



प्रधान आयुक्त का कार्यालय, सीमा शुल्क, अहमदाबाद

“सीमाशुल्कभवन”, पहली मंजिल, पुसनेहाईकोर्टके सामने, नवरंगपुरा, अहमदाबाद – 380009

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**PREAMBLE**

A	फाइल संख्या/ File No.	:	VIII/10-70/SVPIA-A/O&A/HQ/2025-26
B	कारण बताओ नोटिस संख्या-तारीख / Show Cause Notice No. and Date	:	VIII/10-70/SVPIA-A/O&A/HQ/2025-26 Dated 09.02.2026
C	मूलआदेश संख्या/ Order-In-Original No.	:	<b>02/ADC/SRV/O&amp;A/HQ/2026-27</b>
D	आदेश तिथि/ Date of Order-In-Original	:	<b>07.04.2026</b>
E	जारी करने की तारीख/ Date of Issue	:	<b>07.04.2026</b>
F	द्वारा पारित/ Passed By	:	<b>Shree Ram Vishnoi,</b> Additional Commissioner, Customs, Ahmedabad
G	आयातक का नाम और पता / Name and address of Importer/ Passenger	:	<b>(i) Smt. Komal Jalpesh Modi,</b> B 501, Heart Villa Apartment, Opp. Sayona Green, S.G. Highway, Gota, Ahmedabad-380060 (Gujarat)  <b>(ii) Shri Jalpesh Nalinkumar Modi,</b> S-402, ICB Flora, Nr. Arise Farm, Behind Hanuman Temple, Gota, Daskroi, Ahmedabad-382481 (Guj.)
(1)	यह प्रति उन व्यक्तियों के उपयोग के लिए निःशुल्क प्रदान की जाती है जिन्हें 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 मंजिल, 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 इयूटी 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:**

Intelligence developed by the officers of Air Intelligence Unit (AIU), SVPI Airport, Customs Ahmedabad through passenger profiling of Emirates Flight No. EK540 on 17.08.2025 indicated suspicion of smuggling of contrabands by some passengers arriving at SVPI Airport, Ahmedabad from Dubai (UAE).

1.1. Acting upon intelligence, the officers of Air Intelligence Unit (AIU), accompanied by independent Panchas started keeping watch on the passengers arriving from Dubai to Ahmedabad by Emirates Flight No. EK540 on 17.08.2025 at Green Channel of Arrival Hall of the Terminal-2 of SVPI Airport, Ahmedabad. The officers subsequently intercepted two female passengers named Smt. Varshaben Nalinkumar Modi (DOB: 23.02.1961) holding Indian Passport No. R8454128 and Smt. Komal Jalpesh Modi (DOB: 13.09.1990) holding Indian Passport No. R8453770 (hereinafter referred to as the said "Passengers/Noticee") by verifying their Passports and boarding passes when they were trying to exit through Green Channel without making any declaration to the Customs Authorities at SVPI Airport, Ahmedabad.

1.2. Upon inquiry, the passenger identified themselves as Smt. Varshaben Nalinkumar Modi (DOB: 23.02.1961) holding Indian Passport No. R8454128 and Smt. Komal Jalpesh Modi (DOB: 13.09.1990) holding Indian Passport No. R8453770 both residing at B 501, Heart Villa Apartment, Opp Sayona Green, S.G. Highway, Gota, Ahmedabad, PIN:380060, Gujarat, India and B 501, Hartvilla Apartment Opp Sayona Green, B/h. Vodafone Tower, Gota, Ahmedabad, PIN:380060, Gujarat, India respectively and informed that they were travelling from Dubai to Ahmedabad by Emirates Flight No. EK540 on 17.08.2025. The passengers were carrying one red trolley bag, one handbag, one red cloth bag, one plastic bag and 02 blue bags. The proceedings relating to personal search of both the passengers and examination of their baggage were conducted in presence of the two independent witnesses and the same were recorded under the Panchnama dated 17.08.2025.

2. The AIU Officers inquired with both the passengers as to whether they were carrying any contraband/dutiable goods in person or in their baggage to which both of them denied. As regards the search of both the passenger, the Officers asked/ informed both the passenger that search of their baggage as well their personal search were to be carried out and given them an option to carry out the search in presence of a Magistrate or a Gazetted Officer of Customs to which both the Passengers desired to be searched in presence of Superintendent of Customs. Before commencing the search, the officers offered themselves to the said passengers for conducting their personal search, which was declined by both the said passengers reposing faith in the Officers.

2.1 Thereafter, the AIU officers noticed that Smt. Komal Jalpesh Modi was wearing one gold necklace/chain, one gold kada and one gold bangle. The AIU officers instructed Smt. Komal Jalpesh Modi to remove these gold articles from body and hand over the same to AIU officers. At the same time, the AIU officers noticed that Smt. Varshaben Nalinkumar Modi was wearing 01 gold kada and 03 gold bangles. The AIU officers instructed Smt. Varshaben Nalinkumar Modi to remove these gold articles from body and hand over the same to the AIU officers.

2.2. Subsequently, the AIU officers directed both the passengers to walk through the Door Frame Metal Detector (DFMD) Machine one by one; before passing through the said DFMD Machine, this passenger were asked to remove all the metallic objects they were wearing on their body/clothes. AIU officers

instructed Smt. Komal Jalpesh Modi to remove these gold articles from body and hand over the same to AIU officers. Subsequently, the AIU officers directed her to walk through the Door Frame Metal Detector (DFMD) Machine; before passing through the said DFMD Machine, the passenger was asked to remove all the metallic objects she was wearing on her body/clothes. The passenger removed her mobile phone, wallet, etc., and passed through the DFMD Machine. When the passenger passed through the DFMD Machine, no beep sound was heard suggesting that nothing was hidden over body/clothes. Thereafter, M/s. Janvi Singh, Havaldar (AIU) proceeded to physically examine the passenger and asked her to come to the AIU office situated opposite the Belt No. 2, Arrival Hall, Green Channel, SVPI Airport, Ahmedabad. M/s. Janvi Singh conducted thorough personal search of Smt. Komal Jalpesh Modi and informed other AIU officers in presence of the panchas that nothing objectionable was found during the personal search. On being asked about gold articles recovered from her, Smt. Komal Jalpesh Modi informed AIU officers that these gold articles were given to her by her husband Shri Jalpesh Modi at Dubai.

2.3 Similarly, AIU officers instructed Smt. Varshaben Nalinkumar Modi to remove these gold articles from her body and hand over the same to AIU officers. Subsequently, the AIU officers directed her to walk through the Door Frame Metal Detector (DFMD) Machine; before passing through the said DFMD Machine, this passenger was also asked to remove all the metallic objects she was wearing on her body/clothes. The passenger removed her mobile, wallet, etc., and passed through the DFMD Machine. When the passenger passed through the DFMD Machine, no beep sound was heard suggesting that nothing was hidden over body/clothes. Thereafter, M/s. Janvi Singh, Havaldar proceeded to physically examine the passenger and asked her to come to the AIU office situated opposite the Belt No. 2, Arrival Hall, Green Channel, SVPI Airport, Ahmedabad. M/s. Janvi Singh conducted thorough personal search of Smt. Varshaben Nalinkumar Modi and informed other AIU officers in presence of the panchas that nothing objectionable was found during the personal search. On being asked Smt. Varshaben Nalinkumar Modi informed the AIU officers that these gold articles were given to her by her son Shri Jalpesh Modi at Dubai.

2.4 Thereafter, in the presence of the panchas, the AIU officers instructed both the passengers to put their entire luggage i.e. one red trolley bag, one handbag, one red cloth bag, one plastic bag and 02 blue bags, in the X-Ray Bag Scanning Machine installed near the Green Channel at Terminal 2 of SVPI Airport, Ahmedabad for scanning. On scanning of their baggage in the X-ray machine, nothing suspicious was seen.

2.5 The officers then called one Government-approved Valuer viz. Shri Kartikey Vasantrai Soni and informed him that some suspected gold articles were recovered from 02 passengers and that he was required to come to the office of the AIU situated at SVPI Airport, Ahmedabad for valuation and to ascertain the purity of the aforesaid suspected gold articles recovered from the passengers. In reply, the Government-approved Valuer informed the officer that he would reach at the SVPIA Airport to ascertain the value and purity of the gold articles recovered from the passengers.

2.6 Thereafter, Mr. Soni Kartikey Vasantrai, Government approved Valuer arrived at the AIU office, SVPI Airport, Ahmedabad at about 12:30 PM on 17.08.2025 and officers introduced him to the panchas as well as both the passengers. The officers handed over the suspected gold articles recovered from both the passengers to the Government-approved Valuer. After weighing the said aforesaid gold articles in his weighing scale, Mr. Kartikey Vasantrai Soni informed

that one gold necklace/chain, one gold kada and one gold bangle recovered from Smt. Komal Jalpesh Modi weighed **212.300 grams**. Photograph of the same is as under:



Further, Mr. Kartikey Vasantrai Soni informed that 01 gold kada and 03 gold bangles recovered from Smt. Varshaben Nalinkumar Modi weighed **145.600 grams**. Photograph of the same is as under:



2.7 Shri Soni Kartikey Vasantrai vide **Certificate No. 484/2025-26 dated 17.08.2025** certified that the one gold chain, one gold bangle and one gold Kada recovered from Smt. Komal Jalpesh Modi totally weighed 212.300 grams. As per the Notification No. 50/2025-Customs (N.T.) dated 14.08.2025 (gold) and Exchange Rate Notification No.: 35/2024 dated 08.08.2025, the calculation of total market value based on the unit market value of gold @ 101400 per 10 grams (999.0 24Kt) and the calculation of total tariff value based on the tariff value of gold prevailing at the time of valuation @ 95953.80 Rs. per 10 gram (999.0 24Kt) was as under: -

Details of Items	Qty (Pcs)	Net Weight in Grams	Purity	Market Value (Rs)	Tariff Value (Rs)
1 Gold Chain and 1 Gold Bangle	2	174.100	916.0/22Kt.	16,18,260/-	15,31,343/-
1 Gold Kada	1	38.200	750.0/18Kt.	2,90,511/-	2,74,907.6/-
<b>Total</b>	<b>3</b>	<b>212.300</b>		<b>19,08,771/-</b>	<b>18,06,250/-</b>

2.8 Further, Shri Soni Kartikey Vasantrai vide **Certificate No. 483/2025-26 dated 17.08.2025** certified that the 03 gold Bangles and one gold kada recovered from Smt. Varshaben Nalinkumar Modi totally weighed 145.600 grams. As per the Notification No. 50/2025-Customs (N.T.) dated 14.08.2025 (gold) and Exchange Rate Notification No.: 35/2024 dated 08.08.2025, the calculation of total market value based on the unit market value of gold @ 101400 per 10 grams (999.0 24Kt) and the calculation of total tariff value based on the tariff value of gold prevailing at the time of valuation @ 95953.80 Rs. per 10 gram (999.0/24Kt) was as under: -

Details of Items	Qty (Pcs)	Net Weight in Grams	Purity	Market Value (Rs)	Tariff Value (Rs)
3 Gold Bangles	3	107.900	916.0/22Kt.	10,02,931/-	9,49,063/-
1 Gold Kada	1	37.700	750.0/18Kt.	2,86,709/-	2,71,309/-
<b>Total</b>	<b>4</b>	<b>145.600</b>		<b>12,89,639/-</b>	<b>12,20,372/-</b>

### **SEIZURE OF THE ABOVE GOLD ARTICLES:**

3. The above said gold weighing 212.300 grams was carried by the Smt. Komal Jalpesh Modi and 145.600 grams was carried out by Smt. Varshaben Nalinkumar Modi without declaring the same before Customs Authorities with intend to evade the Customs Duty in violation of provisions of Customs Act, 1962. Therefore, the said Gold was falling under the category of smuggled goods and there was a reasonable belief that the same were liable for confiscation under the provisions of Section 111 of the Customs Act, 1962. Accordingly, the said gold weighing 212.300 grams (Net Weight) and 145.600 grams (Net Weight) respectively having Market Value of Rs.19,08,771/- and Rs.12,89,639/- recovered respectively from the passenger namely Smt. Komal Jalpesh Modi and Smt. Varshaben Nalinkumar Modi were placed under seizure vide Seizure Memos/Orders dated 17.08.2025 issued under the provisions of Section 110(1) of the Customs Act, 1962. The Gold was placed in a separate transparent plastic box which were sealed and handed over to the Ware House In-charge, SVPI Airport, Customs Ahmedabad vide Ware House Entries Nos. 7606 dated 17.08.2025 with respect of goods recovered from Smt. Komal Jalpesh Modi and No. 7607 dated 17.08.2025 with respect of goods recovered from Smt. Varshaben Nalinkumar Modi.

### **STATEMENT OF PASSENGER SMT. KOMAL JALPESH MODI:**

4. Statement of the passenger Smt. Komal Jalpesh Modi was recorded on 17.08.2025 under Section 108 of the Customs Act, 1962 before the Superintendent of Customs (AIU), SVPI Airport, Ahmedabad, wherein she inter alia stated that she was a housewife and was residing at Ahmedabad.

4.1 Smt. Komal Jalpesh Modi further stated that on 08.08.2025, she had travelled to Dubai along with her mother-in-law Smt. Varshaben Nalinkumar Modi and her two children to meet her husband Shri Jalpesh Modi, who was working at Dubai. She stated that the to-and-fro air tickets and stay arrangements were made by her husband and that in Dubai, her husband gave her and her mother-in-law gold jewellery to be brought to India without declaring the same before Customs Authorities.

4.2 The passenger further stated that she returned from Dubai to Ahmedabad on 17.08.2025 by Emirates Flight No. EK-540. She admitted that her husband had instructed her not to declare the gold jewellery at the Customs to avoid payment of Customs duty. She stated that she was carrying approximately 212.3 grams of gold jewellery, while her mother-in-law was carrying approximately 145.6 grams of gold jewellery.

4.3 The passenger further stated that upon arrival at SVPI Airport, Ahmedabad, she opted for the Green Channel and was intercepted by officers of Air Intelligence Unit, Customs. During examination conducted in the presence of independent Panchas and a lady officer, the aforesaid gold jewellery was recovered from her possession and that of her mother-in-law. She stated that the seized gold jewellery was examined and valued by a Government Approved Valuer.

4.4 The passenger further stated that she had perused the Panchnama dated 17.08.2025 drawn at SVPI Airport, Ahmedabad, and that the facts narrated therein

were true and correct. She acknowledged the Valuation Certificate No. 484/2025-26 17.08.2025 issued by Shri Soni Kartikey Vasantrai, Government Approved Valuer 1962 in respect of the gold weighing 212.300 grams (Net Weight) wherein the total market value of the seized gold jewellery was assessed at Rs.19,08,771/- and the total tariff value at Rs.18,06,250/-.

4.5 The passenger stated that she was aware that bringing such a large quantity of gold jewellery into India without declaration was an offence under the Customs Act and amounted to smuggling. She admitted that she had deliberately not declared the gold jewellery to evade payment of Customs duty and had opted for the Green Channel for this purpose. She further stated that this was her first such attempt and that she had never been involved in smuggling activities in the past.

**STATEMENT OF PASSENGER SMT. VARSHABEN NALINKUMAR MODI:**

5. Statement of the passenger Smt. Varshaben Nalinkumar Modi was recorded on 17.08.2025 under Section 108 of the Customs Act, 1962 before the Superintendent of Customs (AIU), SVPI Airport, Ahmedabad, wherein she inter alia stated that she was an ex-home tutor and was not working on the day of her interception.

5.1 Smt. Varshaben Nalinkumar Modi further stated that on 08.08.2025, she had travelled to Dubai along with her daughter-in-law Smt. Komal Jalpesh Modi and their two kids Shri Kiyam (her grandson) and Smt. Dwija (her granddaughter) to meet her son Shri Jalpesh Modi, who was working at Dubai. She stated that the to-and-fro air tickets and stay arrangements were made by her son and that in Dubai, her son gave her and her daughter-in-law gold jewellery to be brought to India without declaring the same before Customs Authorities.

5.2 The passenger further stated that she returned from Dubai to Ahmedabad on 17.08.2025 by Emirates Flight No. EK-540. She admitted that her son had instructed her not to declare the gold jewellery at the Customs to avoid payment of Customs duty. She stated that she was carrying approximately 145.600 grams of gold jewellery, while her daughter-in-law was carrying approximately 212.300 grams of gold jewellery.

5.3 The passenger stated that upon arrival at SVPI Airport, Ahmedabad, she opted for the Green Channel and was intercepted by officers of Air Intelligence Unit, Customs. During examination conducted in the presence of independent Panchas and a lady officer, the aforesaid gold jewellery was recovered from her possession and that of her daughter-in-law. She stated that the seized gold jewellery was examined and valued by a Government Approved Valuer.

5.4 The passenger further stated that she had perused the Panchnama dated 17.08.2025 drawn at SVPI Airport, Ahmedabad, and that the facts narrated therein were true and correct. She acknowledged the Valuation Certificate No. 483/2025-26 17.08.2025 issued by Shri Soni Kartikey Vasantrai, Government Approved Valuer 1962 in respect of the gold weighing 145.600 grams (Net Weight) wherein the total market value of the seized gold jewellery was assessed at Rs.12,89,639/- and the total tariff value at Rs.12,20,372/-.

5.5 The passenger stated that she was aware that bringing such a large quantity of gold jewellery into India without declaration was an offence under the Customs Act and amounted to smuggling. She admitted that she had deliberately not declared the gold jewellery to evade payment of Customs duty and had opted for

the Green Channel for this purpose. She further stated that this was her first such attempt and that she had never been involved in smuggling activities in the past.

### **FURTHER INVESTIGATION CONDUCTED:**

6. Based on the statements of Smt. Komal Jalpesh Modi and Smt. Varshaben Nalinkumar Modi, Summons was issued to Shri Jalpesh Modi on 25.09.2025 and 16.11.2025 to record his statement and subsequently, his statement had been recorded on 25.11.2025.

### **STATEMENT OF SHRI JALPESH NALINKUMAR MODI:**

6.1. The statement of Shri Jalpesh Nalinkumar Modi was recorded on 25.11.2025 under Section 108 of the Customs Act, 1962 before the Superintendent of Customs (AIU), SVPI Airport, Ahmedabad, pursuant to the summons issued to him.

6.2. Shri Jalpesh Nalinkumar Modi stated that he had been working in Dubai since 2015 and was employed as a Computer Systems Manager with M/s Al Mignas Jewellers LLC, Dubai, since April 2019 for which he was earning a monthly salary of AED/DHS 17,000; that he was also working as an accountant with certain jewellery firms in the UAE on part-time basis. He provided details of his residential address in Dubai, his family members, and disclosed his bank accounts in India and Dubai. He further stated that his mother **Smt. Varshaben Nalinkumar Modi expired on 04.09.2025.**

6.3. Regarding the source of the seized gold jewellery from the possession of his wife and his mother, Shri Jalpesh Nalinkumar Modi stated that he had purchased the gold in Dubai out of his own savings accumulated from his employment abroad. He claimed that the gold was purchased from M/s Al Mignas Jewellers LLC and M/s Shereez Jewellers LLC, and produced copies of Bills/Invoices bearing no. POS01-2401174 dated 05.02.2024 and POS01-2506602 dated 15.08.2025 issued by M/s. Al Mignas Jewellers LLC and Repair/Order Invoice No. 7129 dated 13.09.2024 issued by M/s. Shereez Jewellers LLC. He explained that although some purchases were made earlier, he did not send the gold with his mother during her earlier visits due to her ill health.

6.4. He further provided copies of his bank statements from Mashreq Bank and ENBD, stating that he had withdrawn cash from these bank accounts to purchase the said gold. However, he admitted that it was not possible to directly correlate the bank transactions with the specific gold purchase invoices. He also explained that he could not comply with earlier summons due to family difficulties, including his son's medical condition, his wife's ill health, and his mother's prolonged illness prior to her death. He also submitted the Death Certificate dated 08.09.2025 issued by Sub-Registrar (Birth and Death), Gota Ward, Ahmedabad Municipal Corporation, Department of Health and Family Welfare, Govt. of Gujarat in respect of death of her mother Smt. Varshaben Nalinkumar Modi, who said to be expired on 04.09.2025.

6.5. On apprising with the provisions of Rule 5 of the Baggage Rules, 2016, Shri Jalpesh Nalinkumar Modi admitted his mistake in attempting to bring gold into India through his wife and his mother without proper declaration and compliance with customs laws and thereby smuggling thereof. He requested to take a lenient view in light of his family circumstances.

7. From the documents provided by Shri Jalpesh Nalinkumar Modi during tendering statement on 25.11.2025, it appears that the source of payment made

for the purchase of the aforesaid Gold, Shri Jalpesh Nalinkumar Modi stated that he had purchased the said Gold by cash (withdrawn from his Salary/ Bank Accounts), however, he admittedly failed to co-relate the entries of the amount withdrawn from his Bank Accounts with the approximate value of the Gold recovered from the possession of his wife and his mother on 17.08.2025. Thus, it appears that Shri Jalpesh Nalinkumar Modi has failed to provide the legitimate documents regarding source of purchase of subject Gold and attempted to mis-lead the investigation.

8. The authenticity of the Death Certificate dated 08.09.2025 provided by Shri Jalpesh Nalinkumar Modi has been verified with the website of concerned Govt. Authority i.e. Ahmedabad Municipal Corporation, Department of Health and Family Welfare, Govt. of Gujarat through QR Code available on the Certificate and it has been found genuine.

### **LEGAL PROVISIONS:**

9. 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.

9.1 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. 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.

9.2 In terms of Para 2.26 (a) of the Foreign Trade Policy 2015-2020, 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 specified in the Baggage Rules notified by the Ministry of Finance. Further as per Para 2.27 of the Foreign Trade Policy 2023, Bona-fide household goods and personal effects may be imported as part of passenger baggage as per limits, terms and conditions thereof in Baggage Rules notified by Ministry of Finance. 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:

9.3 As per Section 3(2) of the Foreign Trade (Development and Regulation) Act, 1992 the Central Government may by Order make provision for prohibiting, restricting or otherwise regulating, in all cases or in specified classes of cases and subject to such exceptions, if any, as may be made by or under the Order, the import or export of goods or services or technology.

9.3.1. As per Section 3(3) of the Foreign Trade (Development and Regulation)

Act, 1992 all goods to which any Order under sub-section (2) applies shall be deemed to be goods the import or export of which has been prohibited under section 11 of the Customs Act, 1962 (52 of 1962) and all the provisions of that Act shall have effect accordingly.

9.3.2 As per Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 no export or import shall be made by any person except in accordance with the provisions of this Act, the rules and orders made thereunder and the foreign trade policy for the time being in force.

9.3.3 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.

9.3.4. 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.*

9.4. 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.*

### **Baggage Rules, 2016:**

9.5 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".

9.5.1 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.

9.6. 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 5<sup>th</sup> 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).	No change in existing Policy Condition
71069190	Unwrought: Others		Silver dore can be imported by refineries against a license with AU condition.	
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).

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

9.7. 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, smuggling of the gold weighing 212.300 grams (Net Weight) having Market Value of Rs.19,08,771/- recovered from Smt. Komal Jalpesh Modi and gold weighing 145.600 grams (Net Weight) having Market Value of Rs.12,89,639/- recovered from Late Smt. Varshaben Nalinkumar Modi 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.

9.8. 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.

9.9. As per Section 2(3) – "baggage includes unaccompanied baggage but does not include motor vehicles.

9.10. As per Section 2(22), of Customs Act, 1962 definition of 'goods' includes-

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

9.11. 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 such

goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with.

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

9.13. 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.*"

9.14. 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, she may seize such goods.*"

9.15. **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;*

*(i) any Any dutiable or prohibited goods found concealed in any manner in any package either before or after the unloading thereof are liable to confiscation;*

*(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 are 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;*

*(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;]*

9.16. 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,*

9.17. Section 119: Confiscation of goods used for concealing smuggled goods:  
*"Any goods used for concealing smuggled goods shall also be liable to confiscation".*

9.18. 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:

<b>Section 123: Burden of proof in certain cases. –</b>	
(1)	<i>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 –</i>
	(a) <i>In a case where such seizure is made from the possession of any person, –</i>
	(i) <i>on the person from whose possession the goods were seized; and</i>
	(ii) <i>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.</i>
	(b) <i>In any other case, on the person, if any, who claims to be the owner of the goods so seized.</i>
(2)	<i>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.</i>

9.19. As per Customs Baggage Declaration Regulations, 2013- all passengers who come to India and having anything to declare or are carrying dutiable or prohibited goods shall declare their accompanied baggage in the prescribed form.

9.20. As per DGFT Notification No. 36/2015-2020 dated 18.12.2019- Import policy of gold in any form, other than monetary gold and silver in any form, is amended from 'Free' to 'Restricted'; import is allowed only through nominated agencies as notified by RBI (in case of banks) and DGFT (for other agencies)"

9.21. From all the above paras, it appears that during the period relevant to this case, import of gold in any form 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.

### **VIOLATION AND CONTRAVENTION OF THE VARIOUS PROVISIONS:**

10. From the investigation conducted in the case, it appears that the impugned gold jewellery, classifiable under Chapter 71 of ITC (HS), is a restricted item under the Import Policy and permitted to be imported only in accordance with the conditions prescribed under the Foreign Trade Policy 2015–20 and ITC (HS). The said gold jewellery was imported through passengers' baggage without authorization, without declaration and without fulfilling the conditions prescribed under the Baggage Rules, 2016, therefore, the aforesaid gold was imported into India in violation of the provisions of the Baggage Rules, 2016. In the instant case, gold weighing 212.300 grams (Net Weight) having Market Value of Rs.19,08,771/- recovered from Smt. Komal Jalpesh Modi and gold weighing 145.600 grams (Net Weight) having Market Value of Rs.12,89,639/- recovered from Late Smt. Varshaben Nalinkumar Modi have been attempted to smuggle into India from Dubai on 17.08.2025 by not declaring the same before the Customs authorities at SVPI Airport, Ahmedabad and with an intent to evade the payment of applicable Customs Duty. Further, the said quantity of gold is more than the permissible limit allowed to a passenger under the Baggage Rules, 2016 and for these reasons alone it cannot be considered as a Bonafide Baggage under the Customs Baggage Rules, 2016.

10.1. 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, both the passengers had neither filed any such declaration, nor declared the said gold totally weighing 357.900 grams (Net

Weight) having total Market Value of Rs.31,98,410/- and Tariff Value of Rs.30,26,622/- recovered from Smt. Komal Jalpesh Modi and Smt. Varshaben Nalinkumar Modi because of malafide intention and thereby contravened the provisions of Section 77 of the Customs Act, 1962. It therefore, appears that the said gold totally 357.900 grams (Net Weight) having total Market Value of Rs. 31,98,410/- and Tariff Value of Rs.30,26,622/- recovered from the passengers Smt. Komal Jalpesh Modi and Smt. Varshaben Nalinkumar Modi, was attempted to be smuggled into India with an intention to clear the same without discharging the Customs Duty payable thereon. It, therefore, appears that the said gold totally weighing 357.900 grams (Net Weight) having total Market Value of Rs.31,98,410/- and Tariff Value of Rs.30,26,622/- is liable for confiscation under the provisions of Section 111 of the Customs Act, 1962.

10.2. The seized goods, in form of gold ornaments totally weighing 357.900 grams (Net Weight) having total Market Value of Rs.31,98,410/- and Tariff Value of Rs.30,26,622/- have been attempted to be illegally smuggled into India without declaring before the Customs Authorities in violation of the provisions of the Customs Act, 1962 & FTP and Custom Baggage Rules in as much as no declaration was made under Section 77 of the Customs Act, 1962 in this case. Further, the said gold does not also appear to be allowed to be imported by the passenger keeping the restrictions on such import under the provisions of FTP and Customs Act, 1962. Hence, it appears that the said gold was brought into India with a motive to smuggle into India by way of fraudulently circumventing the restrictions and prohibitions imposed under the Customs Act 1962 and other allied Acts, Rules and Regulations. Therefore, the same prohibited goods may be treated as imported illegally into India and liable to confiscation under the provisions of **Section 111(d) and (l)** of the Customs Act, 1962.

10.3. In the instant case, a total quantity of net 357.900 grams (Net Weight) having total Market Value of Rs.31,98,410/- and Tariff Value of Rs.30,26,622/- had been illegally smuggled into India without declaring before the Customs Authorities in violation of the provisions of the Customs Act, 1962 & FTP and Custom Baggage Rules. The said gold does not appear to be allowed to import by the passengers and aforesaid persons keeping the restrictions on such import under the provisions of FTP and Customs Act, 1962. Hence, it appears that the said gold had been brought into India with a motive to smuggle into India by way of fraudulently circumventing the restrictions and prohibitions imposed under the Customs Act 1962 and other allied Acts, Rules and Regulations. Therefore, the same prohibited goods may be treated as imported illegally into India and liable to confiscation under the provisions of **Section 111(d) and 111(l)** of the Customs Act, 1962.

10.4. Also, both the passengers, Smt. Komal Jalpesh Modi and Smt. Varshaben Nalinkumar Modi as well as Shri Jalpesh Nalinkumar Modi have failed to discharge their onus in terms of the provisions of Section 123 of the Custom Act, 1962. These actions render the said gold quantity liable for confiscation and also rendered themselves liable for penal action under the Customs Act, 1962.

10.5. However, it is pertinent to note that Smt. Varshaben Nalinkumar Modi expired on 04.09.2025 after the date of the offence. In view of settled legal position that penal liability is personal in nature, penalty proceedings against the deceased passenger noticee may not be proposed while confiscation of the concerned goods appear to be proposed.

#### **ROLE OF VARIOUS PERSONS INVOLVED IN THE ABOVE SMUGGLING OF GOLD:**

##### **11. Role of the passenger Smt. Komal Jalpesh Modi:**

11.1.1. From the evidences gathered, both oral and documentary, available on records, Smt. Komal Jalpesh Modi played an active and conscious role in the

attempted smuggling of gold jewellery into India. She travelled from Dubai to Ahmedabad on 17.08.2025 through Emirate Flight EK540 carrying gold weighing 212.300 grams (Net Weight) having Market Value of Rs.19,08,771/-, which was admittedly handed over to her by her husband, Shri Jalpesh Nalinkumar Modi, during her stay in Dubai with a deliberate intention to evade 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 said passenger had knowingly and intentionally smuggled the said gold, and attempted to exit from the Green Channel of SVPI Airport, Ahmedabad with an intent to clear it illicitly to evade payment of Customs Duty. Therefore, the improperly imported gold by the passenger Smt. Komal Jalpesh Modi, without declaring it to Customs on arrival in India cannot be treated as Bonafide household goods or personal effects. Smt. Komal Jalpesh Modi 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, as amended.

11.1.2. Despite such knowledge, she deliberately chose not to declare the gold jewellery, opted for the Green Channel, and attempted to clear the same clandestinely with the clear intent to evade payment of Customs duty. Her voluntary statement recorded under Section 108 of the Customs Act, 1962 clearly establishes that she acted on the specific instructions of her husband and knowingly attempted to bring the gold jewellery into India in violation of the provisions of Section 77 of the Customs Act, 1962 read with Rules 3 and 5 of the Baggage Rules, 2016.

11.1.3 By her deliberate acts and omissions, Smt. Komal Jalpesh Modi rendered the seized gold jewellery liable to confiscation under Sections 111(d) and 111(l) of the Customs Act, 1962, and also rendered herself liable to penal action under Section 112 of the Customs Act, 1962 for attempting to improperly import smuggled goods. She failed to discharge the onus cast upon her under Section 123 of the Customs Act, 1962, thereby making the said quantity of gold liable to confiscation and herself liable to penal action under the said Act. Further, as discussed supra, Smt. Komal Jalpesh Modi was found to have concerned herself in the act of smuggling of gold recovered from her possession and to have knowingly violated the provisions of the Customs Act, 1962, Foreign Trade Policy 2015-20, Baggage Rules, 2016, and relevant Customs Notifications, which rendered the said goods liable to confiscation under Sections 111(d) and 111(l) of the Customs Act, 1962. By carrying, keeping, concealing, and illegally importing such gold, which she knew or had reason to believe was liable to confiscation under Section 111 of the Customs Act, 1962, she has rendered herself liable to penalty under Section 112 of the Customs Act, 1962.

## **11.2. Role of the passenger Smt. Varshaben Nalinkumar Modi:**

11.2.1. Smt. Varshaben Nalinkumar Modi also played a direct and conscious role in the attempted smuggling of gold jewellery into India. She travelled on the same flight along with her daughter-in-law and was found carrying gold weighing 145.600 grams (Net Weight) having Market Value of Rs.12,89,639/-, which was admittedly given to her by her son Shri Jalpesh Nalinkumar Modi, in Dubai with a deliberate intention to evade 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 said passenger had knowingly and intentionally smuggled the said gold, and attempted to exit from the Green Channel of SVPI Airport, Ahmedabad with an intent to clear it illicitly to evade payment of Customs Duty.

Therefore, the improperly imported gold by the passenger without declaring it to Customs on arrival in India cannot be treated as Bonafide household goods or personal effects. Smt. Varshaben Nalinkumar Modi 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, as amended.

11.2.2. The statement of Smt. Varshaben Nalinkumar Modi recorded under Section 108 of the Customs Act, 1962 reveals that she was fully aware that the gold jewellery in such a big quantity was dutiable and required to be declared before Customs authorities. Despite such awareness, she deliberately opted for the Green Channel, did not declare the gold jewellery, and attempted to clear the same without payment of Customs duty, thereby intentionally violating the provisions of the Customs Act and the Baggage Rules.

11.2.3. By her actions, Smt. Varshaben Nalinkumar Modi contravened the provisions of Section 77 of the Customs Act, 1962 read with Rules 3 and 5 of the Baggage Rules, 2016, thereby rendering the gold jewellery recovered from her possession liable to confiscation under Sections 111(d) and 111(l) of the Customs Act, 1962 and rendering herself liable to penal action under Section 112 of the Customs Act, 1962 for acts of omission and commission amounting to an attempt to improperly import smuggled goods. She further failed to discharge the onus cast upon her under Section 123 of the Customs Act, 1962, which rendered the said quantity of gold liable to confiscation and herself liable to penal action under the Customs Act, 1962. Further, as per the facts discussed supra, Smt. Varshaben Nalinkumar Modi was found to have concerned herself in the act of smuggling of gold recovered from her possession and to have knowingly violated the provisions of the Customs Act, 1962, Foreign Trade Policy 2015-20, Baggage Rules, 2016, and relevant Customs Notifications, thereby rendering the said goods liable to confiscation under Sections 111(d) and 111(l) of the Customs Act, 1962, and by carrying, keeping, concealing, and illegally importing such gold, which she knew or had reason to believe was liable to confiscation under Section 111 of the Customs Act, 1962, she has rendered herself liable to penalty under Section 112 of the Customs Act, 1962.

11.2.4. However, it is on record that Smt. Varshaben Nalinkumar Modi expired on 04.09.2025 i.e. subsequent to the incident of her interception and recovery of smuggled gold from her possession. In view of the settled legal position that penal liability is personal in nature, no penalty proceedings are proposed against her. Nevertheless, confiscation proceedings in respect of the concerned seized gold jewellery, being proceedings in rem, may be legally sustainable and accordingly proposed.

### 11.3. **Role of Shri Jalpesh Nalinkumar Modi:**

11.3.1. Shri Jalpesh Nalinkumar Modi was the mastermind behind smuggling of Gold in the form of jewellery and played a key and decisive role and abettor in the attempted smuggling of gold jewellery into India. He has been residing and working in Dubai since 2015 and is employed in the jewellery trade, thereby possessing adequate knowledge of gold transactions, customs regulations, and the legal requirement of declaration and payment of duty on import of gold into India.

11.3.2. Shri Jalpesh Nalinkumar Modi deposited in his voluntary statement recorded under Section 108 of the Customs Act, 1962 that he purchased the gold jewellery in Dubai out of his own savings and intentionally handed over the same to his wife and his mother with specific instructions not to declare the gold

jewellery before Customs authorities, with the sole objective of evading payment of Customs duty. The act of distributing the gold between two carriers itself demonstrates a pre-meditated design to smuggle the gold into India.

11.3.3. By instigating, instructing, and facilitating the improper importation of gold jewellery through his wife and his mother, Shri Jalpesh Nalinkumar Modi knowingly abetted the commission of offences under the Customs Act, 1962, and his role was central and deliberate, as the offence would not have occurred but for his planning and directions. Accordingly, he rendered the seized gold jewellery liable to confiscation under Sections 111(d) and 111(l) of the Customs Act, 1962 and rendered himself liable to penalty under Section 112 of the Customs Act, 1962 for abetment of improper importation of smuggled goods. Further, as discussed supra, Shri Jalpesh Nalinkumar Modi was found to have concerned himself in the act of abetting the smuggling of gold and to have knowingly violated the provisions of the Customs Act, 1962, Foreign Trade Policy 2015–20, Baggage Rules, 2016, and relevant Customs Notifications, thereby rendering the said goods liable to confiscation under Sections 111(d) and 111(l) of the Customs Act, 1962, and by purchasing and dealing with such smuggled gold, which he knew or had reason to believe was liable to confiscation under Section 111 of the Customs Act, 1962, he rendered himself liable to penalty under Section 112 of the Customs Act, 1962.

11.3.4. Moreover, as narrated above, Shri Jalpesh Nalinkumar Modi has failed to provide the legitimate documents with respect to source of purchase of subject Gold and attempted to mis-lead the investigation and by doing so, he has rendered himself liable to Penalty under Section 117 of the Customs Act, 1962.

11.3.5. Also, Shri Jalpesh Nalinkumar Modi has failed to discharge his onus in terms of the provisions of Section 123 of the Custom Act, 1962. These actions render the said gold quantity liable for confiscation and also render penal action under the Customs Act, 1962 against Shri Jalpesh Nalinkumar Modi.

12. Accordingly, a Show Cause Notice F. No. VIII/10-70/SVPIA-A/O&A/HQ/2025-26 Dated 09.02.2026 was issued to **(i) Smt. Komal Jalpesh Modi** and **(ii) Shri Modi Jalpesh Nalinkumar**, as to why:

- (i)** The total 07 Nos. of gold articles totally weighing 357.900 grams having Market Value of **Rs.31,98,410/-** and Tariff Value of **Rs.30,26,622/-** [*One Gold Chain and One Gold Bangle (total net weight 174.1 grams, purity 916.0/22Kt., Market Value of Rs.16,18,260/-, Tariff Value Rs.15,31,343/-) and One Gold Kada (net weight 38.2 grams, purity 750.0/18Kt., Market Value of Rs.2,90,511/-, Tariff Value Rs.2,74,907.6/- recovered from possession of **Smt. Komal Jalpesh Modi**] and Three Gold Bangles (total weight of 107.900 grams, purity 916.0/22Kt., Market Value of Rs.10,02,931/-, Tariff Value Rs.9,49,063/-) and One Gold Kada (net weight 37.700 grams, purity 750.0/18Kt, Market Value of Rs.2,86,709/-, Tariff Value Rs.2,71,309.4/- recovered from possession of **Smt. Varshaben Nalinkumar Modi**, while arriving from Dubai to Ahmedabad on 17.08.2025 via Emirates Flight No. EK 540, placed under Seizure under Panchnama Proceedings dated 17.08.2025 and two Seizure Memos/ Orders both dated 17.08.2025 at Terminal-2 of SVPI Airport, Ahmedabad, should not be confiscated under the provision of Section 111(d) and 111(l) of the Customs Act, 1962;*
- (ii)** Penalty should not be imposed upon **Smt. Komal Jalpesh Modi** and **Shri Jalpesh Nalinkumar Modi** under the provisions of Sections 112 of the Customs Act, 1962, for the omissions and commissions mentioned hereinabove.

- (iii) Penalty should not be imposed upon **Shri Jalpesh Nalinkumar Modi** under the provisions of Sections 117 of the Customs Act, 1962, for the omissions and commissions mentioned hereinabove.

**DEFENSE REPLY AND RECORD OF PERSONAL HEARING:**

**13.1 Defense Reply of the Noticee Shri Jalpesh Nalinkumar Modi:**

The noticee has submitted his written submission vide letter dated **25.02.2026** through Shri Rishikesh Mehra, Advocate and Authorized Representative wherein he denied all the allegation against his client made under the SCN. The noticee submitted that he is the son and legal heir of Late Smt. Varshaben Nalinkumar Modi, from whom the gold jewellery had been seized by the Customs Authority. He stated that his mother had passed away on 04.09.2025 after a prolonged illness, and therefore he was filing the present reply on her behalf in response to the Show Cause Notice.

He denied all the allegations made in the notice and contended that although the jewellery was found in his mother's possession, the statements recorded under Section 108 of the Customs Act, 1962 were obtained under fear and duress. He argued that such statements were not voluntary and therefore could not be relied upon for initiating any action under the law.

He further submitted that the gold jewellery in question was neither prohibited nor restricted under the Customs Act. Accordingly, he argued that the goods were not liable for confiscation under Sections 111(d), 111(i), 111(l), and 111(m), nor was any penalty imposable under Section 112 of the Act.

The noticee explained that his mother and his wife had travelled from Dubai to Ahmedabad wearing their personal gold jewellery, which constituted their Stridhan. He specified that the jewellery was worn openly and was not concealed, and thus could not be considered as smuggled goods or goods carried for commercial purposes.

He stated that Noticee is NRI Residing at Dubai (UAE) Since 2019, having Residency ID Card No.784-1990-8218638-0, the jewellery had been legally purchased from Sherez Jewellers L.L.C and Al Mignas Jewellers L.L.C using his lawful earnings in Dubai. He emphasized that the jewellery belonged to his mother and wife and was intended for personal and family use, particularly for attending social functions.

He also highlighted that his mother had travelled to India primarily due to her deteriorating health and need for medical treatment and family support. Given her age and medical condition, she was not fully aware of the customs formalities and believed that wearing her own jewellery did not require formal declaration.

The noticee contended that the failure to declare the jewellery was unintentional and occurred due to ignorance of customs rules as well as lack of assistance at the airport. He claimed that the authorities had not provided the required declaration form and had not followed the prescribed procedures under relevant circulars.

He further submitted that during the investigation, purchase invoices were shown to the officers through WhatsApp, but these were not properly considered. He later produced copies of the bills, which, according to him, clearly established lawful ownership of the jewellery.

The noticee also argued that his mother, being educated in Gujarati medium, did not understand the English language in which the panchnama and statements were recorded. He alleged that she was made to sign documents under pressure without understanding their contents, thereby rendering the statements unreliable.

Finally, he asserted that his mother had consistently maintained ownership of the jewellery and had even requested its release upon payment of duty. He contended that there was no intention to evade customs duty or engage in illegal activity, and therefore the proposed penalty was unjustified. He reiterated that the statements recorded under duress were invalid in law and could not be used against her.

It was further submitted that the statement had been recorded under duress and threat, and that the noticee had never, on any previous occasion, brought gold or any other offending goods while traveling to India. It was argued that the department had failed to establish that the noticee had ever traveled with such goods in the past. Emphasizing that this was the first such instance in her life, it was pleaded that she should be pardoned from the consequences, particularly as her lapse arose from not seeking timely guidance from customs officials at the airport. The authority was requested to consider this submission in the interest of justice and to arrive at a favorable decision.

It was also submitted that although the noticee had been accused of carrying goods, no Indian or foreign currency, offending goods, or incriminating documents had been recovered from her possession that could suggest involvement in smuggling activities. Further, it was requested that the goods be released at the earliest, even on a provisional basis, with the noticee expressing willingness to furnish a bond or pay the applicable customs dues as determined. In the alternative, it was pleaded that the gold be released upon payment of fine and penalty, with permission for re-export if required, for which the noticee was also willing to comply.

The noticee further sought liberty to add, alter, amend, or modify the submissions before any decision or order was passed in the matter. Additionally, it was requested that a personal hearing be granted, with a further request to allow the noticee to make additional submissions after the conclusion of such hearing, if so advised.

### **13.2 Defense Reply of the Noticee Smt. Komal Jalpesh Modi:**

The noticee has submitted her written submission vide letter dated **25.02.2026** through Shri Rishikesh Mehra, Advocate and Authorized Representative wherein he denied all the allegation against his client made under the Show Cause Notice. She admitted that she was wearing gold jewellery, including a chain, bangles, and a kada weighing a total of 212.300 grams, which was seized by the authorities. However, she contended that her statement recorded under Section 108 of the Customs Act, 1962 was obtained under fear and duress of arrest and therefore could not be relied upon. She argued that the jewellery was neither prohibited nor restricted, and thus not liable for confiscation or penalty under the relevant provisions of the Act.

She submitted that she is a Non-Resident Indian residing in Dubai since 2019 and had travelled to Ahmedabad along with her mother-in-law. Both of them were wearing their personal gold jewellery, which constituted their Stridhan. She clarified that the jewellery was worn openly and was not concealed, and therefore could not be treated as smuggled or carried for any commercial purpose.

The noticee further explained that the jewellery had been purchased legally by her husband from Sherez Jewellers L.L.C and Al Mignas Jewellers L.L.C using his lawful earnings. She emphasized that the jewellery belonged to her and her mother-in-law and was intended solely for personal and family use, particularly for attending social functions.

She also stated that the primary reason for their travel to India was her mother-in-law's prolonged illness, which required medical attention and family support. Due to her personal belief and lack of awareness of customs rules, she assumed that wearing her own jewellery did not require declaration upon arrival in India.

The noticee contended that her failure to declare the jewellery was unintentional and occurred due to ignorance of customs procedures. She claimed that although she had orally informed the authorities, she was not provided with the necessary declaration form, and the prescribed procedures under relevant circulars were not followed.

She further submitted that during the investigation, she had shown the purchase bills through WhatsApp, which had been sent by her husband. However, these documents were not properly considered or included in the investigation. She maintained that the jewellery clearly belonged to her and that she was the legitimate owner.

She added that her husband had later submitted copies of the purchase bills during his statement, which further established lawful ownership. Despite this, she alleged that the authorities proceeded with the case without properly considering the evidence presented.

The noticee also argued that she was educated in Gujarati medium and did not understand English, yet the statements and documents were prepared in English. She claimed that she was forced to sign these documents under fear of arrest without understanding their contents, making the statements unreliable.

She contended that the authorities emphasized the requirement of declaration under Section 77 of the Customs Act, but failed to provide the declaration form at the appropriate time. She asserted that if the form had been provided, she would have duly declared the jewellery and paid the applicable duty without any issue.

Finally, she maintained that she had consistently stated that the jewellery belonged to her and had even requested its release upon payment of duty. She argued that she had not attempted to evade customs or leave the airport unlawfully, and therefore the proposed penalty under Section 112 was unjustified. She reiterated that the statement recorded under duress was invalid and not sustainable in law, including under Section 138B of the Customs Act, 1962.

**13.3** It was submitted on behalf of the noticee, through Shri Rishikesh Mehra, Advocate and Authorized Representative, that the statements had been recorded under duress and threat and were therefore not sustainable in law. In support of this contention, reliance was placed on the provisions of Section 138B of the Customs Act, 1962, which govern the relevancy of statements made before customs officers. It was argued that such statements can be treated as relevant evidence only under specific circumstances, such as when the person is unavailable to testify or when the court, in the interest of justice, deems it appropriate to admit the statement after examining the person as a witness.

It was further submitted that the legal position had been reiterated by the Hon'ble Supreme Court of India in the case of \*Noor Aga v. State of Punjab\*, wherein it was emphasized that for a statement to be admissible, it must first be established that it was made voluntarily before a competent customs officer during the course of a lawful inquiry. It was contended that confessional statements, particularly those obtained under coercion, cannot be relied upon and are generally considered weak evidence. The judgment was cited to highlight that Section 138B must be strictly interpreted, and statements not meeting its conditions cannot be used to prove the truth of their contents.

Additionally, it was submitted that the protection under Article 20(3) of the Constitution of India applies in the present case, which provides that no person accused of an offence shall be compelled to be a witness against themselves. It was argued that any statement obtained under compulsion would violate this constitutional safeguard and therefore cannot be relied upon in proceedings against the noticee.

It was submitted that the noticee could not be penalized under Section 112 of the Customs Act, 1962, as the department had failed to produce any evidence to establish that the noticee had engaged in any of the activities enumerated under the said provision in the manner alleged. It was argued that mere allegation, without substantiating proof of involvement in carrying, concealing, or dealing with goods liable to confiscation, was insufficient to attract penal liability. Reliance was placed on the consistent view taken by various courts, tribunals, and the revisional authority of the Government of India that where the import of a commodity is not absolutely prohibited, such as gold, the goods may be released on payment of redemption fine.

It was further submitted that although there exist divergent judicial pronouncements regarding the release of seized gold in customs cases, a combined reading of such decisions indicates that the determination depends on the facts and circumstances of each case, including the applicable policy and the profile of the individual involved. It was contended that goods not expressly prohibited may, in certain situations, be treated as "prohibited" based on contextual factors; however, even in such cases, the adjudicating authority retains the discretion to allow release or re-export of the goods. It was emphasized that such discretion must be exercised judiciously and in accordance with the principles laid down by the Hon'ble Supreme Court. In support of these submissions, He submitted following case law in his defense: -

**1. *Yakub Ibrasher Yousuf 2011(263) ELT-685(Tri. Mum) and subsequently 2014-TIOL-277-Cestst-Mum***

*The Hon Tribunal while allowing redemption of gold not declared before Customs held: -*

*Redemption Fine- option of- Option of redemption has to be given to person from whose possession impugned goods are recovered. – On the facts of the case option of redemption fine allowed to person who illicitly imported gold with a view to earn profit by selling it, even though she had not claimed its ownership - Section 125 of Customs Act 1962. [para5.6]*

**2. *Shaikh Jameel Pasha Vs Govt. Of India 1997(91) ELT277(AP)***

*The Hon. High Court of Andhra Pradesh in the above case, while deciding the Scope of section 125 to allow redemption of gold brought by passenger unauthorisedly held that: -*

*Redemption Fine –Customs– Gold in the form other than ornaments imported unauthorisedly– Option to pay fine lieu of confiscation to be given to the importer in terms of the second part of section 125(1) of Customs Act, 1962, goods being otherwise entitled to be imported on payment of duty,*

**3. Kadar Mydeen V/s Commissioner of Customs (Preventive), West Bengal 2011(136) ELT 758): -**

Gold brought as a baggage by the appellant not declared – Confiscation under section 111(d) of the Customs Act,1962 sustainable- However, option given to appellant to redeem the same on payment of a fine of Rs.1.5 lakhs Section 125 ibid.

**4. Order No: 426/04 issued vide File No: 380/57/8 2004-RA-Cus dated 21.9.2004** passed by the Revisionary Authority, Government of India, upholding the order of the Commissioner of Customs (Appeals) Mumbai Airport order redemption of the non-declared seized gold imported by an eligible passenger on payment of fine, penalty and duty. Latest judgement of the Revisionary Authority, New Delhi are also enclosed herewith which is self-explanatory:

Further, he submitted the following RA Orders: -

1. Order No: 73/2020-Cus (Wz)/Asra/Mumbai Dt. 28.05.2020 in c/a Commissioner, Customs, Ahmedabad v/s Shri Sajjan. (Ingenious Concealed on Knee Case granted RF, PP)
2. Order No: 58/2020-Cus (Wz)/Asra/Mumbai Dt. 21.05.2020 IN C/A/ Commissioner, Customs, Ahmedabad v/s Shabbir Taherally Udaipurwala. (Eligible passenger granted re-export)
3. Order No: 61/2020-Cus (Wz)/Asra/Mumbai Dt. 21.05.2020 in c/a Commissioner, Customs, Ahmedabad v/s Basheer Mohammed Mansuri. (Eligible passenger granted re-export)
4. Order No: 126/2020 Cus (Wz)/Asra/Mumbai Dt. 07.08.2020 in c/a Commissioner, Customs, Ahmedabad v/s Hemant Kumar. (Concealment in Jeans Pocket Case granted RF, PP)
5. Order No: 123-124/2020-Cus(Wz)/Asra/Mumbai Dt.07.08.2020 in c/a Commissioner, Customs, Ahmedabad v/s Rajesh Bhimji Panchal.
6. 2019(369) E.L.T.1677(G.O.I) in c/a Ashok Kumar Verma.
7. Order No: 20/2021-Cus(Wz)/Asra/Mumbai Dt. 11.02.2021 in c/a Commissioner, Customs, Ahmedabad v/s Divyesh Dhanvantray Gandhi. (Eligible passenger granted RF, PP.)
8. Order No: 954/2018-CUS(Wz)/Asra/Mumbai Dt. 22.11.2018 in c/a Commissioner, Customs, Ahmedabad v/s Nayankumar Bhatiya (Eligible passenger granted RF,PP.)
9. Order No: 29/2018-Cus(Wz)/Asra/Mumbai Dt. 31.01.20128 in c/a Commissioner, Customs, Chennai v/s Smt. Navene Elangovan (Eligible passenger granted RF, PP.)
10. Order No: 140/2021 Cus(Wz)/Asra/Mumbai Dt. 25.06.2021 in c/a Mohammed Gulfam v/s Commissioner of Customs Ahmedabad. (Ingenious Concealed Rectum Case granted RF,PP)

11. Order No: 14/2018-CUS dated 05.01.2018 of the Government of India Passed by Shri. R. P. Sharma Commissioner & Additional Secretary to the Government of India, under section 129DD of the Customs Act 1962. in c/a Parvez Ahmed Zargar, Delhi. V/s Commissioner of Customs New Delhi. (Ingenious Concealed in Shoes Case granted RF, PP).
12. Order No: 245/2021-Cus(Wz)/Asra/Mumbai Dt. 29.09.2021 in c/a Memon Anjum v/s Commissioner of Customs Ahmedabad. (Ingenious Concealed Silver Coated Case granted RF, PP)
13. Order No: 214/2021-Cus(Wz)/Asra/Mumbai Dt. 26.08.2021 in c/a Ramesh Kumar v/s Commissioner of Customs Ahmedabad. (Ingenious Concealed strips wrapped on his ankles Case granted RF, PP)
14. Order No: 10/2019-Cus(Wz)/Asra/Mumbai Dt. 30.09.2021 in c/a Faithimth Raseea Mohammad v/s Commissioner of Customs CSI Airport Mumbai. (Ingenious Concealment Case Undergarment granted RF, PP).
15. Order No. 277 to 279/2022 CUS(WZ)/ASRA/MUMBAI DT 23.09.2022 in c/a (1) Sanjay Ananth Surve (2) Smt. Rakhi Rahul Manjrekar (3) Suresh kumar Jokhan Singh V/s. Pr. Commissioner of Customs, CSMI, Mumbai. (Ingenious Concealment Case in soles of Sandals)
16. Order No. 243 & 244/2022-Cus(Wz)/Asra/Mumbai Dt 24.08.2022 in c/a (1) Pradip Sevantilal Shah (2) Rajesh Bhikhabhai Patel V/s. Pr. Commissioner of Customs, Ahmedabad. (Ingenious Concealment Silver/Rhodium Coated Case granted RF, PP)
17. Order No. 282/2022-Cus(Wz)/Asra/Mumbai Dt. 29.09.2022 in c/a Dipesh Kumar Panchal V/s. Pr. Commissioner of Customs, Ahmedabad. (Ingenious Concealment Case).
18. Order No. 287/2022-Cus(Wz)/Asra/Mumbai Dt 10.10.2022 in c/a Upletawala Mohammed Fahad Akhtar V/s. Pr. Commissioner of Customs, Ahmedabad. (Ingenious Concealment Case granted Re-Export on RF, PP).
19. Order No. 282/2022-Cus(Wz)/Asra/Mumbai Dt 29.09.2022 in c/a Dipesh Kumar Panchal V/s. Pr. Commissioner of Customs, Ahmedabad. (Ingenious Concealment Case granted RF, PP)
20. Order No. 284/2022-CUS(WZ)/ASRA/MUMBAI DT 04.10.2022 In C/A Prakash Gurbani V/s. Pr. Commissioner of Customs, Ahmedabad. (Ingenious Concealment Case Re-Export, granted RF, PP)
21. Order No. 314/2022-Cus(Wz)/Asra/Mumbai Dt 31.10.2022 in c/a Sanjay Kumar Bhavsar V/s. Pr. Commissioner of Customs, Ahmedabad. (Ingenious Concealment Chrome Plated Gold Buckles & Hooks Case granted RF, PP)
22. Order No. 56/2023-Cus(Wz)/Asra/Mumbai Dt 19.01.2023 in c/a Jayesh Kumar Kantilal Modh Patel V/s. Pr. Commissioner of Customs, Ahmedabad. (Ingenious Concealment in wallet Case granted RF, PP)
23. Order No. 10/2019-Cus(Wz)/Asra/Mumbai Dt 30.09.2019 in C/A Pr. Commissioner of Customs, CSI Airport, Mumbai Vs. Smt. Faithimath Raseena Mohammed. (Ingenious Concealment in Undergarments Case granted RF, PP)
24. Order No. 404 & 405/2023-Cus(Wz)/Asra/Mumbai Dt 30.03.2023 in c/a (1) Huzefa Khuzem mamuwala (2) Shabbir Raniwala V/s. Pr. Commissioner of

Customs, Ahmedabad. (Ingenious Concealment Socks and Trouser Pockets Case granted Re-Export & RF, PP)

25. Order No. 349/2022-Cus(Wz)/Asra/Mumbai Dt 29.11.2022 in c/a Mr. Fakhardi Hasan Abu Mohammed V/s. Pr. Commissioner of Customs, CSI Airport, Mumbai (Ingenious Concealment in wallet Case granted RF, PP)
26. Order No. 395-396/2023-Cus(Wz)/Asra/Mumbai Dt 28.03.2023 in c/a (1) Shri Tohid Wahid Motiwala (2) Smt. Saika Tohid Motiwala V/s. Pr. Commissioner of Customs, CSI Airport, Mumbai. (Ingenious Concealment in wallet Case granted RF, PP)
27. Order No. 352/2022-Cus(Wz)/Asra/Mumbai Dt 30.11.2022 in c/a Shri Mr. Meiraj Mahiuddin Ahmed V/s. Pr. Commissioner of Customs, CSI Airport, Mumbai. (Ingenious Concealment in wallet Case granted RF, PP)
28. Order No. 309/2022-Cus(Wz)/Asra/Mumbai Dt 01.11.2022 in c/a Mr. Mohammad Amahdi Hemati V/s. Pr. Commissioner of Customs, CSI Airport, Mumbai. (Ingenious Concealment in wallet Case granted RF, PP)
29. Order No. 380/2022-Cus(Wz)/Asra/Mumbai Dt 14.12.2022 in c/a Mr. Mohammad Murad Motiwala V/s. Pr. Commissioner of Customs, CSI Airport, Mumbai. (Ingenious Concealment in Gold Dust/Paste Case granted RF, PP)
30. Order No. 516-517/2023-Cus(Wz)/Asra/Mumbai Dt 30.06.2023 in c/a (1) Saba Parveen Irfan Khan (2) Anwar M.T. V/s. Pr. Commissioner of Customs, CSI Airport, Mumbai. (Ingenious Concealment in Gold Dust/Paste 1478.3415 grams Case granted RF, PP)
31. Order No. 786/2023-Cus(Wz)/Asra/Mumbai Dt 25.10.2023 In C/A Shri Kapil Makhanlal V/s. Pr. Commissioner of Customs, Ahmedabad. (Case granted RF, PP)
32. Order No. 885/2023-Cus(Wz)/Asra/Mumbai Dt 07.12.2023 in c/a Ma Mansi C. Trivedi V/s. Pr. Commissioner of Customs, Ahmedabad. (Case granted RF, PP)
33. Order No. 883/2023-Cus(Wz)/Asra/Mumbai Dt 05.12.2023 in c/a Shri Shankarlal Nayak V/s. Pr. Commissioner of Customs, Ahmedabad. (Case granted RF, PP)
34. Order No. 907-909/2023-Cus(Wz)/Asra/Mumbai Dt 12.12.2023 in c/a Mr. Shahrukkhan Muniruddin Pathan V/s. Pr. Commissioner of Customs, Ahmedabad. (Case granted RF, PP)
35. Order No. 899/2023-Cus(Wz)/Asra/Mumbai Dt 11.12.2023 in c/a Mr. Miteshkumar C. Dhakan V/s. Pr. Commissioner of Customs, Ahmedabad. (Case granted RF, PP)
36. Order No. 898/2023-Cus(Wz)/Asra/Mumbai Dt 11.12.2023 in c/a Mr. Radheshyam R. Tiwari V/s. Pr. Commissioner of Customs, CSI Airport, Mumbai. (Ingenious Concealment in Gold Dust/Paste Case granted RF, PP)
37. Order No. 880-882/2023-Cus(Wz)/Asra/Mumbai Dt 05.12.2023 in c/a Mr. Shri Santosh Suresh Vaswani V/s. Pr. Commissioner of Customs, Ahmedabad. (Gold Case granted RF, PP)
38. OIA No. AHD-CUSTM-000-APP-176-23-24 DT 25.09.2023 IN c/a Ms Shaikh Anisa Mohammed Amin V/s Commissioner of Customs (Appeals),

Ahmedabad. (Ingenious Concealment in Gold Dust/Paste Case granted RF, PP)

39. OIA No. AHD-CUSTOM-000-APP-179-23-24 DT 26.09.2023 IN c/a Mr Shaikh Imran Abdul Salam V/s Commissioner of Customs (Appeals), Ahmedabad. (Ingenious Concealment in Gold Dust/Paste Case granted RF, PP)
40. Order No. 961/2023-Cus(Wz)/Asra/Mumbai Dt 29.12.2023 in c/a Mr. Lokesh Panchal V/s. Pr. Commissioner of Customs, Ahmedabad. (Gold Case granted RF, PP)
41. Customs, Excise & Service Tax Appellate Tribunal (WZ) Bench at Ahmedabad. (Customs Appeal No. 11971 of 2016-SM) Final Order No. 10254/2024 dated 29.01.2024 Shri Lookman Mohamed Yusuf V/S. CC- Ahmedabad (Ingenious Concealment Gold Case of 4999.180 grams granted RF, PP)
42. Order No. 830-831/2023-Cus(Wz)/Asra/Mumbai Dt 05.12.2023 in c/a 1. Mr. Muneer Bellipady Mohammed and 2. Mr. Rashid Bannoor Ahmed V/s. Pr. Commissioner of Customs, Ahmedabad. (Gold Case granted RF, PP)

### **NRI Passenger Order's**

1. Order no: 404-405/2023-CUS (WZ) /ASRA/MUMBAI/ DATED. 30.03.2023 IN C/A Pr. Commissioner of Customs, CSI Airport Mumbai v/s Shri Huzefa Khuzefa Mamuwala (2. Shri Shabbir Ranijiwala (10 Pieces of Gold Bars 1166.700 grams Concealed Re-Export Nee Case granted RF, PP)
2. Order no: 58/2020-CUS (WZ) /ASRA/MUMBAI/ DATED. 21.05.2020 IN C/A Pr. Commissioner of Customs, Ahmedabad v/s Shri Shabbir Taherally Udaipurwala (Gold WEIGHING 466.640 grams Concealed Re-Export Nee Case granted RF, PP)
3. Order no: 605/2023-CUS (WZ) /ASRA/MUMBAI/ DATED. 22.08.2023 IN C/A Pr. Commissioner of Customs, CSI Airport Mumbai v/s Shri Hitesh laxmichand gagani (1 Gold kada and 1 gold chain 350.890 grams Concealed Re-Export Nee Case granted RF, PP)
4. Order no: 61/2020-CUS (WZ) /ASRA/MUMBAI/ DATED. 21.05.2020 IN C/A Pr. Commissioner of Customs, Ahmedabad v/s Shri Basheer Mohammed Mansuri (10 Pieces of Gold Bars 1166.700 grams Concealed Re-Export Nee Case granted RF, PP)
5. Order In Original No: JC/PK/ADJN/381/2021-22 Date Of Order 31.03.2022 And Date of Issue 12.04.2022 Joint Commissioner Of customs CSMI Airport Mumbai V/s Ms. Rashmi Satish Mandelia (3 Gold Biscuits (Bars) 349.000 Concealed Concealed Re-Export Nee Case granted RF, PP)
6. Order no: 280/2022-CUS (WZ) /ASRA/MUMBAI/ DATED. 26.09.2022 IN C/A Pr. Commissioner of Customs, CSI Airport Mumbai v/s Ms. Priyal Sanjay Chokshi (3 Pieces of crude Gold Bangles 140.00 Grams Concealed Re-Export Nee Case granted RF, PP)
7. Order no: 281/2022-CUS (WZ) /ASRA/MUMBAI/ DATED. 26.09.2022 IN C/A Pr. Commissioner of Customs, CSI Airport Mumbai v/s Ms. Bina Sanjay Chokshi (2 Pieces of crude Gold Bangles 175.00 grams Concealed Re-Export Nee Case granted RF, PP)

8. Order no: 389/2023-CUS (WZ) /ASRA/MUMBAI/ DATED. 29.03.2023 IN C/A Pr. Commissioner of Customs (Appeals), Mumbai Zone-III v/s Ms. Ruby Paul Vincent Chettiar (crude Gold Chain 200.00 grams Concealed Re-Export Nee Case granted RF, PP)
9. Order no: 65/2023-CUS (WZ) /ASRA/MUMBAI/ DATED. 30.01.2023 IN C/A Pr. Commissioner of Customs, CSI Airport Mumbai v/s Ms. Jahida Bano (2 crude Gold Bangles and 4 gold Bangles total weighing 304.00 grams Concealed Re-Export Nee Case granted RF, PP)
10. Order no: 402/2022-CUS (WZ) /ASRA/MUMBAI/ DATED. 16.12.2022 IN C/A Pr. Commissioner of Customs, CSI Airport Mumbai v/s Mr. Taheri (1 cute Pieces of crude/raw Gold Bar 195.00 grams Concealed Re-Export Nee Case granted RF, PP)
11. Order no: 349/2022-CUS (WZ) /ASRA/MUMBAI/ DATED. 29.11.2022 IN C/A Pr. Commissioner of Customs, CSI Airport Mumbai v/s Mr. Kakali Sardar (8 Gold Bangles 2 Gold Rings 550.000 Grams Concealed Re-Export granted on RF, PP)
12. OIA No. AHD-CUSTOM-000-APP-082-25-26 Dated 18.06.2025 In c/a Mr. Ramesh Chandra Patel V/s. Additional Commissioner of Customs Ahmedabad. (Eligible passenger granted re-export)
13. OIA No. AHD-CUSTOM-000-APP-083-25-26 Dated 18.06.2025 In c/a Mr. Lokesh Kalal V/s. Additional Commissioner of Customs Ahmedabad. (Eligible passenger granted re-export)
14. OIA No. AHD-CUSTOM-000-APP-088-25-26 Dated 19.06.2025 In c/a Mr. Kesari Singh V/s. Additional Commissioner of Customs Ahmedabad. (Eligible passenger granted re-export)
15. OIA No. AHD-CUSTOM-000-APP-103-25-26 Dated 25.06.2025 In c/a Mr. Zaidkhan Qayyumkhaan Pathan V/s. Additional Commissioner of Customs Ahmedabad. (Eligible passenger granted re-export)

13.4 He further submitted that it has also been held by the Hon'ble CESTAT: That there may be consistency in the approach of the adjudicating authorities while deciding similar issues. Reliance in this regard is placed on the decision rendered in the case of Copier Company Vs Commissioner of Customs, Chennai 2007 (218) ELT- 142 (Tribunal) order of the lower authority for the gold/absolutely: -"The word prohibited" occurring in sub-section-(1) above and the word prohibition' occurring in section 111(d) have to be construed on similar considerations as 'Prohibition' has been held to include (restriction' vide Shaikh Mohd. Omer (Supra). The word 'Prohibited' occurring in section 125(1) can also be understood in the sense of 'restricted'.

It would follow that in the case of second-hand photo-copiers restricted for import, the adjudicating authority, may, in its discretion, consider allowing the importer/owner of the goods to redeem the same against payment of fine. In exercising this discretion, the authority may take the relevant factors into account. We are of the view that these factors must be relatable to the goods in question. For instance, if the goods are unconditionally prohibited from importation, reasons for claiming redemption. On the other hand, if the goods are conditionally prohibited from importation (i.e. no importation without specific licence), the importer owner may claim redemption of easier grounds. In the instant case, absolute confiscation

which has its roots in the provisions of section 125(1) of the Customs Act, 1962. For the reasons already recorded, we set aside the impugned orders and allow these appeals by way of remand directing the Commissioner to fine the appellants, can option to redeem the goods under section 125 of the Customs Act, 1962, against payment of a reasonable fine which shall be determined after shearing the party.”

**Further, he relied upon the judgments in cases as: -**

- In the case of **Union of India Vs Dhanak M Ramji 201 (252) ELT A 102 (S.C.)** the Hon'ble Supreme Court has held that the goods can be released to the passenger on redemption and in case the Owner is someone else, the department can very well ask the owner if she is claiming the ownership or it should be released to the passenger.
- **A. Rajkumari vs CC (Chennai) 2015(321) ELT540(Tri-Chennai)** In this case redemption of absolutely confiscated gold was allowed against reasonable in despite the fact that 70(Seventy) gold bars (10 Tolas each) were found concealed in the Air Conditioner brought by the passenger. This case was also affirmed by the Hon. Apex Court vide 2015(321) ELTA 207 (SC). Therefore, what transpires from this recent judgement of the Hon. Supreme Court (Supra) is that even in case of clever (ingenious) concealment of gold, the option of redemption under section 125 of Customs Act 1962 can be exercised to secure ends of Justice. The ratio of this judgement is squarely applicable to the present case. Relying on the latest judgments in which Hon'ble High Court has decided Gold is Not Prohibited and large quantity of gold has been on redemption Fine and personal Penalty.
- Further, the Hon'ble high court Madras, in a judgment passed on 08.06.2022 in WP No. 20249 of 2021 in respect of Shri Chandrasegaram Vijayasundram and 5 others in a matter of shriLankan collectively wearing 1594 grams of gold jewellery upheld the order No. 165-169/2021-Cus(sz) ASEA, Mumbai dated 14.07.2021 in F. No. 380/59-63/B/SZ/2018-RA/3716, wherein revisionary authority had order for restoration of OIO wherein the adjudicating authority had order for the confiscation of gold jewellery but had allowed the same to be released for Re-export on payment of appropriate redemption fine and penalty.

Further, *relying on the latest judgements in which Hon'ble High Court has decided Gold is Not Prohibited and large quantity of gold has been released on redemption Fine and Personal Penalty: -*

- High Court of Judicature at Allahabad Sitting at Lucknow, in Civil Misc Review Application No. - 156 of 2022 in case of Sri Rajesh Jhamatmal Bhat and Another
- Rajasthan High Court, Manoj Kumar Sharma S/o Late Shri ... vs Union of India on 17 February, 2022

It was further submitted that the statements had been recorded under duress and threat, and that the noticees had never, on any prior occasion, brought gold or any other offending goods while traveling to India. It was contended that the department had failed to demonstrate any past instances of the noticees carrying such goods. Emphasizing that this was the first occurrence in her life, it was pleaded that she be excused from the consequences, as her lapse was merely due to not seeking timely guidance from customs officials at the airport. The authority was requested to consider this submission in the interest of justice and to arrive at a favorable decision for the noticee.

It was also submitted that although the noticee had been accused of carrying goods, no Indian or foreign currency, offending goods, or incriminating documents

had been recovered from her possession that could indicate involvement in any smuggling activity. Further, it was requested that the goods be released at the earliest, even on a provisional basis, with the noticee expressing willingness to furnish a bond or pay the customs dues as may be determined in the SCN. Alternatively, it was prayed that the gold be released upon payment of fine and penalty, and that permission for re-export be granted if required, for which the noticee was also willing to comply.

The noticee further sought liberty to add, alter, amend, or modify the submissions before any decision or order was passed. Additionally, a request was made for granting a personal hearing, with liberty to make further submissions after the conclusion of such hearing, if so advised.

#### **14. RECORD OF PERSONAL HEARING:**

**14.1 Personal Hearing of the Noticee Shri Jalpesh Nalinkumar Modi:** To follow the principle of natural justice, personal hearing in the matter was granted on 09.03.2026. Accordingly, Shri Rishikesh Mehra, Advocate and Authorized Representative appeared for the personal hearing on 09.03.2026 on behalf of his client i.e. Shri Jalpesh Nalinkumar Modi. He produced a copy of Vakalatnama to represent the case.

Shri Rishikesh Mehra submitted written submissions dated 25.02.2026 and reiterated the same. He submitted that the Noticee Jalpesh Nalinkumar Modi is son and legal heir of Late Smt. Varshben Nalinkumar Modi who expired on dated 04.09.2025 after pro longed illness, she came from Dubai to India and was worn Three Gold Bangles (total weight of 107.900 grams, purity 916.0/22Kt. and One Gold Kada (net weight 37.700 grams, purity 750.0/18Kt. which was clearly visible. She has produced the Bills of purchase gold jewellery by her son Shri Jalpeshbhai Modi. The noticee is NRI and residing at Dubai since 2019. She was an eligible passenger and she was under impression that the said jewellery was her Stridhan, unable to declare goods due to ignorance of Customs Rules and regulations. Reference is invited under Circular No. 09/2001-Cus Dated 22.02.2001. He Requested to re-export the goods on payment of fine and penalty.

He has relied on order of OIA NO. AHD/CUSTOM-000-APP-088-25-26 DT. 25.06.2025 In case of (i) Mr. Zaidkhan Qayyumkhan Pathan Vs. Additional Commissioner of Customs, Ahmedabad in which Commissioner (A), Ahmedabad & (ii) Mr. Govind Singh Chouhan Vs. Additional Commissioner of Customs, Ahmedabad in which Commissioner (A), Ahmedabad has Re-export was granted.

He, further, requested to take lenient view in the matter and allow to release the gold on payment of Redemption Fine and Penalty and Re-export.

**14.2 Personal Hearing of the Noticee Smt. Komal Jalpesh Modi:** To follow the principle of natural justice, personal hearing in the matter was granted on 09.03.2026. Accordingly, Shri Rishikesh Mehra, Advocate and Authorized Representative appeared for the personal hearing on 09.03.2026 on behalf of his clients i.e. Smt. Komal Jalpesh Modi. He produced a copy of Vakalatnama to represent the case.

Shri Rishikesh Mehra submitted written submissions dated 25.02.2026 and reiterated the same. The Noticee came from Dubai to India and was worn One Gold Chain and One Gold Bangle (total net weight 174.1 grams, purity 916.0/22Kt., and One Gold Kada (net weight 38.2 grams, purity 750.0/18Kt. which was clearly visible. She has produced the Bills of purchase gold jewellery by her husband Shri

Jalpeshbhai Modi. The noticee is NRI and residing at Dubai since 2019. She is an eligible passenger and she was under impression that the said jewellery is her Stridhan, unable to declare goods due to ignorance of Customs Rules and regulations. Reference is invited under Circular No. 09/2001-Cus Dated 22.02.2001. He Requested to re-export the goods on payment of fine and penalty.

He has relied on order of OIA NO. AHD/CUSTOM-000-APP-088-25-26 DT. 25.06.2025 In case of (i) Mr. Zaidkhan Qayyumkhan Pathan Vs. Additional Commissioner of Customs, Ahmedabad in which Commissioner (A), Ahmedabad & (ii) Mr. Govind Singh Chouhan Vs. Additional Commissioner of Customs, Ahmedabad in which Commissioner (A), Ahmedabad has re-export was granted.

He, further, requested to take lenient view in the matter and allow to release the gold on payment of Redemption Fine and Penalty and Re-export.

### **DISCUSSION AND FINDINGS:**

**15.** I have carefully gone through the facts of the case. The Noticees i.e. Shri Jalpesh Nalinkumar Modi and Smt. Komal Jalpesh Modi had submitted their written submissions through Advocate and Authorized Representative, Sh. Rishikesh Mehra on dated 25.02.2026. The Noticees have availed the opportunity of personal hearing granted to him on 09.03.2026 and reiterated the written submission dated 25.02.2026 in the personal hearing. He further submitted written submission on dated 16.01.2026. Accordingly, I take up the case for adjudication on the basis of evidences available on records and submissions made by the noticees during the personal hearing.

**16.** In the instant case, I find that the main issue to be decided is whether (i) the total 07 Nos. of gold articles totally weighing 357.900 grams having Market Value of Rs.31,98,410/- and Tariff Value of Rs.30,26,622/- [One Gold Chain and One Gold Bangle (total net weight 174.1 grams, purity 916.0/22Kt., Market Value of Rs.16,18,260/-, Tariff Value Rs.15,31,343/-) and One Gold Kada (net weight 38.2 grams, purity 750.0/18Kt., Market Value of Rs.2,90,511/-, Tariff Value Rs.2,74,907.6/- recovered from possession of Smt. Komal Jalpesh Modi] and Three Gold Bangles (total weight of 107.900 grams, purity 916.0/22Kt., Market Value of Rs.10,02,931/-, Tariff Value Rs.9,49,063/-) and One Gold Kada (net weight 37.700 grams, purity 750.0/18Kt, Market Value of Rs.2,86,709/-, Tariff Value Rs.2,71,309.4/ recovered from possession of Smt. Varshaben Nalinkumar Modi, while arriving from Dubai to Ahmedabad on 17.08.2025 via Emirates Flight No. EK 540, placed under Seizure under Panchnama Proceedings dated 17.08.2025 and two Seizure Memos/ Orders both dated 17.08.2025 at Terminal-2 of SVPI Airport, Ahmedabad, should not be confiscated under the provision of Section 111(d) and 111(l) of the Customs Act, 1962 (hereinafter referred to as 'the Act') or not; (ii) and whether the Noticees **Smt. Komal Jalpesh Modi** and **Shri Jalpesh Nalinkumar Modi** are liable for penal action under the provisions of Section 112 of the Act or not; and (iii) the Noticees **Shri Jalpesh Nalinkumar Modi** is liable for penal action under the provisions of Section 117 of the Act or not.

**17.** I find that the Panchnama has clearly drawn out the fact that on the basis of specific intelligence regarding carrying restricted/prohibited goods, the officers of AIU intercepted two female passengers, Smt. Varshaben Nalinkumar Modi (DOB: 23.02.1961, Passport No. R8454128) and Smt. Komal Jalpesh Modi (DOB: 13.09.1990, Passport No. R8453770), traveling from Dubai to Ahmedabad on Emirates Flight EK540 on 17.08.2025, at SVPI Airport, Ahmedabad while trying to exit through the Green Channel without declaring their items. Both passengers, residing in Gota, Ahmedabad, carried multiple bags which were inspected in the

presence of independent witnesses and recorded in a Panchnama. They denied carrying any dutiable goods, but during personal searches, AIU officers recovered gold articles from both—Komal Modi had a necklace, a kada, and a bangle, while Varshaben Modi had a kada and three bangles. Both passengers were asked to walk through the Door Frame Metal Detector, and their baggage was scanned, revealing no further suspicious items. The recovered gold articles were handed over for valuation and purity assessment by a government-approved valuer, Shri Kartikey Vasantrai Soni. Further, the Govt. Approved Valuer informed that the total 07 Nos. of gold articles totally weighing 357.900 grams having **Market Value of Rs.31,98,410/- and Tariff Value of Rs.30,26,622/-**. Hence, I find that the passengers were well aware about the fact that the gold is dutiable item and they intentionally wanted to clear the same without payment of Customs duty which is also admitted by them in their statements dated 17.08.2026. Further, the Baggage Rules, 2016 nowhere mentions anything about import of gold in commercial quantity. It simply mentions the restrictions on import of gold which are found to be violated in present case. Ignorance of law is not an excuse but an attempt to divert adjudication proceedings.

**18.** I find that Shri Rishikesh Mehra, Advocate of noticees appeared in personal and submitted that the Noticee Jalpesh Nalinkumar Modi is son and legal heir of Late Smt. Varshben Nalinkumar Modi, who expired on dated 04.09.2025 after prolonged illness, she came from Dubai to India and was worn Three Gold Bangles (total weight of 107.900 grams, purity 916.0/22Kt. and One Gold Kada (net weight 37.700 grams, purity 750.0/18Kt. which was clearly visible. She has produced the Bills of purchase gold jewellery by her son Shri Jalpeshbhai Modi. The noticee is NRI and residing at Dubai since 2019, having Residency ID Card No.784-1990-8218638-0. The said seized jewellery was purchased in the name of Noticee and his wife's name Smt. Komal Jalpesh from **"Sherez Jewellers L.L.C & AL Mignas Jewellers L.L.C"** by Noticee from his personal saving and for family. She was an eligible passenger and she was under impression that the said jewellery was her Stridhan, unable to declare goods due to ignorance of Customs Rules and regulations. Being an NRI requested to allow release of gold on redemption fine with a permission to re-export. He has further added that gold is not prohibited and not in commercial quantity, the genuine lapse took place and thus a case has been booked against his client.

I, further find that Shri Rishikesh Mehra, Advocate of noticee appeared in personal and submitted that the Noticee Smt. Komal Jalpesh Modi came from Dubai to India and was worn One Gold Chain and One Gold Bangle (total net weight 174.1 grams, purity 916.0/22Kt., and One Gold Kada (net weight 38.2 grams, purity 750.0/18Kt. which was clearly visible. She has produced the Bills of purchase gold jewellery by her husband Shri Jalpeshbhai Modi. The noticee is NRI and residing at Dubai since 2019. She is an eligible passenger and she was under impression that the said jewellery is her Stridhan, unable to declare goods due to ignorance of Customs Rules and regulations. He Requested to re-export the goods on payment of fine and penalty.

**19.** In this regard, I find that the Customs Baggage Rules, 2016 nowhere mentions about carrying gold in commercial quantity. It simply mentions about the restrictions on gold carried by the international passengers. Further, the Hon'ble Apex Court in Om Prakash Bhatia case reported at 2003 (155) ELT 423 (SC) has held that if importation and exportation of goods are subject to certain prescribed conditions, which are to be fulfilled before or after clearance of goods, goods would fall within the ambit of 'prohibited goods' if such conditions are not fulfilled. In the instant case, the passengers did not declare the gold articles and tried to pass through Green Channel. Hence, I find that in view of the above-mentioned case

citing, the passengers by their act of secreting the gold with an intention of clearing the same illicitly from Customs area by not declaring the same to Customs have held the impugned gold liable for confiscation under Section 111 of the Customs Act, 1962.

**20.** I find that the total 07 Nos. of gold articles totally weighing 357.900 grams having **Market Value of Rs.31,98,410/- and Tariff Value of Rs.30,26,622/-**, were placed under seizure vide Seizure Orders dated 17.08.2025 under Panchnama Proceedings dated 17.08.2026. The seizures were made under Section 110 of Customs Act, 1962 on a reasonable belief that the said 07 Nos. of gold articles were attempted to be smuggled into India and liable for confiscation. In the statements recorded on 17.08.2026, the both passengers had admitted that they did not want to declare the seized gold carried by them to the Customs on his arrival at SVPIA, with an intent to clear it illicitly and evade the payment of Customs duty payable thereon. It is also on record that the Government Approved Valuer has tested and certified vide Certificate No. 483/2025-26 & 484/2025-26 both dated 17.08.2025 that the total 07 Nos. of gold articles totally weighing 357.900 grams having Market Value of **Rs.31,98,410/-** and Tariff Value of **Rs.30,26,622/-** [one gold chain and one gold bangle (total net weight 174.1 grams, purity 916.0/22kt., market value of Rs.16,18,260/-, tariff value Rs.15,31,343/-) and one gold kada (net weight 38.2 grams, purity 750.0/18kt., market value of Rs.2,90,511/-, tariff value Rs.2,74,907.6/- recovered from possession of Smt. Komal Jalpesh Modi and three gold bangles (total weight of 107.900 grams, purity 916.0/22kt., market value of Rs.10,02,931/-, tariff value Rs.9,49,063/-) and one gold kada (net weight 37.700 grams, purity 750.0/18kt, market value of Rs.2,86,709/-, tariff value Rs.2,71,309.4/- recovered from possession of Smt. Varshaben Nalinkumar Modi] were accordingly seized vide Seizure Orders dated 17.08.2025 under Panchnama proceedings dated 17.08.2025 in the presence of the passenger and Panchas.

**21.** I also find that both the passengers have neither questioned the manner of Panchnama proceedings nor controverted the facts detailed in the Panchnama during the course of recording their statements. Every procedure conducted during the Panchnama proceedings by the Customs Officers is well documented and made in the presence of the panchas as well as the passengers. The both passengers in their statements dated 17.08.2025 had clearly admitted that they had intentionally not declared the gold recovered and seized from them on their arrival before the Customs with an intent to clear it illicitly and evade payment of Customs duty which is an offence under Customs Act, 1962 and the Rules and Regulations made under it. In fact, in their statements dated 17.08.2025, the both passengers admitted that they had intentionally not declared the seized gold on their arrival before the Customs officer with an intent to clear it illicitly and evade payment of Customs duty.

**22.** I thus find that the recovery of the total 07 Nos. of gold articles totally weighing 357.900 grams having Market Value of **Rs.31,98,410/-** and Tariff Value of **Rs.30,26,622/-** from the possession of the passenger Smt. Komal Jalpesh Modi and Smt. Varshaben Nalinkumar Modi which were not declared to the Customs with an intention to illicitly clear it from the Customs Airport to evade the payment of Customs duty is an act of smuggling and the same is conclusively proved. By their above act of commission, it is proved beyond doubt that the both passengers have violated Section 77 of the Customs Act, 1962 read with Regulation 3 of Customs Baggage Declaration Regulations, 2013. I also find that the said seized jewellery was purchased in the name of Noticee and his wife's name Smt. Komal Jalpesh from "**Sherez Jewellers L.L.C & AL Mignas Jewellers L.L.C**" Dubai by Noticee from his personal saving and for family, however the same has not been

declared before Customs to evade payment of tax. Therefore, the gold imported by the passenger in the form of 07 Nos. of gold articles (jewellery) and deliberately not declared before the Customs on arrival in India cannot be treated as a bonafide household goods and thus the both passengers have contravened the Para 2.26 of the Foreign Trade Policy 2015-20 and thereby 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 read in conjunction with Section 11(3) of Customs Act, 1962 and the relevant provisions of Baggage Rules, 2016, Customs Baggage Declaration Regulations, 2013 and Notification No. 50/2017-Customs dated 30.06.2017 as amended.

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

*"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).*

**24.** Given the facts of the present case before me and the judgment and rulings cited above, the total 07 Nos. of gold articles totally weighing 357.900 grams recovered from possession of **Smt. Komal Jalpesh Modi** and **Smt. Varshaben Nalinkumar Modi**, while arriving from Dubai to Ahmedabad on 17.08.2025 via Emirates Flight No. EK 540, placed under Seizure under Panchnama Proceedings dated 17.08.2025 and two Seizure Memos/ Orders both dated 17.08.2025 at Terminal-2 of SVPI Airport, Ahmedabad, should not be confiscated under the provision of Section 111(d) and 111(l) of the Customs Act, 1962. I find that the passengers were not a carrier and the seized jewellery was purchased in the name of Noticee and his wife's name Smt. Komal Jalpesh from "**Sherez Jewellers L.L.C & AL Mignas Jewellers L.L.C**" by Noticee from his personal saving and for family, who is NRI having residency permit of UAE and not carried on behalf of some other person with a profit motive.

**25.** I further find that the both passengers had involved themselves and abetted the act of carrying the total 07 Nos. of gold articles totally weighing 357.900 grams. The both passengers have agreed and admitted in their statements recorded that they travelled with 07 Nos. of gold articles totally weighing 357.900 grams worn by them from Dubai to Ahmedabad. Despite their knowledge and belief that the gold jewellery carried and undeclared by them is an offence under the provisions of the Customs Act, 1962 and the Regulations made under it, the both passengers attempted to clear the said gold jewellery making any declaration. The both passengers in their statements dated 17.08.2025 stated that they did not declare the impugned gold jewellery as they wanted to clear the same illicitly and evade the Customs Duty. Thus, it is clear that the passengers has actively involved themselves in carrying, removing, keeping, concealing and dealing with the smuggled gold jewellery, which they knew very well and has reason to believe that the same are liable for confiscation under Section 111 of the Customs Act, 1962. Therefore, I find that the passenger is liable for penal action under provisions of Sections 112 of the Act and I hold accordingly.

**26.** I also refer, CBIC Circular No: 495/5/92-Cus. VI dated 10.05.1993 which talks about concealment of gold in order to smuggle it into India. So, I find that ingenious concealment is one of the important aspects of deciding on redemption/non-redemption of the goods. Accordingly, I proceed to decide the issue.

**27.** I find from the statement of Shri Jalpesh Nalinkumar Modi, which was recorded on 25.11.2025 under Section 108 of the Customs Act, 1962 by the Superintendent of Customs at SVPI Airport, Ahmedabad. He stated that he has been working in Dubai since 2015 and is employed as a Computer Systems Manager with Al Mignas Jewellers LLC since April 2019, earning a monthly salary of AED 17,000. In addition, he works part-time as an accountant for other jewellery firms in the UAE. He provided details about his residence, family, and bank accounts in India and Dubai, and mentioned that his mother, Smt. Varshaben Nalinkumar Modi, passed away on 04.09.2025.

27.1. I find regarding the seized gold jewellery found in possession of his wife and mother, Shri Modi claimed that he had purchased the gold in Dubai using his personal savings from his employment. He stated that the purchases were made from Al Mignas Jewellers LLC and Shereez Jewellers LLC, and produced copies of Bills/Invoices bearing no. POS01-2401174 dated 05.02.2024 and POS01-2506602 dated 15.08.2025 issued by M/s. Al Mignas Jewellers LLC and Repair/Order Invoice No. 7129 dated 13.09.2024 issued by M/s. Shereez Jewellers LLC. He explained that although some gold had been purchased earlier, he had not sent it with his mother during her previous visits due to her ill health.

27.2. I further find that he also submitted bank statements from Mashreq Bank and Emirates NBD, stating that the gold purchases were made using cash withdrawn from these accounts. However, he admitted that he could not directly correlate specific bank withdrawals with the gold purchase invoices. He further explained his inability to respond to earlier summons due to family issues, including his son's medical condition, his wife's ill health, and his mother's prolonged illness. He provided a death certificate for his mother, which was later verified as genuine by the Ahmedabad Municipal Corporation.

**28.** In view of the above discussions, I hold that the 07 Nos. of gold articles recovered from the noticees is liable for confiscation. However, since the impugned 07 Nos. of gold articles carried by the passengers were for personal use and not brought for another person for profit motive. The said seized jewellery was purchased in the name of Noticee and his wife's name Smt. Komal Jalpesh from **"Sherez Jewellers L.L.C & AL Mignas Jewellers L.L.C"** Dubai by Noticee from his personal saving and for family. The Noticee are NRI as they having residency permit of Dubai since 2019. Further the passengers had worn the said jewellery, which cannot be termed as an ingenious concealment. As such, I use my discretion to give an option to redeem the impugned seized gold on payment of a redemption fine, as provided under Section 125 of the Act.

**29.** I find that this issue of redemption of gold has travelled through various appellate fora. I find that in the following cases, Hon'ble Supreme Courts, High Courts, the appellate fora allowed redemption of seized goods;

- i. *Sapna Sanjeev Kohli vs. Commissioner – 2010(253) E.L.T.A52(S.C.).*
- ii. *Union of India vs. Dhanak M Ramji – 2010(252) E. L. T. A102(S.C.)*
- iii. *Shaikh Jamal Basha Vs. G.O.I. – 1997(91) E. L. T. 277(A. P.)*
- iv. *Commissioner of Cust. & C. Ex. Nagpir-I Vs. Mohd. Ashraf Armur – 2019(369) E. L. T. 1654 (Tri. Mumbai)*
- v. *Shri R. P. Sharma, Additional Secretary in RE Ashok Kumar Verma – 2019(369) E. L. T. 1677 (G. O. I.)*

- vi *Suresh Bhosle Vs. Commissioner of Customs (Rev.) Kolkatta – 2009(246) E. L. T. 77(Cal.)*
- vii *T. Elavarasan Versus Commissioner of Customs (Airport), Chennai reported at 2011 (266) E.L.T. 167 (Mad.)*

**30.** I find that when there are judgments favoring redemption, there are contra judgment which provide for absolute confiscation of seized gold attempted to be smuggled into India as follows;

- i. *Abdul Razak Vs., U. O. I. – 2012(275) E. L. T. 300 (Ker.) maintained by Hon'ble Supreme Court – 2017(350) E. L. T. A173(SC)*

**30.1. I further find that ingenious concealment is one of the important aspects for deciding on the redemption/ non-redemption of the goods.** Further, while deciding the case, the CBIC Circular/ Instruction F. No: 275/17/2015-CX. 8A dated 11.03.2015 is also looked into, which emphasized that Judicial discipline should be followed while deciding pending show cause notices/appeals.

**31.** I find that the option to redemption has been granted and absolute confiscation is set-a-side vide order No.12/2021-CUS(WZ)/ASAR dated 18.01.2021 by the Revision authority, GOI issued under F. No: 371/44/B/2015-RA/785 dated 29.01.2021. Similar view was taken by Revision Authority vide Order No. 287/2022-CUS(WZ)/ASAR/Mumbai dated 10.10.2022; Order No. 245/2021-CUS(WZ)/ASAR dated 29.09.2021 issued under F. No: 371/44/B/15-RA/2020 dated 06.10.2021 and Order No: 314/2022-Cus(WZ)/ASAR/Mumbai dated 31.10.2022 issued from F. No: 371/273/B/WZ/2018 dated 03.11.2022. All the above mentioned 3 orders of RA has been accepted by the department.

**32.** I also find that in Order No: 245/2021-CUS9WZ)/ASAR/MUMBAI dated 29.09.2021 in case of Shri Memon Anjum, the Revisionary Authority set aside the order of absolute confiscation. The Revisionary Authority in Para 14 observed as under:

*“Government notes that there is no past history of such offence/violation by the applicant. The part of impugned gold jewellery was concealed but this at times is resorted to by travelers with a view to keep the precious goods secure and safe. The quantity/type of gold being in form of gold chain and 3 rings is jewellery and is not commercial in nature. Under the circumstance, the Government opines that the order of absolute confiscation in the impugned case is in excess and unjustified. The order of the Appellate authority is therefore liable to be set aside and the goods are liable to be allows redemption on suitable redemption fine and penalty.”*

**33.** I find that the seized gold jewellery was wearing by the both passengers, cannot be considered an ingenious method of concealment, even though the charge of non-declaration of the gold is established.

**33.1.** Further, the ownership of the seized gold by Noticee **(i) Smt. Komal Jalpesh Modi** and **(ii) Shri Jalpesh Nalinkumar Modi** cannot be denied, as they have claimed ownership of the seized gold in his written submissions dated 25.02.2026 and has also produced purchase invoices in support of his claim. Moreover, this was the first instance of bringing gold by the both passengers, and therefore, the case does not involve a habitual offender. (The noticee Shri Jalpesh Nalinkumar Modi is the son and legal heir of Late Smt. Varshaben Nalinkumar Modi, from whom the gold jewellery had been seized by the Customs Authority. He stated that his mother had passed away on 04.09.2025 after a prolonged illness.) I further find that the noticee Shri Jalpesh Nalinkumar Modi has submitted copies of the purchase invoices, issued by Sherez Jewellers L.L.C and Al Mignas Jewellers L.L.C.

both issued in his name. Further, the Noticees are holding a valid residency permit of Dubai and, as such, qualifies as a Non-Resident Indian (NRI). Considering the above facts, and as this is not a case of ingenious concealment, I am of the considered opinion that, under Section 125 of the Customs Act, 1962, an option for redemption of the seized gold may be granted.

**34.** I further find that Smt. Komal Jalpesh Modi, through her deliberate actions and omissions, was involved in the improper importation of gold jewellery, making the seized goods liable for confiscation under Sections 111(d) and 111(l) of the Customs Act, 1962. As a result of her role in attempting to bring smuggled goods into India, she also became liable for penal action under Section 112 of the Act. Additionally, she failed to discharge the burden of proof required under Section 123 of the Customs Act, which further strengthened the case for confiscation of the gold and imposition of penalties on her.

34.1 I find that she was actively involved in the act of smuggling and knowingly violated various legal provisions, including the Customs Act, 1962, the Foreign Trade Policy 2015–20, the Baggage Rules, 2016, and relevant Customs Notifications. By carrying, concealing, and illegally importing the gold—despite knowing or having reason to believe that it was liable for confiscation—she rendered herself liable for penalties under Section 112 of the Customs Act, reinforcing her accountability in the offence. Therefore, I hold that the passenger is liable for penal action under the provisions of Section 112 of the Customs Act, 1962, and I hold accordingly.

**35.** I further find that by instigating, instructing, and facilitating the improper importation of gold jewellery through his wife and his mother, Shri Jalpesh Nalinkumar Modi knowingly abetted the commission of offences under the Customs Act, 1962, and his role was central and deliberate, as the offence would not have occurred but for his planning and directions. Accordingly, he rendered the seized gold jewellery liable to confiscation under Sections 111(d) and 111(l) of the Customs Act, 1962 and rendered himself liable to penalty under Section 112 of the Customs Act, 1962 for abetment of improper importation of smuggled goods. Further, as discussed supra, Shri Jalpesh Nalinkumar Modi was found to have concerned himself in the act of abetting the smuggling of gold and to have knowingly violated the provisions of the Customs Act, 1962, Foreign Trade Policy 2015–20, Baggage Rules, 2016, and relevant Customs Notifications, thereby rendering the said goods liable to confiscation under Sections 111(d) and 111(l) of the Customs Act, 1962, and by purchasing and dealing with such smuggled gold, which he knew or had reason to believe was liable to confiscation under Section 111 of the Customs Act, 1962. Therefore, he is liable for penal action under the provisions of Section 112 of the Customs Act, 1962, and I hold accordingly.

**36. Accordingly, in view of the above discussion & findings, I proceed to pass the following order:**

### **ORDER**

- i. I order confiscation of the impugned total 07 Nos. of gold articles totally weighing 357.900 grams having Market Value of **Rs.31,98,410/-** and Tariff Value of **Rs.30,26,622/-** [One Gold Chain and One Gold Bangle (total net weight 174.1 grams, purity 916.0/22Kt., Market Value of Rs.16,18,260/-, Tariff Value Rs.15,31,343/-) and One Gold Kada (net weight 38.2 grams, purity 750.0/18Kt., Market Value of Rs.2,90,511/-, Tariff Value Rs.2,74,907.6/- recovered from possession of **Smt. Komal Jalpesh Modi**] and Three Gold Bangles (total weight of 107.900 grams, purity 916.0/22Kt.,

Market Value of Rs.10,02,931/-, Tariff Value Rs.9,49,063/-) and One Gold Kada (net weight 37.700 grams, purity 750.0/18Kt, Market Value of Rs.2,86,709/-, Tariff Value Rs.2,71,309.4/ recovered from possession of **Smt. Varshaben Nalinkumar Modi**, while arriving from Dubai to Ahmedabad on 17.08.2025 via Emirates Flight No. EK540, placed under Seizure under Panchnama Proceedings dated 17.08.2025 and two Seizure Memos/ Orders both dated 17.08.2025 under the provision of Section 111(d) and 111(l) of the Customs Act, 1962;

- ii. I give an option to **Smt. Komal Jalpesh Modi** to redeem the impugned 03 Nos. of gold articles totally weighing 212.300 grams on payment of **Redemption Fine of Rs.2,00,000/-** (Rupees Two Lakh Only) under Section 125(1) of the Customs Act, 1962 **only for the purpose of re-export**. In addition to redemption fine, the passenger would be liable for payment of applicable duties and other levies/charges in terms of Section 125(2) of the Customs act, 1962.
- iii. I give an option to **Shri Jalpesh Nalinkumar Modi** (son and legal heir of late Smt. Varshaben Nalinkumar Modi) to redeem the impugned 04 Nos. of gold articles totally weighing 145.600 grams on payment of **Redemption Fine of Rs.1,20,000/-** (Rupees One Lakh Twenty Thousand Only) under Section 125(1) of the Customs Act, 1962 **only for the purpose of re-export**. In addition to redemption fine, the passenger would be liable for payment of applicable duties and other levies/charges in terms of Section 125(2) of the Customs act, 1962.
- iv. I impose a penalty of **Rs.1,00,000/-**(Rupees One Lakh Only) on **Smt. Komal Jalpesh Modi** under the provisions of Section 112(a) and Section 112(b) of the Customs Act 1962.
- v. I impose a penalty of **Rs.1,00,000/-**(Rupees One Lakh Only) on **Shri Jalpesh Nalinkumar Modi** under the provisions of Section 112(a) and Section 112(b) of the Customs Act 1962.

**37.** Accordingly, the Show Cause Notice No. VIII/10-70/SVPIA-C/O&A/HQ/2025-26 dated 09.02.2026 stands disposed of.

**Shree Ram Vishnoi**  
**Additional Commissioner**  
**Customs, Ahmedabad**

**DIN:20260471MN000000E2F8**

**VIII/10-70/SVPIA-A/O&A/HQ/2025-26**

**Date :07.04.2026**

By Speed Post A.D./E-mail /Hand Delivery/Through Notice Board

To,

- (i) **Smt. Komal Jalpesh Modi**,  
Residing at B 501, Heart Villa Apartment,  
Opp. Sayona Green, S.G. Highway, Gota,  
Ahmedabad-380060 (Gujarat)
- (ii) **Shri Jalpesh Nalinkumar Modi**,  
Residing at S-402, ICB Flora, Nr. Arise Farm,  
Behind Hanuman Temple, Gota, Daskroi,  
Ahmedabad-382481(Gujarat)

Copy to:

- 1) The Principal Commissioner of Customs, Ahmedabad (Kindly Attention to RRA)
- 2) The Deputy/Assistant Commissioner of Customs, Recovery Cell, Ahmedabad
- 3) The Deputy/Assistant Commissioner of Customs, SVPIA, Ahmedabad
- 4) The Deputy Commissioner of Customs (AIU), SVPIA, 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.