing **248.180** Grams derived from semisolid paste substance consisted of Gold. The gold bar weighing 248.180 grams has purity 999.0/24kt and Market Value at **Rs.16,07,462/-** (Rupees Sixteen Lakh Seven Thousand Four Hundred and Sixty-Two only) and tariff value at **Rs.13,84,187/-** (Rupees Thirteen Lakhs Eight-Four Thousand One Hundred and Eighty-Seven 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 semisolid paste substance)	1	248.180	999.0 24Kt.	16,07,462/-	13,84,187/-

3. The gold bar weighing 248.180 grams has purity 999.0/ 24kt and Market Value at Rs.16,07,462/- (Rupees Sixteen Lakh Seven Thousand Four Hundred and Sixty-Two only) and tariff value at Rs.13,84,187/- (Rupees Thirteen Lakhs Eight-Four Thousand One Hundred and Eighty-Seven only). The said gold recovered from the passenger was attempted to be smuggled inside India with intent to evade payment of Customs duty and was a clear violation of the provisions of Customs Act, 1962. Thus, having a reasonable belief that the said gold weighing 248.180 Grams was attempted to be smuggled by the passenger, was liable for confiscation under the provisions of 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. M0438739 issued at Ahmedabad on 04/08/2014 valid up to 03/08/2024. **(RUD No. 04)**.
- (ii) Boarding pass of SpiceJet Flight number SG 16 having seat no. 28B and sequence no. 73 from Dubai to Ahmedabad dated 15.01.2024. **(RUD No.05)**.
- (iii) Passenger Manifest of SpiceJet Flight number SG 16 from Dubai to Ahmedabad dated 15.01.2024 depicting name of Shri Mahavoov Ahamad **(RUD -No. 6)**.

4. A 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 SpiceJet Flight number SG 16 on 16.01.2024 having seat no. 28B, having Passport No. M0438739 at Sardar Vallabhbhai Patel International Airport, Ahmedabad. Furthermore, the passenger accepted that the said 01 Gold bar having weight 248.180 Grams derived from semisolid paste substance hidden/concealed inside his rectum was carried by him but does not belong to him as it was given to him by a unknown person in Dubai to bring the same to India in favor of which he would get Rs 10,000/-. 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 offense. Further, he also stated that some unknown person had given him that capsule in which gold was concealed and told him to carry the same to India and some unknown person will call him and take the capsule containing gold from him in Mumbai. 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 248.180 grams of 999.0/24 Kt purity valued at Rs.13,84,187/- (Tariff value) and Rs.16,07,462/- (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 248.180 grams of 999.0/24 Kt purity valued at Rs.13,84,187/- (Tariff value) and Rs.16,07,462/- (Market value), appeared liable for confiscation, was placed under seizure under Panchnama dated 16.01.2024 as said gold totally weighing 248.180 grams seized under Panchnama dated 16.01.2024 was "smuggled

goods" as defined under Section 2(39) of the Customs Act, 1962. It also appeared that the said pax has conspired to smuggle the said gold into India. The offence committed has been admitted by the said passenger in his statement recorded on 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. RELEVANT LEGAL PROVISIONS:

A. THE CUSTOMS ACT, 1962:

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

(22) "goods" includes-

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

C. THE CUSTOMS BAGGAGE DECLARATIONS REGULATIONS, 2013:

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

CONTRAVENTION AND VIOLATION OF LAWS

8. It therefore appears that:

- (a)** Shri Mahavoov Ahamad improperly imported the 01 gold bar (derived from semisolid paste substance) weighing 248.180 grams have purity 999.0/24kt and Market Value at Rs.16,07,462/- (Rupees Sixteen Lakh Seven Thousand Four Hundred and Sixty-Two only) and tariff value at Rs.13,84,187/- (Rupees Thirteen Lakhs Eight-Four Thousand One Hundred and Eighty-Seven only) concealed/ hidden inside his rectum (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 Mahavoov Ahamad 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 gold hidden in his rectum 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 01 gold bar (derived from semisolid paste substance) hidden/ concealed inside rectum 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 the Customs Act, 1962.
- (e) As per Section 123 of the Customs Act, 1962, the burden of proving that the 01 gold bar (derived from semisolid paste substance), weighing 248.180 grams have purity 999.0/24kt and Market Value at Rs.16,07,462/- (Rupees Sixteen Lakh Seven Thousand Four Hundred and Sixty-Two only) and tariff value at Rs.13,84,187/- (Rupees Thirteen Lakhs Eight-Four Thousand One Hundred and Eighty-Seven only) hidden in rectum by the passenger without declaring it to the Customs, are not smuggled goods, is upon the passenger and Noticee, Shri Mahavoov Ahamad.

9. Now therefore, **Shri Mahavoov Ahamad**, resident of House No. 94, Chak No. 11, Tehsil Tanda, Rampur, Uttar Pradesh - 244925 holding Indian Passport bearing No. M0438739, 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 01 gold bar (derived from semisolid paste substance), weighing **248.180** grams having purity 999.0 (24KT) having Market Value at **Rs.16,07,462/-** (Rupees Sixteen Lakh Seven Thousand Four Hundred and Sixty-Two only) and tariff value at **Rs.13,84,187/-** (Rupees Thirteen Lakhs Eight-Four Thousand One Hundred and Eighty-Seven 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;
- (j) Penalty should not be imposed under Section 112(a) and 112(b) of the Customs Act, 1962.

10. Shri Mahavoov Ahamad 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 on the basis of 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.

V. Malani
29/5/24

(Vishal Malani)

Additional Commissioner,
Customs, Ahmedabad

DIN: 20240571MN0000222BEO

F. No. VIII/10-26/SVPIA-D/O&A/HQ/2024-25

Date: 29.05.2024

BY SPEED POST

To,

Shri Mahavoov Ahamad,
House No. 94, Chak No. 11,
Tehsil Tanda, Rampur,
Uttar Pradesh-244925.

Copy to:

- (i) The Deputy/Assistant Commissioner of Customs (AIU), T-2 Terminal, Sardar Vallabhbhai Patel International Airport, Ahmedabad-380003.
- (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 MAHAVOOV AHAMAD.

S. No.	Nature of document	Remarks
1	Panchnama dated 16.01.2024 drawn at SVPI Airport, Ahmedabad	Copy already provided
2	Valuation Report of Government Approved Valuer Shri Kartikey Vasantrai Soni vide his report dated 16.01.2024	Copy enclosed
3	Seizure memo Order dated 16.01.2024 issued under Section 110(1) of the Customs Act, 1962.	Copy enclosed
4	Copy of Passport No. M0438739 issued on 04.08.2014.	Copy enclosed
5	Copy of Boarding Pass showing Seat No.28B of the passenger in SpiceJet SG 16 from Dubai to Ahmedabad dated 15.01.2024.	Copy enclosed
6	Passenger Manifest of SpiceJet SG 16 from Dubai to Ahmedabad dated 15.01.2024 depicting name of Shri Mahavoov Ahamad.	Copy enclosed
7	Statement of Shri Mahavoov Ahamad recorded on 16.01.2024.	Copy enclosed