OIO No. 68/ADC/SR/O&A/2026-27

प्रधान आयुक्त का कार्यालय, सीमा शुल्क, अहमदाबाद

सीमा शुल्क भवन", पहली मंजिल, पुराने हाईकोर्ट के सामने, नवरंगपुरा, अहमदाबाद – 380 009.

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DIN- 20260871MN0000048CBD

PREAMBLE

A	फ़ाइल संख्या/File No.	:	F.No. GEN/INV/SMLG/OTH/614/2025-AIRPT-SRT-CUS-COMMRTE-AHMEDABAD (VIII/26-11/AIU/Cus/2025-26)
B	कारण बताओ नोटिस संख्या–तारीख/Show Cause Notice No. and Date	:	VIII/26-11/AIU/Cus/2025-26 dated 01.06.2026
C	मूल आदेश संख्या/ Order-In-Original No.	:	**68/ADC/SR/O&A/2026-27**
D	आदेश तिथि/Date of Order-In-Original	:	**21.08.2026**
E	जारी करने की तारीख/ Date of Issue	:	**21.08.2026**
F	द्वारा पारित/Passed By	:	**Shravan Ram**, Additional Commissioner, Customs, Ahmedabad
G	आयातक/यात्री का नाम और पता / Name and Address of Importer/Passenger	:	1) Shri Gaurav Dineshbhai Patel, A-301, Sai Heights Building, Opp. Silver Palace, Utran Choryasi, Surat-394105. 2) Shri Sandip Kumar Premjibhai Dankhara, D-113, Sharda Vihar, Sudhindra Nagar, Dahisar East, Mumbai-400068.
(1)	यह प्रति उन व्यक्तियों के उपयोग के लिए निःशुल्क प्रदान की जाती है जिन्हे यह जारी की गयी है।		
(2)	कोई भी व्यक्ति इस आदेश से स्वयं को असंतुष्ट पाता है तो वह इस आदेश के विरुद्ध अपील इस आदेश की प्राप्ति की तारीख के 60 दिनों के भीतर आयुक्त कार्यालय, सीमा शुल्क अपील)चौथी मंज़िल, हुडको भवन, ईश्वर भुवन मार्ग, नवरंगपुरा, अहमदाबाद में कर सकता है।		
(3)	अपील के साथ केवल पांच (5.00) रुपये का न्यायालय शुल्क टिकिट लगा होना चाहिए और इसके साथ होना चाहिए:		
(i)	अपील की एक प्रति और;		

(ii)	इस प्रति या इस आदेश की कोई प्रति के साथ केवल पांच (5.00) रुपये का न्यायालय शुल्क टिकिट लगा होना चाहिए।
(4)	इस आदेश के विरुद्ध अपील करने इच्छुक व्यक्ति को 7.5 % (अधिकतम 10 करोड़) शुल्क अदा करना होगा जहां शुल्क या ड्यूटी और जुर्माना विवाद में है या जुर्माना जहां इस तरह की दंड विवाद में है और अपील के साथ इस तरह के भुगतान का प्रमाण पेश करने में असफल रहने पर सीमा शुल्क अधिनियम, 1962 की धारा 129 के प्रावधानों का अनुपालन नहीं करने के लिए अपील को खारिज कर दिया जायेगा।

BRIEF FACTS OF THE CASE:

Information/intelligence received by the officers of AIU, Surat International Airport, Surat (hereinafter referred as 'AIU') indicated that two passengers namely Shri Gaurav Dineshbhai Patel (noticee no.1) and Shri Tushar Shantilal Nakarani, scheduled to depart from Surat international Airport to Bangkok via Air India Flight No. IX-264 on 04.12.2025 would be carrying foreign currency and high value goods with them and will try to board the said flight without declaring the same to the Customs Authority.

2. Acting upon the said specific information, officers of AIU in presence of two independent panchas approached to the check-in counters of Air India Express in the departure hall and inquired about these two passengers. The representative available at the counter informed that both the passengers had already checked-in and deposited their two check-in bags to the airline. The officers requested the representative of Air India Express to bring back the check-in baggage of these two passengers for Customs examination. Thereafter, the Customs officers moved towards first floor of the departure hall where immigration and boarding area is situated. On reaching the immigration area, the Customs officers noticed that the boarding of the Bangkok flight No. IX-264 has already started and the Customs officers inquired about the passengers' details from the representative of Air India Express at boarding gate, to which one passenger informed his name as Shri Gaurav Dineshbhai Patel holding passport No. X5913717 and the other passenger informed his name as Shri Tushar Shantilal Nakarani holding passport No. B8848664. Shri Gaurav Dineshbhai Patel does not have any cabin baggage with him & Shri Tushar Shantilal Nakarani had one black colour backpack as his cabin baggage. The Customs officers asked both the passengers whether they have declared anything to the Customs or they wanted to declare anything to the Customs, for which both the passengers informed that they had nothing in their possession for declaration to the Customs. However, the Customs officer requested both these passengers to come with them in the departure hall at ground floor. Thereafter, the Air India representative produced two trolley bags, one was off-white cabin size trolly bag of brand “Safari” having Airline tag in the name of “Tushar Shantilal Nakarani” and another was indigo blue colour trolley bag of brand “Aristocrat” and having Airline tag in the name of “Gaurav Dineshbhai Patel”.

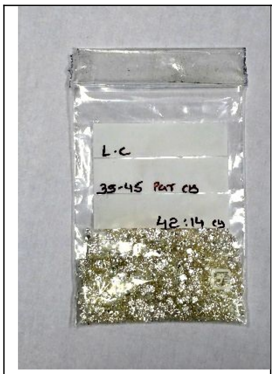
3. Thereafter, the Customs officers informed the said passengers that they would be conducting their personal search and detailed examination of their baggage and before doing so, the Customs officers offered their personal search to the passengers, which was politely declined by them. The Customs officers also asked the passengers whether they wanted to be searched before the Executive Magistrate or Superintendent of Customs, to which the said passengers gave their consent to carry out search before the Superintendent of Customs. Thereafter, the Customs officers carried out physical search of both the said passengers and upon frisking & physical search of Shri Gaurav Dineshbhai Patel, the Customs officers found foreign currency of US Dollars in denomination of 100 USD from the pant pocket of Shri Gaurav Dineshbhai Patel and on counting, found total 60 numbers of US Dollar currency notes having total value of USD 6,000/-. Upon frisking and physical search of Shri Tushar Shantilal Nakarani, the Customs officers found nothing suspicious from him. Further, the Customs officers asked the passenger Shri Gaurav Dineshbhai Patel about any legal document showing the purchase/ownership of the detained foreign currency, to which he informed that at present he doesn’t have any receipt of the same. The Customs officers again asked Shri Gaurav Dineshbhai Patel whether he has declared the above currency before the Customs Authority at Surat Airport, to which Shri Gaurav Dineshbhai Patel denied any declaration before the Customs for the items/foreign currency carried by him. The said passenger was again asked if he has anything else to declare, to which he again denied.

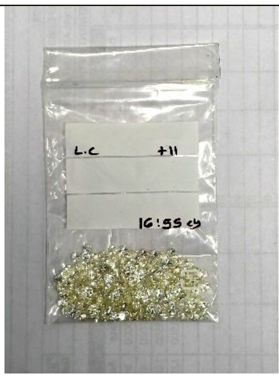
4. Summary of foreign currencies recovered from the passenger Shri Gaurav Dineshbhai Patel is summarized as under:-

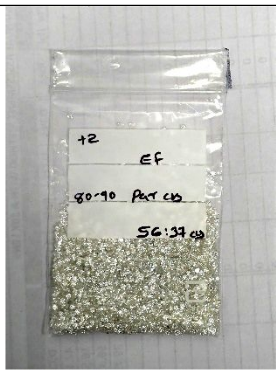
TABLE-1

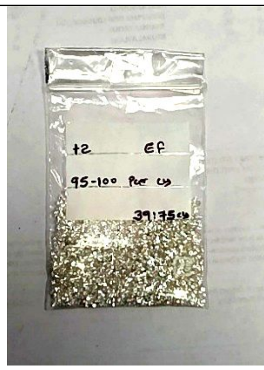
Name & Passport No. of pax & Annexure	Type of currency	Denomination	No. of Notes	Total Value of Currency in USD	Conversion Rate (Notfn. No. 42/2025-Cus. (NT) dated 21.11.2025 into Rupees	Total Value of currency in Indian Rupees

5. Thereafter, the Customs officers started checking/examination of baggage of these two passengers. The officers scanned the baggage viz. one off-white cabin size trolly bag of brand “Safari” & one black colour backpack of brand “spykar” of Shri Tushar Shantilal Nakarani through EBIX Scanner and no suspicious images was found in the baggage. Thereafter, the baggage viz. indigo blue colour medium size trolley bag of brand “Aristocrat” of Shri Gaurav Dineshbhai Patel was scanned through EBIX Scanner and no suspicious images was found in the baggage. Thereafter, the officers opened the luggage of Shri Tushar Shantilal Nakarani and after withdrawing all its contents and thoroughly checking the luggage, no objectionable/prohibited goods were found in the luggage. After that, the officers opened the luggage of Shri Gaurav Dineshbhai Patel and during examination of the said indigo blue colour medium size trolley bag of brand “Aristocrat”, the officers noticed that the bag contained some used & new clothes, some foods items viz. namkeen, thepla, snacks & other miscellaneous items. However, during checking of the clothes available in the said bag, the Customs officers noticed that some plastic pouches were kept inside the pockets of two jeans and recovered 04 nos. of transparent small ziplock polybags having some sparkling things like diamonds. The images of these recovered pouches are as under:-









6. During the course of above proceedings, Shri Vikasraj Juneja, Government Approved Valuer, who was called upon by the Customs officers, opened the 04 nos. of transparent small ziplock polybags & examined the diamonds recovered from these polybags with the apparatus brought by him and confirmed that the same was cut & polished natural diamonds. After examination, Shri Vikasraj Juneja, Government Approved Valuer started weighment of the above said diamonds on the weighing scale brought by him for each pocket one by one separately. Thereafter, Shri Vikasraj Juneja, Government Approved Valuer issued a Valuation Certificate Date/No.04.12.2025/01 and certified the market value of the said cut & polished natural diamonds as Rs.43,97,070/- (Rupees Forty-three lakh ninety-seven thousand seventy only). The details of diamonds as certified by the Government Approved Valuer are as under:-

TABLE-2

Sr.No.	Description on poly bags	Solitaire/Gems Stone		
		D.Cts	Rate	Amount
1	POLISHED DIAM LC 35-45 PC/CTS	42.14	20000	842800
2	POLISHED DIAM LC +11 SIZE	16.55	25000	413750
3	POLISHED DIAM EF 80-90 PC/CTS	56.37	33500	1888395
4	POLISHED DIAM LC 95-100 PC/CTS	39.75	31500	1252125
	Total	**154.81**		**4397070**

Thereafter, on identification of the sparkling items as diamonds, the passenger Shri Gaurav Dineshbhai Patel was asked to produce any legal document showing the purchase/ownership of the above said diamonds and the said passenger informed that at present he doesn't have any documents related to the above diamonds with him.

7. Further, the passenger produced the following travelling documents before the Customs officers:-

TABLE-3

Name of pax	Passport No.	Boarding Pass details
Shri Gaurav Dineshbhai Patel	X5913717	Air India Express Flight No. IX 264 dated 04.12.2025 Seat No.8B, PNR No. L1S5QI (Surat to Bangkok)

8. A factual panchnama dated 04.12.2025 to this effect was drawn by the Customs officers in the presence of two independent panchas and the foreign currency i.e. USD 6000/- equivalent to INR Rs.5,26,800/- (Rupees Five Lakh Twenty-Six Thousand Eight Hundred Only) and cut & polished natural diamonds valued at Rs.43,97,070 /- (Rupees Forty-three lakh ninety-seven thousand seventy only), which were recovered from the possession of passenger Shri Gaurav Dineshbhai Patel as detailed in the panchnama dated 04.12.2025 were placed under seizure vide seizure memo dated 04.12.2025) alongwith indigo blue colour trolley bag of brand "Aristocrat" with two jeans pants carried by the passenger (which were used for concealment of the above-mentioned cut & polished natural diamonds) on a reasonable belief that the said foreign currency as well as the cut & polished natural diamonds were attempted to be smuggled outside India without declaring to Customs Authority by way of concealment and was liable for confiscation under the provisions of the Customs Act, 1962.

9. During the course of proceedings, a statement of Shri Gaurav Dineshbhai Patel was recorded under the provisions of Section 108 of the Customs Act, 1962 on 04.12.2025, wherein he inter alia stated that_

- *he resides at A-301, Sai Heights Building, Opp. Silver Palac.e Utran Choryasi, Surat City, PIN-394105, Gujarat India; that he is holding Indian Passport No. X5913717; that he is a married person and his family is comprising of his parents, wife and son; that he does trade of gems & jewellery from his firm M/s. Om Creation having GSTIN: 24BZCPP7582G1Z3 registered at his residence i.e. Plot No. A/301, Sai Heights Building, VIP Circle, Utran Road, Opp. Silver Palace, Utran, Surat, Gujarat-394105; that he is the sole proprietor of the firm M/s. Om Creation; that he has done graduation in B.A and can read, write and understand English, Hindi and Gujarati language very well;*

- *he was going to Bangkok on 04.12.2025 by Air India Express Flight No.IX-264 from Surat International Airport; that he was stopped at boarding gate by the officers of Customs, Surat after clearing security check of Airlines and immigration; that during the checking/examination of baggage, the officers found cut & polished natural diamonds concealed in the pockets of two of his jeans neatly folded and packed in the trolly bag, which were packed in four small zipped transparent poly bags and the details of the diamonds recovered from his possession were as under:-*

Table-I

Sr. No.	*Description*	*D. CTS*	*Amount*
01	*POLISHED DIAM LC 35-45 PC/CTS*	*42.14*	*842800*
02	*POLISHED DIAM LC +11 SIZE*	*16.55*	*413750*
03	*POLISHED DIAM EF 80-90 PC/CTS*	*56.37*	*1888395*
04	*POLISHED DIAM LC 95-100 PC/CTS*	*39.75*	*1252125*
TOTAL		*154.81*	***43,97,070/-***

- *that these diamonds were given to him by his friend namely Mr. Sandip Dhankhra (Mob.No.9909031090) 2-3 days ago near his house; that Mr Sandipkumar Premjibhai Dankhara lives in Malad, Mumbai and works as trader & manufacturer of jewel & gems from the firm M/s. Elena Jewels (GSTIN: 24BUTPD8507P1ZY), 4th Floor, Plot No.237, SY-46/A/1, Nehru Nagar Society, Nr. L.H.Road, Poddar Arcade, Varachha, Podar Arcade, Varachha, Surat, Gujarat-395006; that he was asked to handover these diamonds once he reached Bangkok; that he doesn't have the details of the person to whom he was supposed to give these diamonds; that Mr. Sandip had asked him to call him after reaching Bangkok and Mr. Sandip will provide him the contact details to whom these diamonds are to be given; that there was no monetary benefit for him in it; that he was just doing it in good faith as Mr. Sandip is his good friend and he has asked him to do so; that he don't have any purchase vouchers/ legal documents of the diamonds recovered from his possession and subsequently placed under seizure under panchnama dated 04.12.2025;*

- *the Customs officers have also found foreign currency from his pocket amounting to USD 6000/- and on being asked whether he had declared anything to Customs authorities, he stated that he has not declared before the Customs; that he was carrying US Dollar and Diamonds with him to Bangkok and the details of foreign currency so recovered from his possession were given as under:-*

Type of currency	*Denomination*	*No. of Notes*	*Total*
US DOLLAR	*100*	*60*	*6000*
Total			*6000/-*

- *On being asked whether he has any legal documentary proof/evidence of acquisition of the said foreign currency, which he was carrying to Bangkok, he stated that at present he doesn't have any purchase vouchers/legal documents of the said foreign currency recovered from his possession and subsequently placed under seizure order dated 04.12.2025;*

- *On being asked about the source of above foreign currency, he stated that the said foreign currency belonged to him; that it was his old remaining currency from his last visit to Bangkok in 2024 and some of it was given to him by one of his relatives who lives in US. On being asked regarding the purpose for which he was carrying the foreign currency to Bangkok, he stated that he is going Bangkok for 05 days visit and needed this foreign currency for his own expenses. On being further asked, he stated that he has carried USD 6000/- without declaring the same to Customs Authorities and was smuggling the same out of India; that he was aware that carrying forex without declaring the same is an offence under the Customs Act.*

- *he admits that he was aware that he has committed an offence by not declaring the same to Customs for which he has to face the consequences as prescribed under the Customs Law.*

10. During the course of investigation, a statement of Shri Sandip Kumar Premjibhai Dankhara (noticee no.2) was recorded under the provisions of Section 108 of the Customs Act, 1962 on 10.12.2025, wherein he inter alia stated that_

- *he resides at D-113, Sharda Vihar, Sudhindra Nagar, Dahisar East, Mumbai-400068 and holding Indian Passport No. R4031510 and Aadhar No.5577-5206-8860; that he is a married person and his family is comprising his wife and three-year-old child; that he does the trading of gems & jewellery; that he has done graduation in B.Com and can read, write and understand English, Hindi and Gujarati language very well; that in Surat he resides at his brother-in-law's place i.e. Plot No 60, Sanskar Row House, Mota Varacchha, Surat;*

- *he does trade of diamonds (cut & polished) and manufacturing of gold & silver jewellery from his proprietorship firm M/s. Elena Jewels, Mumbai since August-2019 and thereafter, he has started Surat branch from 2022; that before starting his own business, he was working as Accountant in Kalista Jewels, Paper Box area, Andheri (East), Mumbai;*

- *he has taken GST registration of M/s. Elena Jewels in two states, Gujarat as well as Maharashtra; that the GSTIN 24BUTPD8507P1ZY of Gujarat was registered at 4the Floor, Plot No.237, SY-46/A/1, Nehru Nagar Society, Nr. L.H. Road, Poddar Arcade, Varachha, Surat, Gujarat, 395006 and in Maharashtra, GST No. 27BUTPD8507P1ZS was registered at 301, JAY CHS LTD, C.S.C RAOD, OPP. SANJI HOTEL, ANAND NAGAR, DAHISAR, MUMBAI SUBURBAN, MAHARASHTRA-400068; that the IEC number of M/s. Elena Jewels is BUTPD8507P;*

- *the details of his top 5 buyers and sellers with whom he does most of the business in domestic as well as overseas:*

Top 05 Domestic suppliers:

Sr. No.	*Name of the firm*
01	*Purna Purushottam, Mumbai*
02	*Maruti Jewells, Surat*
03	*AUM Star, Surat*
04	*Shivam Jewells Pvt Ltd, Surat & Mumbai*
05	*Mishwa Exports, Surat & Mumbai*

Top 05 Domestic buyers:

Sr. No.	*Name of the firm*
01	*Balaji Jewells Pvt Ltd, Mumbai*
02	*Balaji Gems & Jewells Pvt Ltd, Mumbai*
03	*Swarna Ratna Jewells, Mumbai*
04	*Blue Gems Pvt Ltd, Mumbai*
05	*Desire Jewells, Mumbai*

Top 05 Overseas buyers:

Sr. No.	*Name of the firm*
01	*Desire Jewells HK Ltd, Hongkong*
02	*Urja Jewells, Nepal*
03	*Marigold Pvt Ltd, Nepal*
04	*Andys Colleciton, USA*
05	*PM Brilliance Russia*

- *he has perused panchnama dated 04.12.2025 drawn at International Airport, Surat and in token of perusal of the same, he put his dated signature on it;*

- *he has perused the statement dated 04.12.2025 of Shri Gaurav Dineshbhai Patel and in token of perusal & agreeing to the same, he put his dated signature on it; that in regard to the ownership of seized 154.81 carat cut & polished natural diamonds, he stated that he has given these diamonds to Shri Gaurav Dineshbhai Patel to handover to one of his clients namely M/s. Golden Stone Co. Ltd, Bangkok;*

- *he has handed over the diamonds to Shri Gaurav Dineshbhai Patel on 02.12.2025;*

- *he stated that M/s. Golden Stone Co. Ltd, is a firm based in Bangkok and one Mr. Rana Tank (Mob No.+66808312343) is the owner of the firm and he has met him in Exhibition Fair, Bangkok in the month of September-2025 and this was the first time they were trying do business, so he was sending the sample diamonds to him through Shri Gaurav Dineshbhai Patel;*

- *he stated that he has received requirement through whatsapp (Mob No.+66808312343) only and the chat of the same has been disappeared now and he does not have any other communication of the same;*

the said 154.81 cts cut & polished natural diamonds were purchased from two different firms vide three purchase invoices, as detailed below and submitted the copy of invoices for the record;

Sr.	*Qty.*	*Purchased From*	*Invoice No*	*Invoice Date*	*Description*

No.	*(Cts.)*				
01	*58.69*	*Purna Purshottam Export*	*PPE/73/25-26 (item Sr No .1 of the invoice)*	*16.05.2025*	*Cut & polished natural diamonds in Light Colour mentioned as 'LC' on two pouches*
02	*56.37*	*Purna Purshottam Export*	*PPE/15/25-26*	*08.04.2025*	*Cut & polished natural diamonds in White colour mentioned as 'EF' on the pouch*
03	*39.75*	*AUM Star*	*37*	*02.05.2025*	*Cut & polished natural diamonds in White colour mentioned as 'EF' on the pouch*
	154.81				

- *he stated that he has not generated the sales bills/invoices of the said cut & polished natural diamonds being sent to M/s. Golden Stone Co. Ltd, Bangkok as sample basis;*

- *On being asked as to how he has shown the said 154.81 cts. cut & polished natural diamonds in his stock in books of accounts without issuing sales bills/Invoices; he stated that he has decided to show it as domestic supply;*

- *On being asked as to how will he receive the payment of the said 154.81cts cut & polished natural diamonds being sent to M/s. Golden Stone Co. Ltd, Bangkok; he stated he has decided to show it as domestic supply and adjust the payment as received in cash;*

- *On being asked as to why he has not followed the official channel to send the said cut & polished natural diamonds by generating shipping bill etc; he stated that he does not want to offer any comments on it;*

- *he was aware that he has violated the provisions of Customs Act, 1962 by not following the official channel for sending the said cut & polished natural diamonds to Bangkok;*

- *he stated that the seized USD does not belong to him, it may be belonged to Shri Gaurav Dineshbhai Patel.*

11. During investigation, further statement of Shri Gaurav Dineshbhai Patel was recorded under the provisions of Section 108 of the Customs Act, 1962 on 24.02.2026, wherein among other things, he stated that_

- *he has perused his statement dated 04.12.2025 and in token of perusal & agreeing to the same, he put his dated signature on it; he has perused the statement dated 10.12.2025 of Shri Sandip Kumar Premjibhai Dankhara and in token of perusal & agreeing to the same, he put his dated signature on it;*

- *he stated that the said foreign currency belonged to him and he has bought the same in cash in small parts and therefore he does not have any legal documentary proof/evidence of acquisition of the said foreign currency; that he was carrying the said foreign currency to Bangkok for his own expenses;*

- *On being asked about the source of purchase of above foreign currency recovered from his possession; he stated that he has purchased the said foreign currency in cash in small parts from time to time, so he did not exactly remember all the places from where he has purchased the said foreign currency; that he was carrying the said foreign currency to Bangkok for his own expenses.*

12. From the records of the case and the evidences as discussed hereinabove, the passenger Shri Gaurav Dineshbhai Patel appeared to have made an attempt to improperly export/smuggle foreign currency of USD 6000/- equivalent to INR Rs.5,26,800/- by concealing the same in his pocket and without declaring the same before the Customs with an intent to illegally export them out of India without possessing any lawful procurement documents. Also, Shri Gaurav Dineshbhai Patel failed to produce any legitimate documents evidencing lawful acquisition/procurement of the said seized currency in terms of Regulation 7(2) & 7(3) of the Foreign Exchange Management (Export and import of currency) Regulations, 2015 during his personal search or at the time of seizure and even throughout the course of investigation. He also failed to produce any declaration in compliance to the provisions of the Section 77 of Customs Act, 1962. Thus, he appeared to have violated Regulation 5 and 7 of the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015 by attempting to illegally export the foreign currency, seized from his possession. Further, the passenger has illegally dealt with, acquired, held and possessed the seized foreign currency and attempted to improperly export or physically transfer the same at a place outside India and thus appeared to have contravened the provisions of Section 3 and Section 4 of the Foreign Exchange Management Act, 1999. As the amount of foreign currency found in his possession exceeds the limits prescribed for a resident in India under the Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulations, 2015, the passenger also appeared to have violated Regulation 3 of the Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulations, 2015.

12.1 Further, the passenger Shri Gaurav Dineshbhai Patel appeared to have made an attempt to improperly export/smuggle cut & polished natural diamonds valued at Rs.43,97,070/- (Rupees Forty-three lakh ninety-seven thousand seventy only) by concealing the same in the clothes (jeans pant) kept in his baggage, without declaring the same before the Customs with an intent to illegally export them out of India and also without possessing any lawful procurement documents. Furthermore, Shri Gaurav Dineshbhai Patel failed to produce any legitimate documents evidencing lawful acquisition/procurement of the said cut &p olished natural diamonds during his personal search or at the time of seizure and even throughout the course of investigation. He also failed to produce any documents evidencing the fulfilment of the requirement of Section 50 of the Customs Act, 1962. Moreover, he failed to produce any declaration in compliance to the provisions of the Section 77 of Customs Act, 1962. Thus, Shri Gaurav Dineshbhai Patel appeared to have illegally dealt with, acquired, held and possessed the seized cut & polished natural diamonds and attempted to improperly export or physically transfer the same at a place outside India.

12.2 By virtue of restrictions on the export of foreign currency and non-compliance of the statutory requirements in respect of foreign currency as well as diamonds, the seized foreign currency and cut & polished natural diamonds appeared to be 'prohibited goods' in terms of Section 2(33) of the Customs Act, 1962. Therefore, it appeared that the passenger indulged in smuggling activities as defined under Section 2(39) of the Customs Act, 1962 and the attempted export constitutes an act of 'illegal export' as defined under Section 11H(a) of the Customs Act, 1962. He also appeared to have violated para 2.45 of the Foreign Trade Policy 2023 read with Section 3(2), 3(3) and 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 read with Section 11(3) of the Customs Act, 1962.

12.3 The seized foreign currency USD 6000/- equivalent to INR Rs.5,26,800/- as per Notification No.42/2025-Customs(NT) dated 21.11.2025 and cut & polished natural diamonds valued at Rs.43,97,070/- (Rupees Forty-three lakh ninety-seven thousand seventy only), which was attempted to be improperly and illegally export by the passenger by concealing it in the pockets of two of his jeans neatly folded and packed in the trolly bag in violation of the Customs Act, 1962, Baggage Rules, 2016 and other laws in force appeared to be liable for confiscation under Section 113(d), 113(e) & 113(h) of the Customs Act, 1962. The said act on the part of the passenger also appeared to have an act of "smuggling" as defined under Section 2(39) of the Customs Act, 1962 and the passenger by his above-mentioned acts of omission and commission has rendered the seized foreign currency and cut & polished natural diamonds liable for confiscation under Section 113 of the Customs Act, 1962, thereby he appeared to be rendering himself liable for penalty under Section 114(i) of the Customs Act, 1962.

12.4 Further, the indigo blue colour trolley bag of brand "Aristocrat" with two jeans pants, which were used for concealing the cut & polished natural diamonds, seized vide seizure order dated 04.12.2025 under panchnama dated 04.12.2025, appeared to be liable for confiscation under Section 119 of the Customs Act, 1962.

13. <u>Role of Shri Sandip Kumar Premjibhai Dankhara:</u>

13.1 The passenger, Shri Gaurav Dineshbhai Patel, in his statement dated 04.12.2025 stated that these cut & polished natural diamonds were given to him by his friend namely Shri Sandip Dankhara (Mob No.9909031090) 2-3 days ago near his house; that Shri Sandip Dankhara had asked him to handover these diamonds to someone in Bangkok and there was no monetary benefit for him in it and that he was just doing it in good faith as Shri Sandip is his good friend and he asked him to do so. Further, Shri Sandip Kumar Premjibhai Dankhara, in his statement dated 10.12.2025 has accepted that he has given these diamonds to Shri Gaurav Dineshbhai Patel to handover it to one of his clients namely M/s. Golden Stone Co. Ltd, Bangkok. He also accepted that he has not generated the sales bills/invoices of the said cut & polished natural diamonds being sent to M/s. Golden Stone Co. Ltd, Bangkok as sample basis and decided to show it as domestic supply and also adjust the payment as received in cash. The said act of Shri Sandip Kumar Premjibhai Dankhara appeared to be an act of abetting in the 'smuggling' as defined under Section 2(39) of the Customs Act, 1962. Shri Sandip Kumar Premjibhai Dankhara by his above-described acts of omission & commission has rendered the seized cut & polished natural diamonds liable for confiscation under Section 113 of the Customs Act, 1962 and therefore he appeared to liable for penalty under Section 114(i) of the Customs Act, 1962.

14. After conducting detailed investigation as described hereinabove, a Show Cause Notice bearing No. VIII/26-11/AIU/Cus/2025-26 dated 01.06.2026 was issued by the Additional Commissioner, Customs, Ahmedabad to Shri Gaurav Dineshbhai Patel, residing at A-301, Sai Heights Building, Opp. Silver Palace, Utran Choryasi, Surat-394105, calling him to show cause within 30 days as to why:-

(i) Foreign currency USD 6000/- equivalent to INR Rs.5,26,800/- (Rupees Five lakh twenty-six thousand eight hundred only), seized from him vide seizure order dated 04.12.2025 under Panchnama dated 04.12.2025, should not be confiscated under Section 113(d), 113(e) and 113(h) of the Customs Act, 1962;

(ii) Indigo blue colour trolley bag of brand "Aristocrat" with two jeans pants seized vide seizure order dated 04.12.2025 under panchnama dated 04.12.2025, should not be confiscated under Section 119 of the Customs Act, 1962;

(iii) Penalty should not be imposed upon him under Section 114(i) of the Customs Act, 1962;

(iv) Penalty should not be imposed upon him under Section 117 of the Customs Act, 1962.

15. Shri Sandip Kumar Premjibhai Dankhara, residing at D-113, Sharda Vihar, Sudhindra Nagar, Dahisar East, Mumbai-400068, was also called upon to show cause to the Additional Commissioner, Customs, Ahmedabad, within 30 days from the receipt of Show Cause Notice bearing No. VIII/26-11/AIU/Cus/2025-26 dated 01.06.2026 as to why:-

(i) cut & polished natural diamonds valued at Rs.43,97,070 /- (Rupees Forty-three lakh ninety-seven thousand seventy only), seized from Shri Gaurav Dineshbhai Patel vide seizure order dated 04.12.2025 under Panchnama dated 04.12.2025, should not be confiscated under section 113(d), 113(e) and 113(h) of the Customs Act, 1962;

(ii) penalty should not be imposed upon him under Section 114(i) of the Customs Act, 1962;

(iii) penalty should not be imposed upon him under Section 117 of the Customs Act, 1962.

16. <u>DEFENCE REPLY:</u>

As mentioned above that both the noticees viz. Shri Gaurav Dineshbhai Patel, resident of Surat and Shri Sandip Kumar Premjibhai Dankhara, resident of Mumbai, were asked to show cause within 30 days from the date of Show Cause Notice dated 01.06.2026, but they did not file any defence reply/submission till date nor they sought any extension of time to file their defence reply.

17. <u>RECORD OF PERSONAL HEARING</u>:

17.1 Opportunity of Personal Hearing has been afforded to both noticees viz. Shri Gaurav Dineshbhai Patel and Shri Sandip Kumar Premjibhai Dankhara. Shri Sandip

Kumar Premjibhai Dankhara, Mumbai, has appeared before me for Personal Hearing on 21.07.2026, wherein he submitted that he is doing trading of diamonds (cut & polished) and manufacturing of gold & silver jewellery from his proprietorship firm M/s. Elena Jewels, Mumbai since August-2019 as well as from Surat premises. He also submitted that the cut & polished diamonds were purchased by him and copies of bills were submitted by him at the time of his statement. He further submitted that the cut & polished diamonds were handed over by him to his friend Shri Gaurav Dineshbhai Patel to deliver the same to Shri Rana Tank of M/s. Golden Stone Company Limited, Bangkok as a sample; that the said cut & polished diamonds were for their business purpose only and not involved in any kind of smuggling activity. He finally requested to drop the proceedings initiated against him.

17.2 Shri Gaurav Dineshbhai Patel, Surat, did not attend the Personal Hearing fixed on 21.07.2026. However, he, vide his letter dated 21.07.2026 has informed that he authorized Mr. Sandip Dankhara to represent him and to appear Personal Hearing on his behalf on 21.07.2026. He has also informed that Mr. Sandip Dankhara has also been authorized to submit documents, make representation, provide clarification and undertake all necessary actions in connection with the matter on his behalf. He has further informed that he does not require any separate Personal Hearing in the matter and the case may be decided on the basis of submission made by Mr. Sandip Dankhara.

18. <u>DISCUSSION & FINDINGS</u>:

18.1 I have carefully gone through the records of the case including Show Cause Notice dated 01.06.2026 and the submissions made during personal hearing. The issues which are to be decided by me in this case are as to whether: -

(a) foreign currency of USD 6000/- equivalent to INR Rs.5,26,800/-(Rupees Five lakh twenty-six thousand eight hundred only), seized from Shri Gaurav Dineshbhai Patel vide seizure order dated 04.12.2025 under panchnama dated 04.12.2025 is liable for confiscation under Section 113(d), 113(e) and 113(h) of the Customs Act, 1962 or not;

(b) cut & polished natural diamonds valued at Rs.43,97,070/- (Rupees Forty-three lakh ninety-seven thousand seventy only), seized from Shri Gaurav Dineshbhai Patel vide seizure order dated 04.12.2025 under panchnama dated 04.12.2025 is liable for confiscation under Section 113(d), 113(e) and 113(h) of the Customs Act, 1962 or not;

(c) the indigo blue colour trolley bag of brand "Aristocrat" with two jeans pants seized vide seizure order dated 04.12.2025 under panchnama dated 04.12.2025 is liable for confiscation under Section 119 of the Customs Act, 1962 or not and

(d) penalty is imposable upon Shri Gaurav Dineshbhai Patel, Surat (noticee no.1) and Shri Sandip Kumar Premjibhai Dankhara (noticee no.2) under Section 114(i) and Section 117 of the Customs Act, 1962, respectively or not.

18.2 From the records available in the file, submission made at the time of personal hearing, I find that none of them had questioned the manner of the Panchnama proceedings at the material time nor controverted the facts detailed in the Panchnama during the course of recording of their statements. I also not find any retraction filed by any of the noticees at any stage of proceeding. Every procedure conducted during the Panchnama by the Officers was well documented and made in the presence of the Panchas as well as the noticee. In fact, on being particularly asked from Shri Gaurav Patel whether he was carrying any restricted/prohibited/contravened goods under Customs Act, 1962, he categorially denied of having anything which required any declaration before Customs officer and thereafter, on being searched, foreign currency of 6000 USD, which equivalent to Rs. 5,26,800/- in Indian Currency as per the Exchange rate of one-unit foreign currency equivalent to Indian Rupees as per Notification No. 42/2025-Customs (N.T) dated 21.11.2025 (taken as per Exported goods) and 04 poly bags containing cut and polished natural diamonds of 154.81 Carat were recovered from the pocket of pant and trolley bag respectively. Further, I find that the facts of the panchnama was agreed and accepted by both noticees in their respective statements dated 04.12.2025 & 10.12.2025 respectively. Further, Shri Gaurav Patel in his statement, clearly admitted that he procured unauthorized foreign currency in cash and had attempted to carry the foreign currency illegally to Bangkok. He further admitted that he had not disclosed and declared the foreign currency which was concealed in the pocket of his pant. Further he accepted that the cut and polished diamonds were given to him by Shri Sandip Kumar Dankhara and same was also confirmed by Shri Sandip Dankhara in his statement. I find from the evidence/documents on record that none of them have never retracted from his their voluntarily statement/s tendered by them before

Customs officers under Section 108 of Customs Act, 1962. I find that statements tendered bny them were voluntarily under Section 108 of Customs Act, 1962 and as per their say without any threat, pressure and inducement and after going through the correctness of the facts recorded in their statements, they put their signature with full presence of mind. I find that the statement recorded under Section 108 of the Customs Act, 1962 has evidentiary value under the provisions of law. To support my view, I put reliance on the following Judgment as follows:-

(i) Hon'ble Supreme Court in case of Surjeet Singh Chhabra Vs. U.O.I [reported in 1997 (89) E.L.T 646 (S.C)] held that evidence- confession statement made before Customs officer, though retracted within six days, in admission and binding, since Customs Officers are not police officers under Section 108 of the Customs Act and FERA.

(ii) Assistant Collector of Central Excise, Rajamundry Vs. Duncan Agro India Ltd reported in 2000 (120) E.L.T 280 (SC) wherein it was held that "Statement recorded by a Customs Officer under Section 108 is a valid evidence"

(iii) In 1996 (83) E.L.T 258 (SC) in case of Shri Naresh J Sukhwani V. Union of India wherein it was held that "It must be remembered that the statement before the Customs official is not a statement recorded under Section 161 of the Criminal Procedure Code 1973. Therefore, it is material piece of evidence collected by Customs Official under Section 108 of the Customs Act,1962"

(iv) Moreover, in the recent Judgment dated Feb-2026, Hon'ble Supreme Court in the matter of Amad Noormamad Bakali Vs. The State of Gujarat & Ors. (CRIMINAL APPEAL NO(S). 1000 OF 2012) have agreed with the view taken by the Hon'ble High Court that *"At the outset, it would be apposite to note that the contention that the conviction of the appellants could not be founded solely upon the statements recorded under Section 108 of the Customs Act, 1962, was also urged before the High Court in revision. The High Court, upon a detailed examination of the statutory framework and the judicial precedents governing the admissibility and evidentiary value of such statements, rejected the said contention.* <u>It was observed that statements</u>

recorded under Section 108 of the Customs Act, 1962 by duly authorized Customs Officers are admissible in evidence and do not attract the bar contained in Sections 24, 30, or 34 of the Indian Evidence Act, 1872, provided they are made voluntarily."

18.3 Further, whether the seized currency and diamond falls under the category of "Prohibited Goods" or otherwise, I find that Section 2(22) of Customs Act, 1962 defines the term "goods" and include at Section 2(22)(d) & (e) of the Customs Act, 1962 the *"currency and negotiable instruments" and any other kind of movable property"*. In terms of 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. The effect of interpretation of the words prohibited goods considered in Om Prakash Bhatia Vs. Commissioner of Customs, New Delhi (2003(6) SSC 161) and in the said judgment the supreme court held as follows:-

"From the aforesaid definition, it can be stated that (a) if there is any prohibition on import or export of the goods under the Act or any other law for the time being in force, it would be considered to be prohibited goods; and (b) this would not include any such goods in respect of which the conditions, subject to which the goods are imported or exported, have been complied with. This would means that if the conditions prescribed for import or export of goods in not complied with, it would be considered to be prohibited goods"

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

"64. Dictum of the Hon'ble Supreme Court and High Courts makes it clear that gold, may not be one of the enumerated goods, as prohibited goods, still, if the

conditions for such import are not complied with, then import of gold, would squarely fall under the definition "prohibited goods", in Section 2 (33) of the Customs Act, 1962----."

Moreover, the Hon'ble High Court of Delhi in its order dated 23.11.2023 in Writ Petition No. 8976 of 2020 in the matter of Kiran Juneja Vs. Union of India & Ors. has held that *"A fortiori and in terms of the plain language and intent of Section 2(33), an import which is affected in violation of a restrictive or regulatory condition would also fall within the net of "prohibited goods".*

I find that export of Currency and diamond are governed by provisions of the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015 and the notifications issued thereunder, baggage rules, 2016, read with Circular No. 09/2025-Cus dated 28.03.2025 under which procedure of import/export through personal carriage described in length and also read with the provision of Para 4.87 of Handbook of Procedures 2023. Any of the contravention and lapse of the above provisions makes the goods fall within the ambit of prohibited goods. The view taken by the *Hon'ble Supreme Court in the case of Om Prakash Bhatia* however in very clear terms lays down the principle that if the importation and exportation of goods are subject to certain prescribed conditions, which are to be fulfilled before or after clearance of goods, non-fulfilment of such conditions would make the goods fall within the ambit of **'prohibited goods'**. Non-fulfillment of prescribed conditions has made the diamonds seized in the present case "prohibited goods" as the passenger, trying to smuggle them, out of India or export currency and diamonds outside India in baggage. Relying on the proportion of the judgments and regulations stated above, I find that the seized currency and diamonds brought in customs area for export out from India by the noticee Shri Gaurav Patel is **"prohibited goods"** under the definition of Section 2(33) of the Customs Act, 1962.

18.4 Now, I take up the main issues mentioned at (a) to (c) above at Para 18.1. Show Cause Notice dated 01.06.2026 proposes to confiscate foreign currency of USD 6000/- equivalent to INR Rs.5,26,800/- under Section 113 (d), 113(e) and 113(h) of the Customs Act, 1962, which was seized vide seizure order dated 04.12.2025 under panchnama dated 04.12.2025. I find that the legal provision for Importation and exportation of foreign currency is very clear and does not leave any scope for any ambiguity. If the whole set of incidents is examined, first it is seen that the noticee was about to fly to Bangkok from Surat on 04.12.2025 via Air India Flight No. IX-264, without making any declaration to the Customs authority. The noticee was intercepted by the Customs officials in presence of two independent panchas while he was in waiting area. Thus, being an international passenger, the noticee was bound by the Baggage Rules, 2016 framed under the Customs Act, 1962. There cannot be any denial for the applicability of Baggage Rules, 2016 in respect of the passenger. Rule 7 of the Baggage Rules, 2016 Stipulates as under: -

Rule 7. Currency. -

The import and export of currency under these rules shall be governed in accordance with the provisions of the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015, and the notifications issued thereunder.

I find that Rule 7 of the Baggage Rules, 2016 is about import and export of currency and it lays down that the import or export of currency is governed by the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015 and notifications issued there under. Thus, I find that there cannot be any denial in respect of the fact that regulations and notifications framed under the said Foreign Exchange Management (Export and Import of Currency) Regulations, 2015 were applicable to the noticee as he was primarily bound to follow Baggage Rules, 2016 as amended.

Further, regulation 5 and 7 of the Foreign Exchange Management (Export and Import of Currency) Regulation, 2015 states that no foreign currency can be sent out of Indian and brought into India without permission of RBI. The relevant provisions read as follow: -

Regulation 5. Prohibition on export and import of foreign currency: -

Except as otherwise provided in these regulations, no person shall, without the general or special permission of the Reserve Bank, export or send out of India, or import or bring into India, any foreign currency.

Regulation 7: Export of foreign exchange and currency notes:

(1) An authorised person may send out of India foreign currency acquired in normal course of business,

(2) Any person may take or send out of India, -

a. Cheques drawn on foreign currency account maintained in accordance with Foreign Exchange Management (Foreign Currency Accounts by a person resident in India) Regulations, 2000;

b. foreign exchange obtained by him by drawal from an authorised person in accordance with the provisions of the Act or the rules or regulations or directions made or issued thereunder;

c. currency in the safes of vessels or aircrafts which has been brought into India or which has been taken on board a vessel or aircraft with the permission of the Reserve Bank;

(3) Any person may take out of India, -
a. foreign exchange possessed by him in accordance with the Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulations, 2015;

b. unspent foreign exchange brought back by him to India while returning from travel abroad and retained in accordance with the Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulations, 2015;

(4) Any person resident outside India may take out of India unspent foreign exchange not exceeding the amount brought in by him and declared in accordance with the proviso to clause (b) of Regulation 6, on his arrival in India.

It is observed that the noticee did not make the statutory declaration before Customs authorities since the Forex (USD 6000) carried by the him was much higher than the prescribed limit under the FEMA 1999 as amended read with the Foreign Exchange Management (Export and Import of Currency) Regulation, 2015.

The Regulation 5 read with Regulation 7 of Foreign Exchange Management (Export and Import of Currency) Regulations, 2015 in very clear terms "prohibits" export and import of **"any" foreign currency** without general or special permission of the Reserve Bank of India. *I find that the noticee has not come forward with any document issued by any authorized authority which can establish that the noticee was granted special permission by the Reserve Bank of India to carry foreign currencies he was carrying with him to take out from India*. In the case before me, the noticee has failed to declare the foreign currency in the prescribed format and file declaration which can establish that the foreign currencies found and recovered from him was not carried illegally. Moreover, I find that the noticee Shri Gaurav Patel had concealed the said foreign currency in the pocket of his pant to avoid the detection from the Customs Officers as confessed by him in his voluntary statement. These acts of omission or commission of offence on his part was clear violation of Rules 7 of Baggage Rules, 2016 read with regulations 5 and 7 of Foreign Exchange Management (Export and Import of Currency) Regulations, 2015.

18.5 I find that upon gathering a specific intelligence, the officers of AIU of Customs, Surat International Airport intercepted two passengers viz. Shri Gaurav Dineshbhai Patel and Shri Tushar Shantilal Nakarani, who were scheduled to board an Air India Flight No.IX-264 on 04.12.2025 for Bangkok from Surat International Airport and the personal search as well as examination of baggage resulting into the recovery of USD 6000 and 04 poly bags containing cut and natural diamonds. I also note that when the Customs officers asked the passenger Shri Gaurav Dineshbhai Patel about any legal document showing the purchase/ownership of the detained foreign currency and diamonds, he informed that he doesn't have any receipt of the same. Further, I find that when the Customs officers asked Shri Gaurav Dineshbhai Patel as to whether he has declared the above said seized goods before the Customs Authority at Surat Airport, he informed that he did not file any declaration before the Customs for the items/foreign currency and diamonds carried by him. It is also observed from the panchnama dated 04.12.2025 that the said currency of USD 6000/- was placed under seizure vide panchnama dated 04.12.2025 on a reasonable belief that the same was liable for confiscation under Customs Act, 1962. By going the provisions of Section 113(d), 113(e) and 113(h) of the Customs Act, 1962 and the facts narrated above, I find that there was clear-cut contravention of these sections on the part of Shri Gaurav Dineshbhai Patel (noticee no.1). Further, in his statements dated 04.12.2025 & 24.02.2026, Shri Gaurav Dineshbhai has stated that the said foreign currency belonged to him and he has bought the same in cash in small parts and therefore he does not have any legal documentary proof/evidence of acquisition of the said foreign currency. In his aforesaid statements, he also stated that he has purchased the said foreign currency in cash in small parts from time to time and he did not exactly remember the places from where he has purchased the said foreign currency and that he was carrying the said foreign currency to Bangkok for his own expenses. The legal provisions of FEMA, 1999, the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015, Section 2(33) of the Customs Act, 1962 read with Section 11 clearly stipulate that an attempt to smuggle out foreign currency is ‘prohibited’ and merits confiscation under provisions of Section 113 of Customs Act, 1962. Therefore, I agree with the proposal made in the Show Cause Notice dated 01.06.2026 and I hold that the seized foreign currency of US dollar 6000/- equivalent to INR Rs.5,26,800/- is liable for confiscation under Section 113(d), 113(e) and 113(h) of the Customs Act, 1962.

18.6 On careful examination of the records of the case, I find that after thoroughly checking the luggage i.e. Indigo blue colour medium size trolley bag of brand ‘Aristocrat’, carried by Shri Gaurav Dineshbhai Patel, the Customs officers of AIU, Surat International Airport, recovered some plastic pouches containing cut & polished natural diamonds, which were kept inside the pockets of two jeans available in the said trolley bag of Aristocrat brand and the same was further confirmed by Shri Gaurav Dineshbhai Patel during the course of panchnama proceedings dated 04.12.2025. It is also on record that after satisfying that the said concealed cut & polished natural diamonds were unaccounted and undeclared before the Customs with an intent to illegally export them out of India without possessing any lawful procurement documents, the Govt. Approved Valuer Shri Vikasraj Juneja was called upon by the Customs officers during the course of panchnama proceedings dated 04.12.2025 and the market value of the said cut & polished natural diamonds was ascertained as Rs.43,97,070/- (Rupees Forty-three lakh ninety-seven thousand seventy only) by the said Govt. Approved Valuer by giving necessary valuation certificate dated 04.12.2025. For this reason, the cut & polished natural diamonds valued at Rs.43,97,070/- (Rupees Forty-three lakh ninety-seven thousand seventy only), which were recovered from the possession of passenger Shri Gaurav Dineshbhai Patel as detailed in the panchnama dated 04.12.2025 were placed under seizure vide seizure order dated 04.12.2025 alongwith indigo blue colour trolley bag of brand 'Aristocrat' with two jeans pants used for concealment of the above-mentioned cut & polished natural diamonds, on a reasonable belief that the said cut & polished natural diamonds were attempted to be smuggled outside India without declaring to Customs Authority by way of concealment and was liable for confiscation under the provisions of the Customs Act, 1962. I find that the noticee Shri Gaurav Patel had attempted to illicitly export the impugned diamonds by way of concealment in his baggage without declaration to the Customs and without complying the relevant provisions of the Customs Act, 1962; Foreign Trade (Development and Regulation) Act, 1992, Foreign Trade (Regulation) Rules, 1993 Foreign Trade Policy 2015-20/2023 and thereby the impugned diamonds have assumed the characteristics of prohibited goods due to contravention of various legal provisions viz, Section 11, 50, 77 and 79 of Customs Act, 1962; Para 2.06, 2.08, 2.26/2.27 and 2.45 of Foreign Trade Policy 2015-2020/2023. Given the contraventions of the various provisions of law as detailed supra, the impugned diamonds have assumed the characteristics of 'prohibited goods' keeping in view the various judicial pronouncements on the issue. Further, circular No. 09/2025-Cus dated 28.03.2025 read with the Para 4.87 of Handbook of Procedures 2023 wherein detailed procedure laid down regarding the export of goods through personal carriage. On conjoint reading of said Circular as well as handbook of procedure 2023, I find that exportation of diamonds through personal carriage from Surat International Airport is not allowed and same is prohibited. From the statement dated 04.12.2025 of Shri Gaurav Dineshbhai Patel, I find that these diamonds were given to him by his friend Shri Sandip Dhankhara with a purpose to handover it to some person in Bangkok on reaching there. He accepted in his aforesaid statement that he doesn't have any purchase vouchers/legal documents of the diamonds, which were recovered from his possession and subsequently placed under seizure under panchnama dated 04.12.2025 and also admitted that he was aware that he has committed an offence by not declaring the same to Customs for which he has to face the consequences as prescribed under the Customs Law. I also find that Shri Sandip Kumar Premjibhai Dankhara in his statement dated 10.12.2025 stated that that he has given these diamonds to Shri Gaurav Dineshbhai Patel on 02.12.2025 to handover the same to one of his clients namely M/s. Golden Stone Co. Ltd, Bangkok, by showing it as domestic supply and adjust the payment as received in cash and that he was aware that he has violated the provisions of Customs Act, 1962 by not following the official channel for sending the said cut & polished natural diamonds to Bangkok. In this regard, I have gone through the Show Cause Notice dated 01.06.2026 and I find that the said seized cut & polished natural diamonds valued at Rs.43,97,070/- was proposed to be confiscated under Section 113(d), 113(e) and 113(h) of the Customs Act, 1962. By going the provisions of these sections and the facts described above and also the confessional statements tendered by both Shri Gaurav Dineshbhai Patel (noticee no.1) and Shri Sandip Kumar Premjibhai Dankhara (noticee no.2), I am inclined to hold that the seized cut & polished natural diamonds valued at Rs.43,97,070/- are liable for confiscation under the sections ibid. Further it is proved beyond doubt that the indigo blue colour trolley bag of brand 'Aristocrat' with two jeans pants carried by the passenger Shri Gaurav Dineshbhai Patel with him were used for concealment of the above cut & polished natural diamonds valued at Rs.43,97,070/- and hence I hold that the said seized blue colour trolley bag of brand 'Aristocrat' with two jeans pants are also liable for confiscation under Section 119 of the Customs Act, 1962, as proposed in the Show Cause Notice dated 01.06.2026.

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

> *"Option to pay fine in lieu of confiscation. - (1) whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods or, where such owner is not known, the person from whose possession, or custody such goods have been seized, an option to pay in lieu of confiscation such fine as the said officer thinks fit. It is, amply clear from the said Section that, where the confiscated goods are not prohibited for import or export, the Adjudicating Authority is under obligation to release the same. However, in those cases where the confiscated goods are prohibited for import or export, discretion has been vested in the Adjudicating Authority to decide the issue on the basis of the facts and circumstances involved.*

19.1. A plain reading of the section 125 shows that the Adjudicating Authority is bound to give an option of redemption when goods are not subjected to any prohibition. There is no bar on the Adjudicating Authority allowing redemption of prohibited goods on merit. This exercise of discretion will depend on the nature of the goods and the nature of the prohibition. For instance, spurious drugs, arms, ammunition, hazardous goods, contaminated flora or fauna, food which does not meet the food safety standards, etc. are harmful to the society if allowed to find their way into the domestic market. On the other hand, release of certain goods on redemption fine, even though the same becomes prohibited as conditions of import/export have not been satisfied, may not be harmful to the society at large. The import/export of Currency and Diamonds are governed by the procedure laid down as per Customs Act, 1962 and FTP 2023; from the above cited legal provisions, it is construed that section 125 of Customs Act, 1962 provides that in case of goods other than prohibited goods, the adjudicating authority has to give an option of redemption of the goods on fine in lieu of confiscation and in cases where goods become prohibited by way of some conditions which are not followed in the manner as required, the adjudicating authority may allow redemption of the confiscated goods in that cases also.

In light of the landmark judgment of the Hon'ble Supreme Court in *Om Prakash Bhatia v. Commissioner of Customs*, I find that the said currency and Diamonds carried by Shri Gaurav Patel squarely falls under the definition of "Prohibited Goods". It is a settled position of law, laid down by the Hon'ble Supreme Court in the case of Garg Wollen Mills (P) Ltd Vs. Additional Collector Customs, New Delhi [1998 (104) ELT 306(S.C)] *that the option to release 'Prohibited goods' on redemption fine is discretionary*. In the case of Raj Grow Impex (Supra), the Hon'ble Supreme Court has held that *"that when it comes to discretion, the exercise thereof has to be guided by law; has to be according to the rules of reason and justice; has to be based on relevant consideration."*. Hon'ble Delhi High Court has, in case of Raju Sharma [2020(372) ELT 249 (Del.)] held that *"Exercise of discretion by judicial, or quasi-judicial authorities, merits interferences only where the exercise is perverse or tainted by the patent illegality, or is tainted by oblique motive."* This position was further reinforced by the Hon'ble Delhi High Court in its consolidated order dated 21.08.2023 in W.P. (C) No. 8902/2021 (and connected matters), wherein it held that *"an infraction of any condition attached to the import or export of goods brings those goods within the ambit of Section 2(33) of the Act, thereby making their redemption and release subject to the discretionary power of the Adjudicating Officer*."

19.2. I find that the issue of redemption of goods has travelled through various appellate forum and there is catena of judgements, over a period of time, of the Hon'ble Courts and other fora which have been categorical in the view that grant of the option of redemption under Section 125 of the Customs Act, 1962 can be exercised in the interest of justice. 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 Armar – 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.)*

viii The Hon'ble High Court of Judicature at Madras, in the judgment in the case of Shaik Mastani Bi vs. Principal Commissioner of Customs, Chennai- 1 [2017(345) E.L.T. 201 (Mad)) upheld the order of the Appellate Authority allowing re-export of gold on payment of redemption fine.

ix *The Hon'ble High Court of Kerala at Ernakulam in the case of R. Mohandas vs. Commissioner of Cochin [2016(336) E.L.T, 399 (Ker.)) has, observed at Para 8 that "The intention of Section 125 is that, after adjudication, the Customs Authority is bound to release the goods to any such person from whom such custody has been seized.."*

x. *Also, in the case of Union of India vs Dhanak M Ramji [2010(252)E.L.T. A102(S.C)], the Hon'ble Apex Court vide its judgement dated 08.03.2010 upheld the decision of the Hon'ble High Court of Judicature at Bombay [2009(248) E.L.T. 127 (Bom)], and approved redemption of absolutely confiscated goods to the passenger.*

xi. *The High Court of Delhi at New Delhi in a judgement passed in the matter of NIDHI KAPOOR v/s PRINCIPAL COMMISSIONER AND ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA & ORS, in W.P.(C) 8902/2021 dated 21.08.2023 where in it was observed that "The Court holds that an infraction of a condition for import of goods would also fall within the ambit of Section 2(33) of the Act and thus their redemption and release would become subject to the discretionary power of the Adjudging Officer. For reasons afore-noted, the Court finds no illegality in the individual orders passed by the Adjudging Officer and which were impugned in these writ petitions".*

19.3 I find that when there are judgements favouring redemption, there are contra judgement which provide for absolute confiscation of seized goods attempted to be smuggled 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)*

19.4. 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. *Further, the above mentioned 3 orders of RA has been accepted by the department*.

19.5 In the instant case, the noticee Shri Gaurav Patel failed to declare the foreign currency of USD 6000 and 04 Ploy Bags containing cut and polished natural diamonds, as mandated under Section 77 of the Customs Act, 1962, which were concealed by the noticee in his pocket and in his luggage bag, hence, the goods are liable for confiscation. Also, Shri Sandip Kumar Premjibhai Dankhara during Personal Hearing stated that the said cut & polished diamonds were for their business purpose and not involved in any kind of smuggling activity, however, noticee Shri Sandip Dankhara failed to provide any documentary evidences viz. Sale/Purchase Invoice, Bank details, accounting ledger which establishes his claim, therefore, the same is not acceptable on merits as the same is nothing but just an afterthought only. Further, I also note that the noticee carried USD 6000 and 04 poly bags containing diamonds of 154.81 carat, however the noticee Shri Gaurav Patel failed to follow the rules and regulations as envisaged under Customs Act, 1962, read with FEMA, 1999, and the Foreign Exchange Management Regulations, 2015. Furthermore, it is pertinent to note that foreign currency cannot be imported or exported without the general or special permission of the Reserve Bank of India (RBI) or an authorized agency. However, the noticee, Shri Gaurav Patel, carried the seized amount of USD 6,000 without any such general or specific permission. Additionally, he failed to produce legitimate documents verifying the purchase of this foreign currency, offering only a vague explanation that the amount was acquired as gifts from relatives and purchased in small chunks over a period of time. Therefore, keeping in view the binding judicial pronouncements cited above, the intentional nature of the concealment, and the overall facts and circumstances of the case, ***I am not inclined to exercise my statutory discretion to grant an option to redeem the seized foreign currency on payment of a redemption fine as envisaged under Section 125 of the Act. The currency is held liable for absolute confiscation and allowed the option to redeem the seized 04 poly bags containing 154.81 D.Cts of Diamonds alongwith the indigo blue colour trolley bag of brand 'Aristocrat with 02 jeans pants on payment of a redemption fine as envisaged under Section 125 of the Act.***

20. Furthermore, a review of the records on file specifically the Panchnama dated 20/21.11.2025 and the statements of Shri Gaurav Patel and Shri Sandip Dankhara reveals that no purchase or sale invoices were presented to the Customs officers at the time of interception. Consequently, the examination and valuation of the said cut and polished natural diamonds were conducted by a government-approved valuer, Shri Vikasraj Juneja. In his certificate dated 04.12.2025, the valuer confirmed that the goods were cut and polished natural diamonds with a market value of Rs. 43,97,070/-. Notably, this ascertained assessable value was not disputed by any of the noticees during the recording of their statements or at the time of the personal hearing. Therefore, I hold that the valuation determined by the government-approved valuer is correct and must be adopted in terms of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007.

21. Now, I will discuss the issue of penalty on Shri Gaurav Dineshbhai Patel (noticee no.1). Show Cause Notice proposes to impose separate penalties on

Shri Gaurav Dineshbhai Patel, Surat under Section 114(i) of the Customs Act, 1962. From the records of the case, I find that there was a deliberate attempt on the part of Shri Gaurav Dineshbhai Patel to illegally export the foreign currency of USD 6000/- out of India without possessing any lawful procurement documents and without declaring the same before the Customs. I also find that Shri Gaurav Dinesbhai Patel has not only made an attempt to export the said foreign currency illegally, but also dealt with, acquired, held and possessed the seized cut & polished natural diamonds with an intent to improperly export or physically transfer the same at a place outside India without possessing any lawful procurement documents and without declaring the same to Customs Authority by way of concealment, as discussed hereinabove. Further, in his statement dated 04.12.2025, he has accepted the above facts and also admitted the offence committed by him. Further, he did not produce any legitimate documents regarding possession of the currency. Thus, the noticee has failed to discharge the burden placed on him in terms of Section 123. The Noticee actively engaged in acts designed to export currency and diamonds illegally. Thus, I find that Shri Gaurav Dineshbhai Patel has knowingly involved in abetting the smuggling of foreign currency alongwith the cut and natural diamonds and other laws in force and the said act on his part precisely falls under 'smuggling' as defined under Section 2(39) of the Customs Act, 1962, thereby he has rendered himself liable for penalty under Section 114(i) of the Customs Act, 1962. I accordingly, hold that Shri Gaurav Dinesh Patel is liable for penalty under the said sections of the Customs Act, 1962.

22. Coming to the last issue of penalty on Shri Sandip Kumar Premjibhai Dankhara (noticee no.2), I find that the concealed cut & polished natural diamonds valued at Rs.43,97,070/- recovered by the Customs officers from the possession of Shri Gaurav Dineshbhai Patel was belonging to Shri Sandip Kumar Premjibhai Dankhara and Shri Gaurav Dineshbhai Patel in his statement dated 04.12.2025 has stated that these cut & polished natural diamonds were given to him by his friend namely Shri Sandip Dankhara to carry the same to Bangkok without declaring the same before the Customs. Further, Shri Sandip Kumar Premjibhai Dankhara in his statement dated

10.12.2025 has accepted that he has given these diamonds to Shri Gaurav Dineshbhai Patel to handover it to one of his clients namely M/s. Golden Stone Co. Ltd, Bangkok. He also accepted that he has not generated the sales bills/invoices of the said cut & polished natural diamonds and decided to show it as domestic supply and also adjust the payment as received in cash. Thus, I find that Shri Sandip Kumar Premjibhai Dankhara has knowingly and actively played an important role for smuggling of the high value goods i.e, cut & polished natural diamonds out of India by abetting with Shri Gaurav Dineshbhai Patel, as defined under Section 2(39) of the Customs Act, 1962 and thereby he has rendered himself liable for penalty under Section 114(i) of the Customs Act, 1962. I am therefore inclined to hold that Shri Sandip Kumar Premjibhai Dankhara is liable for penalty under the sections ibid.

23. Regarding imposition of penalty under Section 117 of Customs Act, 1962, I find that Section 117 of Customs Act, 1962 provide *for imposition of penalty on any person who contravenes any provision of the said Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, to be liable to a penalty not exceeding four lakhs rupees. The maximum amount of penalty prescribed under Section 117 initially at Rs. One lakh was revised upwards to Rs. Four lakhs, with effect from 01.08.2019.* The detailed discussions in the preceding paragraphs clearly prove that the noticee Shri Gaurav Patel and Shri Sandipkumar Dankhara not only failed to fulfill the conditions but also failed to abide by the responsibilities reposed on him as per the provision of Customs Act. Hence, there are clear violations of the Section 77 & Section 79 of the Customs Act, 1962 alongwith the Baggage Rules, 2016. Both the Noticees did not just commit a singular offense that led to the confiscation of goods but executed a series of regulatory infractions:

- Shri Gaurav Patel directly violated Section 77 by failing to file a baggage declaration form.

- Shri Gaurav Patel breached the explicit mandates of the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015.
- They failed to submit the mandatory financial documents, regarding purchase of currency and purchase of cut and natural diamonds.

In the instant case, the noticee, Shri Gaurav Patel, has admitted to carrying foreign currency of 6000 USD equivalent to Rs. 5,26,800/- as well as 04 pouches containing cut and natural diamonds having ascertained value of Rs. 43,97,070/- out of India without proper authorization, valid purchase receipts, or supporting documentation. By actively engaging in the unauthorized export/smuggling of foreign currency and cut and natural diamonds, they have contravened the provisions of the Act. Hence, this is a fit case for the imposition of a penalty upon Shri Gaurav Dineshbhai Patel as well as Shri Sandipkumar Premjibhai Dankhara under Section 117 of the Customs Act, 1962.

24. In view of my above discussion & findings, I pass the following order:-

: ORDER :

i) I order absolute confiscation of foreign currency of USD 6000/- equivalent to INR Rs.5,26,800/-(Rupees Five lakh twenty-six thousand eight hundred only), seized vide seizure order dated 04.12.2025 under panchnama dated 04.12.2025 under Section 113(d), 113(e) and 113 (h) of the Customs Act, 1962.

ii) I hereby confirm and uphold the assessable value of Rs. 43,97,070/- determined by the Government Approved Valuer in respect of the 'Cut and Polished Natural Diamonds' weighing 154.81 D.Cts packed in 04 poly bags, under the provisions of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007. I also order confiscation of cut & polished natural diamonds valued at Rs.43,97,070/- (Rupees Forty-three lakh ninety-seven thousand seventy only), seized vide seizure order dated 04.12.2025 under panchnama dated 04.12.2025 under Section 113(d), 113(e) and 113(h) of the Customs Act, 1962 alongwith indigo blue colour trolley bag of brand 'Aristocrat' with two jeans pants used for concealment of diamonds under Section 119 of Customs Act, 1962. However, I give an option to the owner Shri Sandip Kumar Premjibhai Dankhara Mumbai to pay a redemption fine of Rs._5,00,000/- (Rupees Five Lakh Only) in lieu of confiscation under Section 125 of the Customs Act, 1962. In addition to redemption fine, the noticees would be liable for payment of applicable duties and other levies/ charges in terms of Section 125(2) of the Customs Act, 1962. Accordingly, I hereby order to recover the applicable duties and other levies/ charges;

iii) I impose a penalty of Rs._50,000/- (Rupees Fifty Thousand only) upon Shri Gaurav Dineshbhai Patel, Surat under Section 114(i) of the Customs Act, 1962.

iv) I impose a penalty of Rs.10,000/- (Rupees Ten Thousand only) upon Shri Gaurav Dineshbhai Patel, Surat under Section 117 of the Customs Act, 1962;

v) I impose a penalty of Rs.10,00,000/- (Rupees Ten Lakh only) upon Shri Sandip Kumar Premjibhai Dankhara, Mumbai under Section 114(i) of the Customs Act, 1962;

vi) I impose a penalty of Rs. 1,00,000/- (Rupees One Lakh only) upon Shri Sandip Kumar Premjibhai Dankhara, Mumbai under Section 117 of the Customs Act, 1962.

25. This order is issued without prejudice to any other action that may be taken under the provisions of the Customs Act, 1962 and rules/regulations framed thereunder or any other law for the time being in force in the Republic of India.

26. The Show Cause Notice VIII/26-11/AIU/Cus/2025-26 dated 01.06.2026 is disposed of in above terms.

Digitally signed by
Shravan Ram
Date: 21-08-2026
18:06:57
(SHRAVAN RAM)
Additional Commissioner,
Customs, Ahmedabad.

BY SPEED POST/E-MAIL
F.No. GEN/INV/SMLG/OTH/614/2025-AIRPT-SRT-CUS-COMMRTE-AHMEDABAD
(VIII/26-11/AIU/Cus/2025-26) Date:21.08.2026

DIN 20260871MN0000048CBD

To
1. Shri Gaurav Dineshbhai Patel,
A-301, Sai Heights Building,
Opp. Silver Palace, Utran Choryasi,
Surat-394105.

2. Shri Sandip Kumar Premjibhai Dankhara,
D-113, Sharda Vihar, Sudhindra Nagar,
Dahisar East, Mumbai-400068.

Copy to:-
1. The Commissioner (Attn:-RRA Section), Customs, Ahmedabad.
2. The Deputy/Assistant Commissioner of Customs, Recovery Cell
3. The Deputy/Assistant Commissioner of Customs, Surat International Airport, Surat
4. The Deputy/Assistant Commissioner of Customs, AIU, Surat International Airport, Surat
5. The System In-Charge, Customs, H.Q., Ahmedabad - for uploading on the official website.
6. Guard File/Office copy.