



प्रधान आयुक्त का कार्यालय, सीमा शुल्क, अहमदाबाद

"सीमाशुल्कभवन, "पहलीमंजिल, पुरानेहाईकोर्टकेसामने, नवरंगपुरा, अहमदाबाद - 380009.

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**DIN:20260171MN000000CE42**

**PREAMBLE**

A	फ़ाइलसंख्या/ File No.	:	VIII/10-41/DRI/SVPIA/O&A/HQ/2025-26
B	कारण बताओ नोटिस संख्या-तारीख Show Cause Notice No. and Date	:	DRI/AZU/GI-02/ENQ-23/2025 Dt. 01.09.2025
C	मूल-आदेश संख्या / Order-In-Original No.	:	<b>197/ADC/SRV/O&amp;A/HQ/2025-26</b>
D	आदेश तिथि / Date of Order-In-Original	:	<b>19.01.2026</b>
I	जारी करने की तारीख / Date of Issue	:	<b>19.01.2026</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 / Noticee	:	<b>1. Mr. Navnit Makwana,</b> S/o Jagdishbhai Makwana 43, Jalaram Society, Ved Road, Surat, Gujarat -395004. <b>Alternate Address</b> Lundhara, Vallabhipur, Lundhar, Bhavnagar, Gujarat-364310. <b>2. Mr. Ashokbhai Vaghani,</b> S/o Mr. Valjibhai Vaghani, 29, Green Heaven Society, Olpad, Vadod, Surat, Gujarat- 395004, <b>3. Mr. Haribhai/ Mr. Haribhai Vithani/ Mr. Hareshbhai Jasmathabhai Vithani.</b> D/302, Jal Darshan Aptment, Near Parsiwad, Singanpore Gam, Surat City, Surat, Gujarat-395004.
(1)	यह प्रति व्यक्ति के उपयोग के लिए निःशुल्क प्रदान किया जाता है जिन्हें यह जारी किया जाता 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 का कार्यालय, सीमा शुल्क) अपील(, 4वीं मंजिल, हुडको भवन, ईश्वर भुवन मार्ग, नवरंगपुरा, अहमदाबाद 3800-14 में कर सकता है।		
(3)	अपील के साथ केवल पाँच रुपये 5.00) रुपये (के न्यायालय शुल्क टिकट लगा होना चाहिए, और इसके साथ होना चाहिए:		
(i)	अपील की एक प्रति और		
(ii)	इस प्रति या इस आदेशकी कोई प्रति के साथ केवल पाँच रुपये 5.00) रुपये (के न्यायालय शुल्क टिकट लगाहोना चाहिए।		
(4)	इस आदेश के विरुद्ध अपील करने के इच्छुक व्यक्तिको ) %7.5अधिकतम 10 करोड़ रुपये (शुल्क जमा करना होगा, जहां शुल्क या ड्यूटी और जुर्माना विवाद में हैं, याजुर्माना, जहां इस तरहकी दंड विवाद में है और अपील के साथ इस तरह के भुगतान का प्रमाण पेशकरने में असफल रहने पर, सीमाशुल्क अधिनियम, 1962के धारा 129 के प्रावधानों का अनुपालन न करने के लिए अपीलको खारिज कर दिया जाएगा।		

**BRIEF FACTS OF THE CASE:**

Intelligence was received by the Directorate of Revenue Intelligence, Zonal Unit, Ahmedabad (hereinafter referred to as "DRI"), indicating that a passenger scheduled to travel to Ho Chi Minh, Vietnam from Sardar Vallabhbhai Patel International Airport (SVPI Airport), Ahmedabad, by flight VJ 1806, scheduled to depart at approximately 23:50 hours on 05.03.2025, was suspected to be carrying a commercial quantity of diamonds, either in his baggage or concealed on his person.

2. Pursuant to the said intelligence and under the panchnama proceedings 5-6.3.2025, officers of the DRI intercepted the passenger, Mr. Navnitbhai Jagdishbhai Makwana (Passport No. B8851919), after he had cleared immigration formalities for the aforesaid flight. The officers requested Mr. Navnitbhai Jagdishbhai Makwana to produce his passport and boarding pass, which he duly provided. The particulars of the passenger were verified as under:

Sr. No.	Name of the Passenger	Passport No.	Expiry of the Passport	Seat Number	No. of check-in baggage accompanied
1	Navnitbhai Jagdishbhai Makwana	B8851919	08.01.2034	17D	01

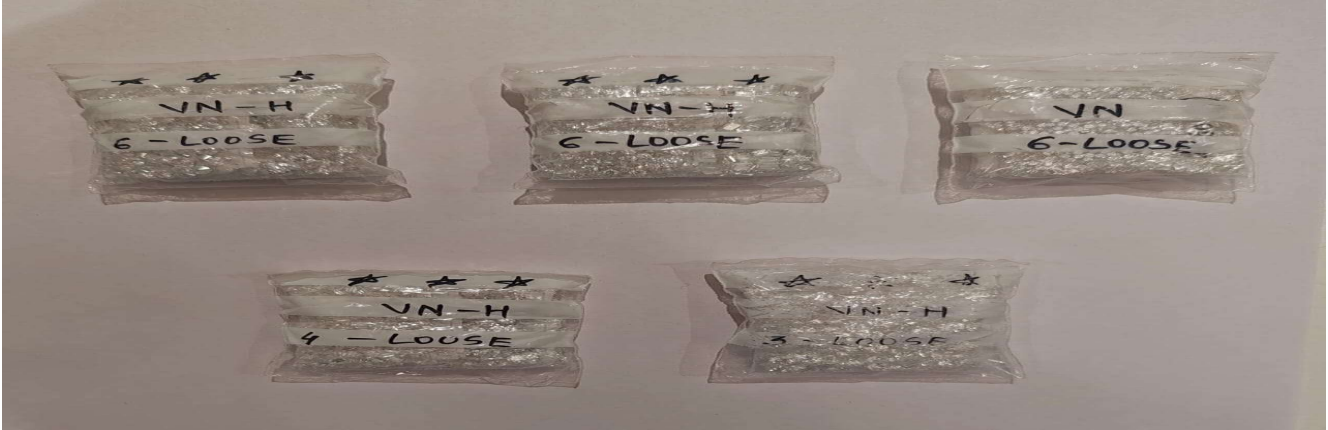
3. Further, it was observed that Mr. Navnitbhai Jagdishbhai Makwana was carrying a laptop bag on his shoulder and holding a loose blue-coloured polythene bag in his hand. When questioned regarding any additional luggage, Mr. Navnitbhai Jagdishbhai Makwana stated that he was also carrying a trolley bag, which he had deposited at the check-in counter. The officers inquired whether he had anything to declare before the Customs Authorities, to which he politely declined. Upon being specifically asked whether he had declared any precious metals, foreign currency, or gold before Customs, he again denied having done so. Thereafter, the officers requested the Vietjet airline staff to offload the checked-in trolley bag of Mr. Navnitbhai Jagdishbhai Makwana from the aircraft. The airline staff subsequently produced a light grey trolley bag bearing a Vietjet check-in tag with the details "MAKWANA/NAVN, PNR-E7UYAK, Tag No. 1P 307861".

4. The officers informed Mr. Navnitbhai Jagdishbhai Makwana that his personal search and a detailed examination of his baggage would be conducted. The officers offered themselves for personal search before commencing, which Mr. Navnitbhai Jagdishbhai Makwana politely declined. The officers further informed Mr. Makwana of his right to be searched in the presence of an Executive Magistrate or a Gazetted Officer. Mr. Navnitbhai Jagdishbhai Makwana gave his consent to be searched before the Superintendent (Group B Gazetted Officer), AIU, Customs, Ahmedabad. Accordingly, the officers conducted the personal search of Mr. Navnitbhai Jagdishbhai Makwana in the presence of the panchas, but nothing objectionable was found on his person.

5. Subsequently, in the presence of the panchas, the officers proceeded to examine all the baggage belonging to Mr. Navnitbhai Jagdishbhai Makwana. On examination, it was found that the laptop bag contained one laptop, its charger, accessories, and other miscellaneous items. The blue polythene bag was found to contain tomatoes and miscellaneous clothes. The trolley bag was found to contain routine clothes, potatoes, garlic, food packets, etc. No objectionable items were found in any of the baggage.

6. Upon further sustained interrogation, Mr. Navnitbhai Jagdishbhai Makwana admitted that he had not earlier revealed the truth and confessed to having concealed two packets of diamonds in his rectum. He expressed his willingness to purge the same and then Mr. Navnitbhai Jagdishbhai Makwana purged two capsule-shaped packets, one smaller than the other, both covered with condoms. Upon removal of the said

condoms, black-coloured cello tape was found wrapped around each packet. On removing the said black tape, white-coloured transparent polythene was found wrapped around both the packets. Upon further removal of the polythene, a total of five small transparent pouches were found, each containing several smaller transparent pouches, in which a shining substance, appearing to be diamonds, was visible. The officers observed that each small transparent pouch was marked with details such as "VN-H-6 Loose," "VN-6 Loose," "VN-H-4 Loose," "VN-H-3 Loose," and "VN-H-6 Loose."



**7.** Further, on being asked by the officers to Mr. Navnitbhai Jagdishbhai Makwana about the contents of the said small transparent pouches, Mr. Navnitbhai Jagdishbhai Makwana stated that the pouches contained diamonds, however he did not provide any information regarding their exact quantity, quality, or value. On being further asked if he possessed any bill, certificate, or supporting document for the said diamonds, Mr. Navnitbhai Jagdishbhai Makwana informed that he did not have any bill or certificate in his possession.

**8.** Upon further questioning regarding the reason for concealment, Mr. Navnitbhai Jagdishbhai Makwana stated that the diamonds had been given to him by one person, namely Mr. Ashokbhai @ Surat (Mobile Number: 8866250107), who had instructed him to conceal the same in his rectum for the purpose of smuggling the diamonds abroad. Mr. Navnitbhai Jagdishbhai Makwana admitted that following these instructions, he had concealed the said packets in his rectum. When specifically asked, in the presence of the panchas, whether he had filed any declaration or informed the Customs or DRI authorities regarding the diamonds, Mr. Navnitbhai Jagdishbhai Makwana again confirmed that, as the goods were meant for smuggling, he had neither filed any declaration nor disclosed the same to the Customs or DRI authorities.

**9.** Further, the officers requested the customs officials to arrange for the weighing machine and carried out the weighment of each of the said small transparent pouches in the presence of the panchas. The details of the weighment were recorded as under:

Sr. No.	Marks on the pouch	Gross Weight with Polythene Bag
1	VN-H-6 Loose	28 Grams
2	VN-6 Loose	29 Grams
3	VN-H-4 Loose	20 Grams
4	VN-H-3 Loose	31 Grams
5	VN-H-6 Loose	37 Grams

**10.** The officers, in the presence of the panchas, requested the Customs Authorities to arrange for a government-approved valuer to ascertain the nature and value of the recovered goods. However, it was informed that a government-approved valuer would not be available at such late hours. Accordingly, the officers, in the presence of the panchas, detained the following items for further investigation under reasonable belief that Mr. Navnitbhai Jagdishbhai Makwana had attempted to smuggle the said packets containing diamonds by resorting to concealment in his rectum:

- 1) Five (5) small transparent plastic pouches containing diamonds,
- 2) Packing material used for concealment,
- 3) Boarding pass in original, Seat No. 17D, from Ahmedabad to Ho Chi Minh on Vietjet Air flight No. VJ 1806 dated 05.03.2025, bearing a 'Cancelled' stamp by the immigration authority as the passenger had not boarded the flight.

**11.** The officers, in presence of the panchas and the said passenger, placed the five transparent plastic pouches containing diamonds in a plastic container marked as "A" and the packing material used for concealment in another plastic container marked as "B". Each of the said plastic containers were packed with transparent cello tape, tied with white thread, and sealed with the lac seal having inscription Collector, Central Excise & Customs, Ahmedabad-16.

**12.** Thereafter, Mr. Mukesh Babulal Mehta, Government Approved Valuer for Gold, Silver, Gems & Jewellery (Regd. No. Cat. VIII/140/2006-2007 dated 25.07.2006), was called upon to carry out the quality assessment and valuation of the detained goods, purported to contain diamonds. The proceedings were duly recorded under Panchnama dated 06.03.2025 at the Directorate of Revenue Intelligence, 15, Magnet Corporate Park, Off S.G. Highway, Near Sola Flyover, Thaltej, Ahmedabad-380054. Upon completion of the procedure, the Government Approved Valuer submitted his report dated 06.03.2025, wherein it is stated that the examination was conducted for the purposes of quality assessment and valuation, utilizing a CVD testing machine/Eye Glass. The substance contained in all five transparent plastic pouches was identified as loose diamonds, i.e., cut and polished diamonds (Natural). The details of the report are summarized below.

Marks on the pouch as per Panchnama dated 05/06.03.2025	Packet No.	Description	Diamond Shape	Diamond Weight in Carat	Total Value (Rs.)
VN-H-6 Loose	1	Loose Diamond	RD	134.430	5972500
VN-6 Loose	2	Loose Diamond	RD	139.400	6507500
VN-H-4 Loose	3	Loose Diamond	RD	101.120	4040850
VN-H-3 Loose	4	Loose Diamond	RD	150.590	10751900
VN-H-6 Loose	5	Loose Diamond	RD	177.750	8083550
Total				703.29	3,53,56,300/-

Loose Diamond= Cut and Polished Diamond (Natural)

### **13. SEIZURE OF THE SMUGGLED DIAMOND:**

**13.1** Further, as the above said 703.29 carat of smuggled diamond having total value of Rs.3,53,56,300/- (Rupees Three Crore Fifty Three Lakh Fifty Six Thousand Three Hundred only) were attempted to be smuggled out of India in contravention of the provisions of Customs Act, 1962, Foreign Trade Policy, Baggage Rules, 2016, the same were seized under Seizure Memo issued vide F. No. DRI/AZU/GI-02/ENQ-23/2025 dated 06.03.2025, on reasonable belief that the said goods are liable for confiscation under the provision of Section 113 of the Customs Act, 1962, on account of being attempted to smuggle out of India in contravention of the provisions of the Customs Act, 1962, Foreign Trade Policy, Baggage Rules, 2016 etc. The seized diamond and remnants of packing material were deposited at SVPI Airport vide letter F. No. DRI/AZU/GI-02/ENQ-23/2025 dated 16.4.2025 under warehouse entry No.7332/17.4.2025.

### **14. Statement of Mr. Navnitbhai Jagdishbhai Makwana:**

14.1 Statement of Mr. Navnitbhai Jagdishbhai Makwana was recorded on 06.03.2025 under the provisions of Section 108 of the Customs Act, 1962, wherein he, inter alia, stated that;

- After perusing the panchnama dated 05/06.03.2025 & 06.03.2025 and confirmed the facts, recovery of diamonds recorded therein;

- confirmed that as per Valuation Report dated 06.03.2025, the seized diamonds weigh 703.29 carats and are valued at Rs. 3.53 crores;
- formerly employed as Galaxy Planner at M/s. Pusti Jems, Surat, earning Rs. 25,000–30,000/month; unemployed for past six months;
- Noticee travelled abroad to Dubai three times in the past years for job search, each stay for 5–6 days and all expenses borne personally;
- Present trip to Ho Chi Minh City, Vietnam, to be commenced on 05.03.2025, arranged by Mr. Ashok Bhai (former colleague);
- Air tickets, hotel booking, and Vietnam expenses sponsored by Mr. Ashok Bhai; He was promised Rs. 20,000/- for the trip;
- Mr. Ashok Bhai handed over diamonds in two capsule-shaped packets at Surat with instructions to conceal them in rectum and smuggle to Vietnam without declaring to Customs;
- Diamonds were concealed inside rectum at washroom of SVPI Airport, Ahmedabad, prior to departure;
- Intended delivery of diamonds to an unknown receiver who would have to visit his hotel in Ho Chi Minh City;
- Also shared the contact details of Mr. Ashok Bhai;
- admitted that smuggling diamonds without declaration to Customs is illegal;
- admitted that the diamonds in question are liable for confiscation under Section 113 of the Customs Act, 1962;
- claiming limited knowledge of the transaction;

#### **15. ARREST OF MR. NAVNITBHAI JAGDISHBHAI MAKWANA:**

15.1 In view of above, it appeared that Mr. Navnitbhai Jagdishbhai Makwana, have knowingly concerned himself in an offence punishable under Section 135(1) of the Customs Act, 1962, as he had knowingly concerned himself in dealing/carrying with 703.29 carat of smuggled diamond having total value of Rs.3,53,56,300/- (Rupees Three Crore Fifty Three Lakh Fifty Six Thousand Three Hundred only) and thereby concerned himself in carrying, removing, depositing, harbouring, keeping, concealing of smuggled Diamond which he knew and/or had reasons to believe were liable to confiscation under Section 113 of the Customs Act, 1962. Further, the offence committed by Mr. Navnitbhai Jagdishbhai Makwana is punishable under Section 135 of the Custom Act,1962 and Accordingly, Mr. Navnitbhai Jagdishbhai Makwana was arrested on 06.03.2025 at Ahmedabad under the provisions of Section 104 of the Customs Act, 1962.

#### **16. FOLLOW UP ACTIONS**

16.1 Search was conducted at the Residential Premises 29, Green Heaven Society, Olpad, Vadod, Surat-394540 of Mr. Ashokbhai Valjibhai Vaghani on dated. 9.3.2025, wherein family members of Mr. Ashokbhai Valjibhai Vaghani were available and during the said search nothing incriminating relevant to the presence case was found.

#### **RECORDING OF STATEMENT**

16.2 Statement of Mr. Ashokbhai Valjibhai Vaghani was recorded on 15.03.2025 under the provisions of Section 108 of the Customs Act, 1962, wherein he, inter alia, stated that;

- *he knew Mr. Navnitbhai Jagdishbhai Makwana for the last one year, and met through a mutual friend at a tea stall on Ved Road;*
- *he did not know Navnitbhai's exact address but believes he resides on Ved Road;*
- *Regarding his visit to SVPI Airport, Ahmedabad, he stated that he visited Terminal-2 on 5th March 2025 around 9:00 PM;*
- *Mr. Navnitbhai had sent him a WhatsApp message requesting assistance in reaching at the airport, as Navnitbhai was unfamiliar with the location. Although*

- he initially declined, he later agreed since he had planned to travel to Navagam, Kalol, to bring his wife back on the same day;*
- *he and Mr. Navnitbhai met at Ved Road, traveled by rickshaw to Surat Railway Station, and took a train to Ahmedabad, departing Surat around 4:15 PM;*
  - *Mr. Navnitbhai was carrying a trolley bag, a backpack, and a polythene bag;*
  - *He had not visited SVPI Airport in the last two years prior to this occasion;*
  - *He has not visited Surat International Airport in the past six months or Mumbai International Airport since 2023;*
  - *During their journey from Ved Road to SVPI Airport, he asserted that Navnitbhai did not inform him about carrying diamonds, nor did he heard any conversation regarding diamonds or their transportation;*
  - *He also did not inquire about Navnitbhai's trip to Vietnam;*
  - *Upon being shown Mr. Navnitbhai's statement, which alleged that he offered Navnitbhai a trip to Vietnam and instructed him to smuggle diamonds concealed in his body, he categorically denied all such claims;*
  - *He affirmed that he had never worked as a Galaxy Planner at Pusti Jems, Surat and did not offer Navnitbhai the trip, did not promise any payment, and did not hand over any diamonds;*
  - *He explained that his mobile number is 8866250107 and described Galaxy Planner as a computer-based diamond work technology;*
  - *He further added that he once received a call from a person named Haribhai (possibly Patel or Vithani), who was seeking someone for a job;*
  - *Since Navnitbhai had expressed a need for work, he referred Navnitbhai's name and shared his passport copy with one person namely Mr. Haribhai;*
  - *Beyond this, he has no further information;*
  - *He mentioned meeting Haribhai once near Shree Nilkanth Business Hub, Surat, but has no other contact details or relationship beyond casual greetings. To best of his knowledge, Mr. Haribhai is staying at Jal Darshan Aprtment, Singanpor Gam, Near Causeway, Surat. Mostly his surname is Vithani.*

### CAF/SDR/CDR

16.3 CAF/SDR/CDR details of Mobile Number 8866250107 said to be belonging of Mr. Ashokbhai Vaghani, 9723039114 belonging to Mr. Navnit Jagdishbhai Makwana were called from the carrier vide letter F. No. DRI/AZU/GI-02/ENQ-23/2025 dated. 03.04.2023. Further, CAF/SDR/CDR details of Mobile Number 6353801026 were called from the carrier vide letter F. No. DRI/AZU/GI-02/ENQ-23/2025 dated. 21.7.2025.

As per the SDR/CAF details received from the respective carrier, details of the above said mobile numbers are as below:

Sr. No.	Mobile Number	Subscriber Name	Carrier Name	Remarks
1	8866250107	Mr. Ashokbhai Vaghani	Reliance Jio	
2	9723039114	Mr. Navnit Jagdishbhai Makwana	Reliance Jio	
3	6353801026	Shri Rana Kantilal Bhagavandas, Address: 12/2784, Bibi Ni Wadi, Saiyedpura, Surat City, Gujarat-395003	Reliance Jio	As evident from the deposition of Mr. Navnit, recorded on 22.08.2025, it appears that the said mobile number was provided to him by Mr. Ashokbhai, who also instructed him to save the number under the name of Haribhai. Further, Mr. Navnit confirmed that he had received certain documents, including photographs of the VISA, hotel booking details, flight tickets, etc., from the said mobile number.

It appears from the analysis of CDR of Mr. Ashokbhai Vaghani (8866250107), Mr. Navnit Jagdishbhai Makwana (9723039114) were in contact with each other on call.

**Follow up Search at Mr. Rana Kantillal Bhagavandas at the address 12/2784, Bibi Ni Wadi, Saiyedpura, Surat City, Gujarat – 395003.**

**16.4** As revealed from the SDR of mobile number 6353801026, the said number is registered in the name of Mr. Rana Kantillal Bhagavandas at the address 12/2784, Bibi Ni Wadi, Saiyedpura, Surat City, Gujarat – 395003. On 22.08.2025, a team of officers from DRI, Surat Regional Unit, was deputed to conduct a search at the said premises and result thereof is reported as Visit Note dated. 22.8.2025. However, upon visit, it was found that the premises is registered in the name of Mr. Khozem Mohammed Gandiali, who has been operating his shop there for the past 30 years. He further stated that no person by the name of Mr. Rana Kantillal Bhagavandas resides at the said address.

**Follow up Search at D/302, Jal Darshan Apartment, Singanpor Gam, Near Cause Way, Surat.**

**16.5** During the recording of the statement of Mr. Ashokbhai Valjibhai Vaghani under Section 108 of the Customs Act, 1962, dated 15.03.2025, it was deposed that to the best of his knowledge, Mr. Haribhai is a resident of Surat. He was said to be residing at Jal Darshan Apartment, Singanpor Gam, Near Causeway, Surat, and was mostly known by the surname Vithani. Consequently, officers from the DRI, Surat Regional Unit were deputed to locate the said premises. The premises believed to belong to Mr. Haribhai Vithani/Hareshbhai Vithani was identified at 302, Jal Darshan Apartment, Singanpor Gam, Near Causeway, Surat, where a search was conducted on 22.08.2025 under panchnama proceedings dated the same day. During the search, a lady named Mrs. Sejalben Jagdishbhai Vithani informed the officers that Mr. Haribhai Vithani/Hareshbhai Jasmathabhai Vithani is her brother-in-law (Younger brother of her husband) and that he works as a broker in the diamond village, Surat. Subsequently, Mr. Jagdishbhai Jasmathabhai Vithani entered and informed the officers that Mr. Haribhai Vithani/Hareshbhai Jasmathabhai Vithani is his younger brother. Mr. Jagdishbhai Jasmathabhai Vithani further stated that the premises is registered in his name and that his younger brother only occasionally visits for lunch or dinner. He provided the mobile number 9913161571 for Mr. Haribhai, also informed that the same has been out of service for the past few months. He claimed to have no knowledge regarding the current whereabouts of Mr. Haribhai Vithani/Hareshbhai Jasmathabhai Vithani. No incriminating documents were recovered during the search except for an Aadhaar card, Voter ID, and Driving License, which were seized by the officers. Further, two cheque books of the bank account in the name of Mr. Hareshbhai Jasmathabhai Vithani with Bank of Baroda (A/c No. 911001000000198) and Dena Bank (A/c No. 017110034788) it was observed.

**FORENSIC ANALYSIS OF MOBILE FORENSIC:**

**16.6** Mobile phone voluntarily received during recording of his statement from Mr. Navnitbhai Jagdishbhai Makwana i.e. Apple iPhone 11 Pro Max (Model No. MWFE2LL/A, Serial No. FK1CD5E1N70H, IMEI 353893109646191 & IMEI2 353893109629387) were forwarded to the Director/Office-in-Charge, Digital Forensics Laboratory, DGGI, NFSU Lab, Gandhinagar vide letter F. No. DRI/AZU/GI-02/ENQ-23/2025 Dated, 3.4.2025 for forensic examination and retrieval of data. The data retrieved and extracted from the said mobile phones was subsequently analyzed in detail, and the relevant evidence was confronted to Mr. Navnitbhai Jagdishbhai Makwana during the recording of his statement on 22.08.2025, as elaborated in the subsequent paragraph.

**STATEMENT OF MR. NAVNITBHAJ JAGDISHBHAJ MAKWANA:**

**16.7** Statement of Mr. Navnitbhai Jagdishbhai Makwana was recorded on 04.06.2025 under the provisions of Section 108 of the Customs Act, 1962, wherein he, inter alia, stated that;

- confirmed having seen, read, and understood the Panchnamas dated 05/06.03.2025 and 06.03.2025, and his own statement recorded on

06.03.2025 under Section 108 of the Customs Act, 1962, and affirmed the correctness of the recorded facts.

- Mr. Ashokbhai Valjibhai Vaghani, a former colleague at M/s. Pusti Gems, Surat, offered the accused a trip to Vietnam with a payment of Rs. 20,000/-, along with sponsorship of airfare and accommodation.
- He was unemployed and financially needy at the time, accepted the offer and provided his passport copy to Ashokbhai, who arranged and sent the air tickets via WhatsApp.
- Ashokbhai also booked a hotel room for his stay in Ho Chi Minh City, Vietnam, and directed him to hand over the diamonds to an unknown person who would visit the hotel.
- he received two capsule-shaped packets containing diamonds from Ashokbhai in Surat, with explicit instructions to conceal them inside his body (rectum) for smuggling without Customs declaration.
- he concealed these capsules inside his rectum at the washroom before the immigration area of Terminal-2, SVPI Airport, Ahmedabad, before departure.
- On being questioned by officer, he admitted to the method of concealment and voluntarily expelled the capsules at the airport.
- Despite his apprehensions about the risks, Ashokbhai re-assured him that he would handle any adverse consequences arising from the smuggling act.
- He acknowledges Mr. Ashokbhai's statement dated 15.03.2025 and confirms having seen, read, and understood it.
- He admits knowing Mr. Ashokbhai for about one year and states they have communicated multiple times and met more than five times, contrary to Mr. Ashokbhai's claim of limited contact.
- On 04.03.2025, he requested via WhatsApp Mr. Ashokbhai to drop him at SVPI Airport, Ahmedabad; confirmation was received only on 05.03.2025.
- He met Mr. Ashokbhai at Ved Road, Surat, from where they went to Surat Railway Station by rickshaw and traveled together by unreserved train to Ahmedabad.
- Upon reaching Ahmedabad, both had food at the railway station canteen and then hired a rickshaw to SVPI Airport; travel expenses and food were paid by Mr. Ashokbhai.
- He was carrying a trolley bag, backpack, and polythene bag during the journey and spoke about the share market with a friend on the train.
- He denies Mr. Ashokbhai's denial of involvement in handing over diamonds and states that Mr. Ashokbhai personally handed him two capsule-shaped, condom-wrapped packets containing diamonds on 05.03.2025 at Ved Road, Surat.
- The packets were to be smuggled to Vietnam by concealment in his rectum, as informed by Mr. Ashokbhai.
- He and Mr. Ashokbhai worked together as Galaxy Planners at M/s. Pusti Gems, Surat, for about 3 to 4 months.
- Mr. Ashokbhai promised the accused Rs. 20,000/-, provided visa, air tickets, and hotel booking for the Vietnam trip.
- He communicated with Mr. Ashokbhai on mobile number 8866250107.
- He denies knowledge of any person named Mr. Haribhai Vithani.
- He is not involved in any personal or business rivalry or enmity with Mr. Ashokbhai and names him solely on truth.

**16.8** Statement of Mr. Navnitbhai Jagdishbhai Makwana was recorded on 22.08.2025 under the provisions of Section 108 of the Customs Act, 1962, wherein he, inter alia, stated that;

- Initially, he did not know Mr. Haribhai.
- On 05.03.2025, Mr. Ashokbhai handed him a polythene bag containing the recovered/seized diamond packets. At that time, another person, whose identity was unknown to him, had first handed over the bag to Mr. Ashokbhai,

who then passed it on to him. That same person also instructed Mr. Ashokbhai to accompany him up to Ahmedabad Airport. The person's identity was not disclosed on that day.

- About two months after his release from jail, the same person came to his residence, introduced himself as Mr. Haribhai, and assured him that he would take care of his case. From this, he realized that the individual who had earlier handed over the polythene bag to Mr. Ashokbhai was in fact Mr. Haribhai.
- On 05.03.2025, no documents relating to the recovered/seized diamonds were given to him.
- He later received photographs of the visa, hotel booking, and flight tickets on WhatsApp. These documents were received from mobile number 6353801026.
- This mobile number was provided to him by Mr. Ashokbhai, and as per the instruction, he saved the said mobile number under the name of Mr. Haribhai.
- He has gone through the WhatsApp chat details retrieved from his mobile phone (I-Phone 11 Pro Max, Mobile Number 9723039114) with the phone number 8866250107. The phone number 8866250107 belongs to Mr. Ashokbhai Vaghani. Version of the said chat recorded as per the say of Mr. Navnitbhai Jagdishbha Maknana is recorded and reproduced as in the last column of the below table.

From	To	Time stamp	message	Version as per the Say of Mr. Navnitbhai Jagdishbhai Makwana
8866250107	9723039114	05-03-2025 05:02:29 (UTC-12)	Kay cho bhai	Where r u bhai
8866250107	9723039114	05-03-2025 05:00:23 (UTC-12)	Chho	Where are u
8866250107	9723039114	05-03-2025 05:00:06 (UTC-12)	Kya	where
8866250107	9723039114	05-03-2025 04:57:00 (UTC-12)	Kem chhe	How r u
9723039114	8866250107	05-03-2025 04:14:46 (UTC-12)	Done 📧	Not remembered
8866250107	9723039114	05-03-2025 02:41:17 (UTC-12)	505	Not remembered
8866250107	9723039114	04-03-2025 22:56:18 (UTC-12)	+91 87587 67006	No. relevant to person @ Vietnam to be called upon reaching at vietnam
9723039114	8866250107	04-03-2025 21:53:36 (UTC-12)	Patel perfumes ni same	Opposite Patel Perfumes
9723039114	8866250107	04-03-2025 21:44:17 (UTC-12)	Avi gyo 6u ok	I have reached,
9723039114	8866250107	04-03-2025 16:09:02 (UTC-12)	Ok	Ok
8866250107	9723039114	04-03-2025 16:08:51 (UTC-12)	Grab	Grab App is an app suggested by Mr. Ashasbhai and also informed that it would help for taxi bookings at Vietnam.
8866250107	9723039114	04-03-2025 16:05:34 (UTC-12)	7e9dc748-9859-4997-9605-3f325791b015.jpg	Mobile Screen shot Marking Grab App logo.
9723039114	8866250107	04-03-2025 14:54:08 (UTC-12)	Ok	Ok
8866250107	9723039114	04-03-2025 14:53:59 (UTC-12)	Bija bhai aavse	The other person will come.
9723039114	8866250107	04-03-2025 14:53:16 (UTC-12)	Ok railway station avso tme 🤔	Okay, will you come to the railway station?"
8866250107	9723039114	04-03-2025 14:53:01 (UTC-12)	1/2vage	1.30 PM
8866250107	9723039114	04-03-2025 14:52:51 (UTC-12)	Bapore	In the afternoon
9723039114	8866250107	04-03-2025 14:52:09 (UTC-12)	Kyare niklvanu 6	When to leave
9723039114	8866250107	04-03-2025 14:51:54 (UTC-12)	Ok	Ok
8866250107	9723039114	04-03-2025 14:51:48 (UTC-12)	Ae tya jai Ne hu kev aem kri deje	Upon reaching, do as I say.

9723039114	8866250107	04-03-2025 14:51:00 (UTC-12)	Cdavanu	to apply / insertion
9723039114	8866250107	04-03-2025 14:50:55 (UTC-12)	Ato vy jys pchi pelu kyrite krvanu 6	Okay, I will go, but how do I do that?
8866250107	9723039114	04-03-2025 14:50:36 (UTC-12)	Aekla	Alone
8866250107	9723039114	04-03-2025 14:50:23 (UTC-12)	Kem thase	How will it happen?
9723039114	8866250107	04-03-2025 14:45:03 (UTC-12)	Hm	Ok
8866250107	9723039114	04-03-2025 11:42:13 (UTC-12)	Nthi	No
9723039114	8866250107	04-03-2025 06:01:42 (UTC-12)	Mari sathe Ahemdabad sudhi koi avse n k ?	Does any one come up to Ahmedabad?
9723039114	8866250107	28-02-2025 17:02:49 (UTC-12)	Hm	Ok
8866250107	9723039114	28-02-2025 17:02:43 (UTC-12)	Ha kidhu chhe	Has said yes
9723039114	8866250107	28-02-2025 17:02:25 (UTC-12)	Kravjo ho hve 🙏	Please arrange it now.
9723039114	8866250107	28-02-2025 17:02:15 (UTC-12)	Thik	Ok
8866250107	9723039114	28-02-2025 17:02:04 (UTC-12)	Bangkok 	Bangkok, Vietnam
9723039114	8866250107	28-02-2025 17:01:28 (UTC-12)	Kv 6u	Just asked
8866250107	9723039114	28-02-2025 17:01:21 (UTC-12)	Kem	Why
8866250107	9723039114	28-02-2025 17:01:18 (UTC-12)	Na	No
9723039114	8866250107	28-02-2025 17:00:49 (UTC-12)	Pachu	Again
9723039114	8866250107	28-02-2025 17:00:45 (UTC-12)	Dubai nthi jvanun me em	Do I not have to go to Dubai again?
8866250107	9723039114	28-02-2025 16:56:30 (UTC-12)	Su	What
9723039114	8866250107	28-02-2025 16:41:03 (UTC-12)	Pachu db nthi jvanu ne?	Do I not have to go to Dubai again?
9723039114	8866250107	24-02-2025 01:13:11 (UTC-12)		Agreed
9723039114	8866250107	17-02-2025 22:07:36 (UTC-12)	ok	Ok
8866250107	9723039114	17-02-2025 21:57:45 (UTC-12)	04b2f550-351a-4f24-8cb0-fd85197abfac.opus	Audio message, saying after issuance of visa that would take 10 days time.
9723039114	8866250107	17-02-2025 21:56:54 (UTC-12)	Kyarek thay em 6 bhai ?	When will have to go, bhai ?
9723039114	8866250107	17-02-2025 21:56:40 (UTC-12)	Hye	Hi
9723039114	8866250107	15-02-2025 17:18:53 (UTC-12)	Ok	Ok
8866250107	9723039114	15-02-2025 17:18:48 (UTC-12)	Nhi	NO
9723039114	8866250107	15-02-2025 17:17:47 (UTC-12)	Biju ky?	Anything else?
9723039114	8866250107	15-02-2025 17:17:38 (UTC-12)	b6a065e4-c314-429d-8ef0-f13e4d151a91.jpg	Self-Photo
9723039114	8866250107	15-02-2025 17:17:05 (UTC-12)	fac6ce2d-ce27-4a20-978e-76e38aee5db.jpg	Aadhar Card Photo
9723039114	8866250107	15-02-2025 17:17:04 (UTC-12)	2702d3d2-a014-4c9e-98b5-7f5cdd52ab4.jpg	Aadhar Card Photo
9723039114	8866250107	15-02-2025 17:17:04 (UTC-12)	456eab30-9c3b-47d9-bbaf-0e455e41752.jpg	PAN Card Photo
9723039114	8866250107	15-02-2025 17:17:04 (UTC-12)	0aadd2d0-544f-4f61-bf0a-cb04daea4cc.jpg	Passport Photo
9723039114	8866250107	15-02-2025 17:17:04 (UTC-12)	0c4702cb-a6b7-468d-8500-2beb41965eb3.jpg	Passport Photo

It appears from the aforesaid WhatsApp chat carried out in between Mr. Navnit Makwana (Mobile No. 9723039114) and it is evident that on 15.02.2025, Mr. Navnit Makwana (Mobile No. 9723039114) forwarded photographs of his documents, including his passport photograph, PAN card, Aadhaar card, and a self-photograph, to Mr. Ashok (Mobile No. 8866250107). He also inquired whether any additional documents were required, to which Mr. Ashokbhai replied in the negative. During the subsequent conversation, Mr. Navnit sought details regarding the destination and

timings of the trip, whereupon Mr. Ashok informed him that they would be traveling to Bangkok and Vietnam. Mr. Navnit further pressed for early arrangements, to which Mr. Ashok responded that the necessary intimation had already been given. They also discussed whether any individual would accompany Mr. Navnit during his journey from Surat to Ahmedabad on 05.03.2025, to which Mr. Ashok informed that no one would come. In the course of the chat, Mr. Navnit expressed apprehension about whether he would be able to carry out the task alone and inquired about the method of concealment. In response, Mr. Ashok informed Mr. Navnit that he would have to execute the task independently and, upon reaching SVPI Airport, comply with his instructions for undertaking the process of insertion. Further communications were also exchanged between Mr. Navnit and Mr. Ashok both prior to and during their journey from Surat to Ahmedabad.

**16.9** Statement of Mr. Navnitbhai Jagdishbhai Makwana was recorded on 26.08.2025 under the provisions of Section 108 of the Customs Act, 1962, wherein he, inter alia, stated that;

➤ Upon identifying the individual in the Voter ID Card and Driving License seized during the Panchnama dated 22.08.2025 at 302, Jal Darshan Apartment, Singanpor Gam, Near Cause Way, Surat, it is confirmed that the individual is Mr. Haribhai (Hareshbhai Jasmatbhai Vithani), who was present on 05.03.2025 when Shri Ashokbhai handed over a polythene bag containing recovered diamond packets at Ahmedabad Airport, seized on 06.03.2025; in my presence, Mr. Haribhai first handed over the bag to Shri Ashokbhai, who then gave it to me, having instructed Shri Ashokbhai to accompany me to Ahmedabad Airport, later met me after my jail release, visited my residence, introduced himself, and assured me he would take care of my case. Also shared the recent photo of Mr. Hareshbhai Jasmatbhai Vithani.

**16.10** Summons dated 26.8.2025 was issued to Mr. Hareshbhai Jasmatbhai Vithani and served at his known address i.e. D/302, Jal Darshan Apartment, Singanpor Gam, Near Cause Way, Surat for his appearance on 28.8.2025.

## **17. RELEVANT LEGAL PROVISIONS:**

**17.1.** Relevant Legal Provisions under the CUSTOM ACT, 1962:

**Section 2(22):** "goods" includes -

- (a) ...;
- (b) ...;
- (c) baggage;
- (d) ...; and
- (e) ...;

**Section 2(33):** "prohibited goods" means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with;

**Section 2(39):** "smuggling", in relation to any goods, means any act or omission which will render such goods liable to confiscation under section 111 or section 113;

**Section 11.:** Power to Prohibit Importation in Or Exportation of Goods. -

*(1) If the Central Government is satisfied that it is necessary so to do for any of the purposes specified in sub-section (2), it may, by notification in the Official Gazette, prohibit either absolutely or subject to such conditions (to be fulfilled before or after clearance) as may be specified in the notification, the import or export of goods of any specified description.....*

*(3) Any prohibition or restriction or obligation relating to import or export of any goods or class of goods or clearance thereof provided in any other law for the time being in force, or any rule or regulation made or any order or notification issued thereunder, shall be executed under the provisions of that Act only if such prohibition or restriction or obligation is notified under the provisions of this Act, subject to such exceptions, modifications or adaptations as the Central Government deems fit.*

**Section 11H(a):** *“illegal export” means the export of any goods in contravention of the provisions of the Act or any other law for the time being in force;*

**Section 50:** *Entry of goods for exportation-*

*(1) The exporter of any goods shall make entry thereof by presenting 1 [electronically] 2 [on the customs automated system] to the proper officer in the case of goods to be exported in a vessel or aircraft, a shipping bill, and in the case of goods to be exported by land, a bill of export 3 [in such form and manner as may be prescribed]. 1 [Provided that the 4 [Principal Commissioner of Customs or Commissioner of Customs] may, in cases where it is not feasible to make entry by presenting electronically 2 [on the customs automated system] , allow an entry to be presented in any other manner.]*

*(2) The exporter of any goods, while presenting a shipping bill or bill of export, shall 5 \*\*\* make and subscribe to a declaration as to the truth of its contents. 2*

*(3) The exporter who presents a shipping bill or bill of export under this section shall ensure the following, namely:—*

*(a) the accuracy and completeness of the information given therein;*

*(b) the authenticity and validity of any document supporting it; and*

*(c) compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.]*

**Section 77: Declaration by owner of baggage. -**

The owner of any baggage shall, for the purpose of clearing it, make a declaration of its contents to the proper officer.

**Section 79: Bona fide baggage exempted from duty. -**

*(1) The proper officer may, subject to any rules made under sub-section (2), pass free of duty -....*

*(2) the Central Government may make rules for the purpose of carrying out the provisions of this section and, in particular, such rules may specify -*

.....

**Section 113:** *Confiscation of goods attempted to be improperly exported, etc.—The following export goods shall be liable to confiscation: -*

*(a) any goods attempted to be exported by sea or air from any place other than a customs port or a customs airport appointed for the loading of such goods;*

*(b)...*

*(c)...*

*(d) any goods attempted to be exported or brought within the limits of any Customs area for the purpose of being exported, contrary to any prohibition imposed by or under the Act or any other law for the time being in force;*

*(e) any goods found concealed in a package which is brought within the limits of a Customs area for the purpose of exportation;*

*(f) any goods which are loaded or attempted to be loaded in contravention of the provisions of section 33 or section 34;*

*(g) any goods loaded or attempted to be loaded on any conveyance, or water-borne, or*

*attempted to be water-borne for being loaded on any vessel, the eventual destination of which is a place outside India, without the permission of the proper officer;*

*(h) any 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.*

*(i) any goods entered for exportation which do not correspond in respect of value or in any material particular with the entry made under this Act or in the case of baggage with the declaration made under section 77;]*

.....

**Section 114: Penalty for attempt to export goods improperly, etc.** - Any person 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 113, or abets the doing or omission of such an act, shall be liable, -

*(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty 1[2[not exceeding three times the value of the goods as declared by the exporter or the value as determined under this Act]], whichever is the greater;*

*(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher:*

**Provided** that where such duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA is paid within thirty days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent of the penalty so determined;]

*(iii) in the case of any other goods, to a penalty not exceeding the value of the goods, as declared by the exporter or the value as determined under this Act, whichever is the greater.]*

**Section 114AA** Penalty for use of false and incorrect material. -

*If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.]*

**Section 119. Confiscation of goods used for concealing smuggled goods.** -

*Any goods used for concealing smuggled goods shall also be liable to confiscation.*

## **17.2 Foreign Trade (Development and Regulation) Act, 1992:**

### **Section 3: Powers to Make Provisions Relating to Imports and Exports ....**

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

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

**Section 11. Contravention of provisions of this Act, rules, orders and foreign trade policy-**

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

**17.3** From the records and evidence discussed above, it is evident that in the present case, 703.29 carats of smuggled diamonds, valued at ₹3,53,56,300/- (Rupees Three Crore Fifty-Three Lakh Fifty-Six Thousand Three Hundred only), were found concealed on the person/body/rectum of passenger Mr. Navnitbhai Jagdishbhai Makwana, with the intent to illegally export them out of India without possessing any lawful procurement documents viz. Bill, Any Certificates etc. Furthermore, Mr. Makwana failed to produce any legitimate documents evidencing lawful acquisition of the said seized diamonds during his personal search, at the time of seizure, and even throughout the course of investigation.

**17.4** It is also important to mention that during the course of investigation, no individual has come forward to claim ownership of the said diamonds in question, nor have any documents been produced to evidence possession, such as an Importer Exporter Code (IEC), valid purchase receipts, or valid permissions issued by any competent authority for the legal export of the diamonds. Thus, in the present case, the natural diamonds weighing 703.29 carats and valued at ₹3,53,56,300/- (Rupees Three Crore Fifty-Three Lakh Fifty-Six Thousand Three Hundred only), which were concealed by Mr. Navnitbhai Jagdishbhai Makwana in his rectum, appear to constitute an attempt to smuggle these goods out of India undetected.

**17.5** *It also appears that the natural diamonds brought by the passenger are not bona fide baggage, as there was an attempt to smuggle them out of India through concealment and non-declaration to Customs for monetary gain.* He did not have any valid documentary evidences to establish the source of diamonds. Hence, the seized diamonds appear to be liable for confiscation under Section 113(d), (e), (h) & (i) of the Customs Act, 1962 read with Section 3(3) of the Foreign Trade (Development and Regulation) Act, 1992. The packing material used for the concealment appear liable to confiscation in terms of Section 119 of Customs Act, 1962.

## **18. CONTRAVENTIONS AND CHARGES:**

From the facts of the case and legal provisions mentioned above, the following observations are made-

18.1 It appears that, in the event of goods being exported, the procedure prescribed in Chapter VII of the Customs Act, 1962—of which Section 50 is an integral part—is required to be followed. In cases where export is attempted through baggage, the procedure outlined in Chapter XI, particularly Section 77, also appears to be applicable. This provision mandates that the owner of any baggage must, for the purpose of clearance, make a declaration of its contents to the proper officer.

18.2 It appears from the facts on record that, in the instant case, the prescribed procedure under Section 50 of the Customs Act, 1962 has not been complied with. Further, it appears that the statutory obligation of declaration under Section 77 has not been observed by the passenger.

18.3 It further appears that, under the provisions of the Foreign Trade (Development and Regulation) Act, 1992, all imports and exports are required to be conducted in accordance with its provisions. Any restrictions or prohibitions under the said Act appear to be deemed as prohibitions under Section 11 of the Customs Act, 1962.

18.4 It appears that Section 113 of the Customs Act, 1962 renders certain goods liable to confiscation if they are improperly exported or attempted to be exported. This includes goods that are subject to prohibitions, goods concealed for export, and goods

attempted to be exported without a proper declaration. Therefore, it appears that the diamonds attempted to be exported in this case are liable to confiscation under Section 113 of the Customs Act and, consequently, also attract the penal provisions of Section 114.

18.5 It appears from the Panchnama dated 05/06.03.2025 and 06.03.2025, along with statements recorded under Section 108 of the Customs Act, 1962, that Mr. Navnitbhai Jagdishbhai Makwana attempted to smuggle 703.29 carats of diamonds valued at ₹3,53,56,300/- (Rupees Three Crore Fifty-Three Lakh Fifty-Six Thousand Three Hundred only). It appears that these diamonds were clandestinely concealed within his rectum, constituting an attempt to export them without lawful declaration as required under Section 50 of the Customs Act, 1962.

18.6 It further appears that Mr. Navnitbhai Jagdishbhai Makwana, in his deposition, admitted that, having been unemployed for several months, he accepted an offer from Mr. Ashokbhai Valjibhai Vaghani—a former colleague at M/s. Pusti Gems, Surat—to smuggle diamonds out of the country. It appears that Mr. Ashokbhai promised compensation of ₹20,000/- for the Vietnam trip and sponsored all related travel expenses. It further appears that Mr. Makwana received two capsule-shaped packets of diamonds at Surat, with explicit instructions to conceal them in his rectum to evade Customs detection.

18.7 It appears that the attempted export of these diamonds falls within the scope of “illegal export” as defined under Section 11H(a) of the Customs Act, 1962, given the knowing omission of the required declaration under Section 50 of the Act. Consequently, the goods also appear to meet the definition of “smuggled goods” under Section 2(39) and “prohibited goods” under Section 2(33) of the Customs Act. It also appears that the natural diamonds brought by the passenger are not bona fide baggage, as there was an attempt to smuggle them out of India through concealment and non-declaration to Customs for monetary gain.

18.8 It appears that the acts of concealment, non-declaration, attempted illegal export, and violation of Foreign Trade Policy norms render the diamonds liable for confiscation. Accordingly, it appears that the seized diamonds are liable for confiscation under Sections 113(d), 113(e), 113(h), and 113(i) of the Customs Act, 1962. Further, it appears that the remnants of the packing material used for concealment are also liable for confiscation under Section 119 of the Customs Act, 1962.

18.9 It further appears that Mr. Navnitbhai Jagdishbhai Makwana is liable for penal consequences under Section 114 of the Customs Act, 1962 as a result of the aforesaid acts. It appears from his voluntary statement dated 06.03.2025 that Mr. Navnitbhai Jagdishbhai Makwana admitted being aware that it is illegal to smuggle diamonds without declaring them to Customs. Therefore, it appears that his act of not making a true declaration attracts penal liability under Section 114AA of the Customs Act, 1962.

## **19. ROLE OF THE KEY PERSONS:**

### **19.1 Role of Mr. Navnitbhai Jagdishbhai Makwana:**

19.1.1 It appears that Mr. Navnitbhai Jagdishbhai Makwana played a central role in the attempted illegal export of 703.29 carats of diamonds valued at ₹3,53,56,300/-. It appears that he knowingly concealed the said diamonds within his rectum with the intent to evade detection by Customs authorities and to circumvent mandatory procedures prescribed under Section 50 and Section 77 of the Customs Act, 1962. It further appears from his own deposition and voluntary statement that he was aware of the illegality of his actions, having admitted to accepting an offer from Mr. Ashokbhai Valjibhai Vaghani for monetary gain, and having received the contraband diamonds along with explicit instructions for concealment and non-declaration.

19.1.2 It appears that Mr. Navnitbhai Jagdishbhai Makwana has knowingly concerned himself in the carrying, keeping, concealing, and attempted export of smuggled goods liable to confiscation under Sections 113(d), 113(e), 113(h), and 113(i) of the Customs Act, 1962.

19.1.3 Accordingly, it appears that Mr. Navnitbhai Jagdishbhai Makwana has, by his acts of concealment, omission of declaration, and attempted illegal export in violation of the provisions of the Customs Act, 1962 and the Foreign Trade (Development and Regulation) Act, 1992, rendered himself liable to penal consequences, including confiscation of goods and prosecution, under Sections 113, 114, 114AA, 119, and 135 of the Customs Act, 1962.

## **19.2 Role of Mr. Ashokbhai Valjibhai Vaghani:**

19.2.1 It appears that Mr. Ashokbhai Valjibhai Vaghani played a key role in orchestrating the attempted illegal export of diamonds by recruiting Mr. Navnitbhai Jagdishbhai Makwana. It appears that Mr. Ashokbhai Valjibhai Vaghani promised a monetary remuneration of ₹20,000/- and covered all related travel expenses for the Vietnam trip. Further, it appears that Mr. Ashokbhai Valjibhai Vaghani supplied the capsule-shaped packets containing the diamonds to Mr. Navnitbhai Jagdishbhai Makwana at Surat, along with explicit instructions to conceal them inside his rectum to evade Customs detection. By these acts, Mr. Ashokbhai appears to have actively abetted and facilitated the violation of the Customs Act, 1962 and the Foreign Trade (Development and Regulation) Act, 1992, made the smuggled goods liable to confiscation under Sections 113(d), 113(e), 113(h), and 113(i) of the Customs Act, 1962.

19.2.2 It appears that Mr. Ashokbhai Valjibhai Vaghani has knowingly involved himself in the export of smuggled goods, which are liable to confiscation under Sections 113(d), 113(e), 113(h), and 113(i) of the Customs Act, 1962.

19.2.3 Accordingly, it appears that Mr. Ashokbhai Valjibhai Vaghani has involved himself in the acts of attempted illegal export, in violation of the Customs Act, 1962, and the Foreign Trade (Development and Regulation) Act, 1992, thereby rendering himself liable to penal consequences, including confiscation of goods and prosecution under Sections 113, 114, 114AA, 119, and 135 of the Customs Act, 1962.

## **19.3 Role of Mr. Haribhai / Mr. Haribhai Vithani/ Hareshbhai Jasmathabhai Vithani:**

19.3.1 It appears from the statement of Mr. Navnitbhai Jagdishbhai Makwana and Mr. Ashokbhai Valjibhai Vaghani, along with corroborating WhatsApp records, it is revealed that Mr. Haribhai was actively involved in the conspiracy to smuggle diamonds. He was initially responsible for establishing contact between Mr. Navnitbhai Jagdishbhai Makwana and the smuggling network by obtaining his details and passport copy through Mr. Ashokbhai Valjibhai Vaghani. On 05.03.2025, the polythene bag containing the seized diamond packets was handed over by Mr. Haribhai through Shri Ashokbhai to Mr. Navnitbhai Jagdishbhai Makwana for carriage. Mr. Navnitbhai Jagdishbhai Makwana later identified this individual as Mr. Haribhai, who also assured him of support in the case. Further, travel documents including visa, hotel bookings, and flight tickets were sent to Mr. Navnitbhai from mobile number 6353801026, instructed to be saved under the name of Haribhai.

19.3.2 By these acts, Mr. Haribhai appears to have actively facilitated and knowingly involved himself in the export of smuggled goods in violation of the Customs Act, 1962 and the Foreign Trade (Development and Regulation) Act, 1992, made the smuggled goods liable to confiscation under Sections 113(d), 113(e), 113(h), and 113(i) of the Customs Act, 1962.

19.3.3 Accordingly, it appears that Mr. Haribhai has involved himself in the acts of attempted illegal export, in violation of the Customs Act, 1962, and the Foreign Trade

(Development and Regulation) Act, 1992, thereby rendering himself liable to penal consequences, including confiscation of goods and prosecution under Sections 113, 114, 114AA, 119, and 135 of the Customs Act, 1962.

**20.** Accordingly, a Show Cause Notice was issued to (i) Mr. Navnitbhai Jagdishbhai Makwana, (ii) Mr. Ashokbhai Valjibhai Vaghani and (iii) Mr. Haribhai urf Mr. Haribhai Vithani urf Hareshbhai Jasmathbhai Vithani, as to why: -

- i.** The said 703.29 carats of natural diamonds valued at ₹3,53,56,300/- (Rupees Three Crore Fifty-Three Lakh Fifty-Six Thousand Three Hundred only) attempted to be exported out of India by the Mr. Navnit Makwana contrary to the provisions of the Customs Act 1962 and subsequently seized should not be confiscated under section 113(d), 113(e), 113(h) & 113(i) of the Customs Act, 1962.
- ii.** Remnants of the packing material used for concealment of the seized Natural Diamonds should not be confiscated under Section 119 of the Customs Act, 1962.
- iii.** Penalty should not be imposed under Section 114 and Section 114AA of the Customs Act, 1962.

## **21. DEFENSE REPLY AND RECORD OF PERSONAL HEARING:**

**21.1 Defense Reply of the noticee No. 1:** Mr. Navnit Jagdishbhai Makwana has not submitted any written defense reply against the allegation made against him in the SCN.

**21.2 Defense Reply of the noticee No. 2:** Mr. Ashokbhai Valjibhai Vaghani has submitted written submission/defense reply on dated **26.11.2025** through his Advocate Ms. Dipali G. Jamod, against the allegation made against him in the SCN.

Vide written submission/defense reply dated **26.11.2025** by his advocate submitted that:

1. That the applicant/Accused, Shri Ashokbhai Vaghani, has no business, employment-related, or any regular association whatsoever with the accused, Shri Navnitbhai. Approximately one year ago, the applicant had incidentally met the accused while he had gone with a friend for tea. Except for two brief casual conversations thereafter, no further interaction or relationship existed between them.
2. That the statement made by the accused, Shri Navnitbhai, alleging that the applicant was employed with him, is false, baseless, and devoid of any factual foundation. The applicant/ Accused is an independent businessman engaged in the clothing business and has never worked with or under the accused in any capacity.
3. That the allegation made by the accused that the applicant/ Accused paid him ₹20,000 and instructed him to smuggle diamonds abroad, and that the applicant assisted him in concealing such diamonds in his private parts, is entirely fabricated, malicious, and unsupported by any evidence. The applicant has never been involved in any such illegal or improper activities.
4. That the applicant/ Accused has no direct or indirect involvement in the diamond trade. The applicant has never paid any money to the accused. The applicant's friend, Shri Hareshbhai Jasmathbhai Vithani, is engaged in diamond brokerage, and any interaction or transactions between him and the accused are completely unknown to the applicant.
5. That although Shri Hareshbhai Jasmathbhai Vithani and the accused, Shri Navnitbhai, were in communication on several occasions, the applicant had no

knowledge of their dealings, conversations, or any form of business between them.

6. That even after the occurrence of the present incident, Shri Hareshbhai Jasmathbhai Vithani, who is a diamond broker, had contacted and spoken with the accused, whereas the applicant has never communicated with the accused at any time, either before or after the incident. This clearly demonstrates that the applicant has no connection whatsoever with the alleged offence.
7. That the applicant's wife had gone to her parental home at Kalol, and the applicant was travelling to Ahmedabad to bring her back. Upon learning this, the accused requested to accompany the applicant on the railway journey up to Ahmedabad. The applicant allowed him to travel merely out of courtesy and casual acquaintance. No illegal discussion, transaction, or suspicious activity took place during the journey, nor was the applicant aware of the purpose for which the accused was travelling to Ahmedabad.
8. That the allegation made by the accused that the applicant arranged or paid for his air ticket or hotel booking for his alleged foreign travel is entirely false, concocted, and misleading. The applicant has never made any such booking nor has he paid any advance amount on behalf of the accused.
9. That from the above facts and circumstances, it is evident that the applicant has absolutely no connection with the alleged offence. The applicant has been falsely implicated in the present case and is completely innocent, having committed no unlawful act whatsoever.
10. That the applicant/Accused, Shri Ashokbhai Vaghani, is fully willing to extend complete cooperation to the Directorate of Revenue Intelligence (DRI) during the course of investigation and undertakes to remain present as and when required and to furnish any documents, information, or evidence that may be necessary for the purpose of investigation.

In view of the facts and submissions stated hereinabove, the Applicant most respectfully prays that this Hon'ble Authority may be pleased to:

1. Take on record the present submission and consider the applicant's explanation as true, correct, and bona fide.
2. Acknowledge that the applicant/Accused has no involvement, direct or indirect, in the alleged offence and that the accusations made against the applicant by the co-accused are false, baseless, and devoid of evidentiary value.
3. Ensure that no coercive or adverse action is taken against the applicant, as he has been falsely implicated and has no connection with the alleged incident.
4. Grant any other relief(s) that this Hon'ble Authority may deem fit, proper, and just in the interest of justice.

**21.3 Defense Reply of the noticee No.3:** Mr. Haribhai urf Mr. Haribhai Vithani urf Hareshbhai Jasmathabhai Vithani has submitted written submission/defense reply on dated **18.11.2025** through his Advocate Mr. Savankumar D Moghariya, against the allegation made against him in the SCN.

Vide written submission/defense reply dated **18.11.2025**, he submitted that:

- The notice issued against him is vague, baseless and not sustainable in law.
- He denies all allegation stated in notice except those specifically admitted hereunder.
- The proceedings are without proper application of mind and are liable to be dropped.

- The notice is based solely on the uncorroborated and contradictory statement of a co-accused recorded under section 108 of customs act.
  - There is no independent evidence, no recovery, no money trail, no electronic proof, and no CCTV footage linking him to any smuggling activity.
  - He has no connection with the alleged act of carrying diamonds in the rectum by Mr. Navnitbhai.
- a) Further, he submitted that it was alleged that applicant Hareshbhai Jasmathbhai Vithani asked to Mr. Ashokbha Vaghani for one person who do work for him. Even if it was true than This was a normal, routine favour and has not relation to any illegal activity. It cannot be said that because he asked for one person that would be for smuggling purpose. Merely asking a person for job to anyone cannot be treated as abetment or conspiracy under the customs act.
  - b) It was alleged that the whatsapp chat shows connection between co-accused. The whatsapp chat only reflects conversation. It does not contain any reference to diamonds, smuggling, money, travel, and concealment or any illegal act. Under the Indian evidence act, electronic evidence must be accompanied by section 65B of Indian evidence act. No such certificate is provided. Unverified whatsapp chats cannot be relied upon without proving origin, authorship, and authenticity. Thus, the whatsapp chat cannot be treated as proof.
  - c) It was alleged that Hareshbhai Jasmathbhai Vithani assured Navnitbhai after incident. This was self-serving, uncorroborated heresay allegation. There were no witness, footage or call records to supports this statement. A section 108 of customs act cannot be sole basis for penalty, as held repeatedly by courts.
  - d) Identification of Hareshbhai Jasmathbhai Vithani by Navnitbhai. Initially Navnitbhai did not know Hareshbhai Jasmathbhai Vithani at all. Identification must be done during interrogation. No test identification procedure, video identification, or corroboration has been conducted. Merely on basis of statement of co-accused. Illegally notice was sent to Hareshbhai Jasmathbhai Vithani.
  - e) The department has not produced any CCTV footage to show the link with co-accused. From the Hareshbhai Jasmathbhai Vithani there was no recovery. There was no any witness, no financial trail and no direct contact between Hareshbhai Jasmathbhai Vithani and the alleged diamonds. When the case is entirely circumstantial absence of independent evidence make the allegation unsustainable.
  - f) Entire case against Hareshbhai Jasmathbhai Vithani was built only on the statement of co-accused. The statement was recorded in custody making it unreliable. No proof that statement was voluntary, truthful or recorded without pressure.
  - g) There is no evidence of financial benefits. DRI could not produce any money transfer, any bank data, any UPI records, any cash payment, or any promise. In absence of a financial link, abetment of conspiracy cannot be established.
  - h) After perusing the show cause notice, the notice uses words like “appears”, “seems”, “likely” showing that the department itself is not sure. Customs cases must be based on hard evidence, not assumptions.
  - i) After being caught raid handed, Navnitbhai was trying to reduce his liability by making self- serving statement. Co-accused often falsely implicate others to protect themselves.

He further submitted that:

- a) Burden of proof lies on the department mere suspicion cannot replace proof.
- b) Statement under section 108 of co-accused must be corroborated.
- c) No mens rea is establish by Hareshbhai Jasmathbhai Vithani. he had no knowledge or intention to commit any customs offence.
- d) There is no evidence of conspiracy under section 135 of customs act.

- e) No chain of custody of the alleged diamond, no document shows by the DRI, that who purchased diamonds, who gave them to co-accused, how they reached to Mr. Navnitbhai. Without establishing this "Chain of custody" involvement of any person is unproven.
- f) Penalty cannot be imposed when there is not active role, no recovery, and no financial benefits.
- g) No nexus between Hareshbhai Jasmathbhai Vithani and smuggling.
- h) The department has failed to show any link between Hareshbhai Jasmathbhai Vithani and the alleged diamonds.
- i) There is no act of preparation, involvement, payment, meeting, communication or facilitation proven.

He further prayed for drop the SCN and requested for no penalty or adverse order may be passed under the customs act.

**21.4 Personal Hearing:** Adequate opportunities of personal hearing were given to all noticees in the Show Cause, which is summarized as under: -

**Noticee No. 1: i.e. Mr. Navnit Jagdishbhai Makwana:** - The noticee was given an opportunity for personal hearing on 10.11.2025 & 19.11.2025. Accordingly, the noticee Mr. Navnit Jagdishbhai Makwana appeared for personal hearing on 19.11.2025. During the personal hearing he stated that the diamonds were not belong to him. These diamonds are belonged to Mr. Hareshbhai.

Further, he requested to take lenient view in the matter.

**Noticee No. 2: i.e. Mr. Ashokbhai Valjibhai Vaghani:** - The noticee was given an opportunity for personal hearing on 10.11.2025 & 19.11.2025. Accordingly, Ms. Dipali D. Jamod, Advocate of the noticee i.e. Mr. Ashokbhai Valjibhai Vaghani, appeared for personal hearing on dated 19.11.2025. During the personal hearing, she stated that Shri Ashokbhai Vaghani was not working with Shri Navnit Jagdishbhai Makwana, as mentioned in his statement. Ashokbhai meet with Navinitbhai first time in February,2025. She further stated that Shri Ashokbhai is in business of cloths and he is not partner of Shri Navnitbhai. Ashokbhai never gave money to Shri Navnitbhai.

Further, she requested to take lenient view in the matter.

**Noticee No. 3: i.e. Mr. Haribhai/ Mr. Haribhai Vithani/ Hareshbhai Jasmathabhai Vithani:** - The noticee was given an opportunity for personal hearing on 10.11.2025 & 19.11.2025. Accordingly, Shri Savankumar D Moghariya, Advocate of the noticee i.e. Mr. Hareshbhai Jasmathabhai Vithani, appeared through Video Conference for personal hearing on dated 19.11.2025. During the personal hearing, he reiterated his written submission dated 18.11.2025. He submitted that his client Shri Hareshbhai J Vithani was not involved direct or in direct in this case. He also submitted that there is not any witness, document or any proof like money trail, electronic proof, CCTV footage etc. of involvement in the said diamond smuggling case was found by the DRI or other agency.

He requested to quash and drop the case and no penalty or adverse order pass under the customs act.

## **22. DISCUSSION AND FINDINGS:**

**22.1** I have carefully gone through the case records, Show Cause Notice, relied upon documents to Show Cause Notice and Statements of the Noticees alongwith any submission made by the noticees and the relevant legal provisions pertaining to this case. Further, sufficient opportunities to be heard were extended to all the noticees of the SCN following the Principles of Natural Justice. I am of the opinion that sufficient opportunities have been offered to the Noticee in keeping with the principle of natural

justice and there is no prudence in keeping the matter in abeyance indefinitely. I, therefore, proceed to decide the case on the basis of evidence and documents available on record.

In the instant case, I find that the main issues to be decided are whether:

- i.) The said 703.29 Carats of Natural Diamonds Valued at ₹3,53,56,300/- (Rupees Three Crore Fifty-Three Lakh Fifty-Six Thousand Three Hundred only) attempted to be exported out of India by the Mr. Navnit Makwana contrary to the provisions of the Customs Act 1962 and subsequently seized vide Seizure Order dated 06.03.2025 under Panchnama Proceedings dated 05-06.03.2025 are liable for confiscation under section 113(d), 113(e), 113(h) & 113(i) of the Customs Act, 1962 or not,
- ii.) Remnants of the packing material used for concealment of the seized Natural Diamonds seized vide Seizure Memo dated 06.03.2025 are liable for confiscation under Section 119 of the Customs Act, 1962 or not,
- iii.) The noticees are liable for penal action under Section 114 and Section 114AA of the Customs Act, 1962 or not.

**22.2** I find that Panchnama has drawn out the fact that based on intelligence received by the Directorate of Revenue Intelligence, Zonal Unit, Ahmedabad, the officers of the DRI intercepted the passenger, Mr. Navnitbhai Jagdishbhai Makwana (Passport No. B8851919) scheduled to travel to Ho Chi Minh, Vietnam from Sardar Vallabhbhai Patel International Airport (SVPI Airport), Ahmedabad, by flight VJ 1806, scheduled to depart at approximately 23:50 hours on 05.03.2025, was suspected to be carrying a commercial quantity of diamonds, either in his baggage or concealed on his person after he had cleared immigration formalities for the aforesaid flight.

I find that the passenger i.e. Mr. Navnitbhai Jagdishbhai Makwana was carrying a laptop bag on his shoulder and holding a loose blue-coloured polythene bag in his hand. When questioned regarding any additional luggage, Mr. Navnitbhai Jagdishbhai Makwana stated that he was also carrying a trolley bag, which he had deposited at the check-in counter. The officers inquired whether he had anything to declare before the Customs Authorities, to which he politely declined. Upon being specifically asked whether he had declared any precious metals, foreign currency, or gold before Customs, he again denied having done so. The officers informed Mr. Navnitbhai Jagdishbhai Makwana that his personal search and a detailed examination of his baggage would be conducted. Accordingly, the officers conducted the personal search of Mr. Navnitbhai Jagdishbhai Makwana in the presence of the panchas, but nothing objectionable was found on his person. Subsequently, in the presence of the panchas, the officers proceeded to examine all the baggage belonging to Mr. Navnitbhai Jagdishbhai Makwana. On examination, no objectionable items were found in any of the baggage.

I find upon further sustained interrogation, Mr. Navnitbhai Jagdishbhai Makwana admitted that he had concealed two packets of diamonds in his rectum. Mr. Navnitbhai Jagdishbhai Makwana purged two capsule-shaped packets, one smaller than the other, both covered with condoms. Upon removal of the said condoms, black-coloured cello tape was found wrapped around each packet. On removing the said black tape, white-coloured transparent polythene was found wrapped around both the packets. Upon further removal of the polythene, a total of five small transparent pouches were found, each containing several smaller transparent pouches, in which a shining substance, appearing to be diamonds, was visible. The officers observed that each small transparent pouch was marked with details such as "VN-H-6 Loose," "VN-6 Loose," "VN-H-4 Loose," "VN-H-3 Loose," and "VN-H-6 Loose." Further, on being asked by the officers to Mr. Navnitbhai Jagdishbhai Makwana about the contents of

the said small transparent pouches, Mr. Navnitbhai Jagdishbhai Makwana stated that the pouches contained diamonds. On being further asked if he possessed any bill, certificate, or supporting document for the said diamonds, Mr. Navnitbhai Jagdishbhai Makwana informed that he did not have any bill or certificate in his possession. Upon further questioning regarding the reason for concealment, Mr. Navnitbhai Jagdishbhai Makwana stated that the diamonds had been given to him by one person, namely Mr. Ashokbhai @ Surat (Mobile Number: 8866250107), who had instructed him to conceal the same in his rectum for the purpose of smuggling the diamonds abroad. Mr. Navnitbhai Jagdishbhai Makwana admitted that following these instructions, he had concealed the said packets in his rectum. When specifically asked, in the presence of the panchas, whether he had filed any declaration or informed the Customs or DRI authorities regarding the diamonds, Mr. Navnitbhai Jagdishbhai Makwana again confirmed that, as the goods were meant for smuggling, he had neither filed any declaration nor disclosed the same to the Customs or DRI authorities.

Mr. Mukesh Babulal Mehta, Government Approved Valuer for Gold, Silver, Gems & Jewellery, submitted his report dated 06.03.2025, wherein it is stated that the examination was conducted for the purposes of quality assessment and valuation, utilizing a CVD testing machine/Eye Glass. The substance contained in all five transparent plastic pouches was identified as loose diamonds, i.e., cut and polished diamonds (Natural), having total weight of 703.29 Carat and total value of Rs.3,53,56,300/- were seized under Seizure Memo issued vide F. No. DRI/AZU/GI-02/ENQ-23/2025 dated 06.03.2025, on reasonable belief that the said goods are liable for confiscation under the provision of Section 113 of the Customs Act, 1962, on account of being attempted to smuggle out of India in contravention of the provisions of the Customs Act, 1962, Foreign Trade Policy, Baggage Rules, 2016 etc.

**23.** I find from the statements of the noticees, Panchnama and other evidences available with records, the noticees played role in the case as under-

**23.1 Noticee No. 1 i.e. Mr. Navnitbhai Jagdishbhai Makwana:** From the evidence available on record, including the Panchnama dated 05-06.03.2025, the statement of Mr. Navnitbhai Jagdishbhai Makwana recorded on 06.03.2025, 04.06.2025, 22.08.2025 and 26.08.2025, the statements of other involved persons recorded under Section 108 of the Customs Act, 1962, and the forensic and digital data, I find that Mr. Navnitbhai Jagdishbhai Makwana played a central role in the attempted illegal export of 703.29 carats of diamonds valued at ₹3,53,56,300/-. I find that he knowingly concealed the said diamonds within his rectum with the intent to evade detection by Customs authorities and to circumvent mandatory procedures prescribed under Section 50 and Section 77 of the Customs Act, 1962. I further find from his own deposition and voluntary statement that he was aware of the illegality of his actions, having admitted to accepting an offer from Mr. Ashokbhai Valjibhai Vaghani for monetary gain, and having received the contraband diamonds along with explicit instructions for concealment and non-declaration.

I find that Mr. Navnitbhai Jagdishbhai Makwana has knowingly concerned himself in the carrying, keeping, concealing, and attempted export of smuggled goods liable to confiscation under Sections 113(d), 113(e), 113(h), and 113(i) of the Customs Act, 1962. Further, I find that the remnants of the packing material used for concealment are also liable for confiscation under Section 119 of the Customs Act, 1962.

Accordingly, I find that Mr. Navnitbhai Jagdishbhai Makwana has, by his acts of concealment, omission of declaration, and attempted illegal export in violation of the provisions of the Customs Act, 1962 and the Foreign Trade (Development and Regulation) Act, 1992, rendered himself liable to penal consequences, including confiscation of goods and prosecution, under Sections 113, 114, 114AA, 119, and 135 of the Customs Act, 1962.

**23.2 Noticee No. 2 i.e. Mr. Ashokbhai Valjibhai Vaghani:** From the evidence available on record, including the Panchnama dated 05-06.03.2025, the statement of Mr. Ashokbhai Valjibhai Vaghani recorded on 15.03.2025, the statements of other involved persons recorded under Section 108 of the Customs Act, 1962, and the forensic and digital data, I find that that Mr. Ashokbhai Valjibhai Vaghani played a key role in orchestrating the attempted illegal export of diamonds by recruiting Mr. Navnitbhai Jagdishbhai Makwana. I find that Mr. Ashokbhai Valjibhai Vaghani promised a monetary remuneration of ₹20,000/- and covered all related travel expenses for the Vietnam trip. Further, I find that Mr. Ashokbhai Valjibhai Vaghani supplied the capsule-shaped packets containing the diamonds to Mr. Navnitbhai Jagdishbhai Makwana at Surat, along with explicit instructions to conceal them inside his rectum to evade Customs detection. By these acts, I find that Mr. Ashokbhai have actively abetted and facilitated the violation of the Customs Act, 1962 and the Foreign Trade (Development and Regulation) Act, 1992, made the smuggled goods liable to confiscation under Sections 113(d), 113(e), 113(h), and 113(i) of the Customs Act, 1962. I find that the remnants of the packing material used for concealment are also liable for confiscation under Section 119 of the Customs Act, 1962.

I further find that Mr. Ashokbhai Valjibhai Vaghani has knowingly involved himself in the export of smuggled goods, which are liable to confiscation under Sections 113(d), 113(e), 113(h), and 113(i) of the Customs Act, 1962.

Accordingly, I find that Mr. Ashokbhai Valjibhai Vaghani has involved himself in the acts of attempted illegal export, in violation of the Customs Act, 1962, and the Foreign Trade (Development and Regulation) Act, 1992, thereby rendering himself liable to penal consequences, including confiscation of goods and prosecution under Sections 113, 114, 114AA, 119, and 135 of the Customs Act, 1962.

**23.3 Noticee No. 3 i.e. Mr. Haribhai/ Mr. Haribhai Vithani/ Hareshbhai Jasmathabhai Vithani:** I find from the evidence available on record, including the Panchnama dated 05-06.03.2025, the statements of Mr. Navnitbhai Jagdishbhai Makwana recorded on 06.03.2025, 04.06.2025, 22.08.2025 and 26.08.2025, the statement of Mr. Ashokbhai Valjibhai Vaghani recorded on 15.03.2025 under Section 108 of the Customs Act, 1962, and the forensic and digital data, along with corroborating WhatsApp records, that Mr. Haribhai was actively involved in the conspiracy to smuggle diamonds. He was initially responsible for establishing contact between Mr. Navnitbhai Jagdishbhai Makwana and the smuggling network by obtaining his details and passport copy through Mr. Ashokbhai Valjibhai Vaghani. On 05.03.2025, the polythene bag containing the seized diamond packets was handed over by Mr. Haribhai through Shri Ashokbhai to Mr. Navnitbhai Jagdishbhai Makwana for carriage. Mr. Navnitbhai Jagdishbhai Makwana later identified this individual as Mr. Haribhai, who also assured him of support in the case. Further, travel documents including visa, hotel bookings, and flight tickets were sent to Mr. Navnitbhai from mobile number 6353801026, instructed to be saved under the name of Haribhai.

By these acts, I find that Mr. Haribhai/ Hareshbhai Jasmathabhai Vithani has actively facilitated and knowingly involved himself in the export of smuggled goods in violation of the Customs Act, 1962 and the Foreign Trade (Development and Regulation) Act, 1992, made the smuggled goods liable to confiscation under Sections 113(d), 113(e), 113(h), and 113(i) of the Customs Act, 1962.

Accordingly, I find that Mr. Haribhai had involved himself in the acts of attempted illegal export, in violation of the Customs Act, 1962, and the Foreign Trade (Development and Regulation) Act, 1992, thereby rendering himself liable to penal consequences, including confiscation of goods and prosecution under Sections 113, 114, 114AA, 119, and 135 of the Customs Act, 1962.

**24.** I further find that the noticee had not declared the said diamonds, in commercial quantity, which was in his possession, as envisaged under Section 77 of the Customs Act, 1962. It is also observed that the export was also for mala fide purposes, as the diamonds were clandestinely carried for the sake of receiving a monetary benefit. Therefore, the said diamonds weighing 703.26 Carats, attempted to be exported improperly valued at Rs.3,53,56,300/- by the passenger Mr. Navnitbhai Jagdishbhai Makwana without declaring to the Customs on his departure from India cannot be treated as bona fide household goods or personal effects. The passenger thus has contravened the provisions of the following Act/Policy/Notification/Rules:

- Section 11, 50, 77 and 79 of Customs Act, 1962;
- Section 3, 7 and 11 of the Foreign Trade (Development and Regulation) Act, 1992;
- Rules 11 and 12 of the Foreign Trade (Regulation) Rules, 1993;
- DGFT-FTP Notification No.43/2015-20 dated 22.11.2021;
- Para 1.11/1.13, 2.05, 2.06, 2.08, 2.26/2.27 and 2.45 of Foreign Trade Policy 2015-2020/2023.

**24.1** As per Section 2(33) of the Customs Act, 1962, “prohibited goods” is defined as 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. I find that in the instant case, the noticee had attempted to illicitly export the impugned diamonds by way of concealment in his rectum without declaration to the Customs and without complying with 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 other relevant notifications. The diamonds attempted to export improperly by the passenger without following the due process of law and without adhering to the conditions and procedures of export, have thus acquired the nature of being prohibited goods given Section 2(33) of the Act.

**24.2** I further find that the diamond is not on the list of prohibited items but export of the same is controlled. 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-fulfilment 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 diamonds outside India. I find that Mr. Navnitbhai Jagdishbhai Makwana confessed to carrying the said natural diamonds clandestinely and the same was recovered from his possession and was kept undeclared with an intention to smuggle the same. By using this modus, it is proved that the goods are offending in nature and therefore prohibited on their exportation. Here, the mandatory conditions required to export diamonds concealed in his rectum, are not fulfilled by the passenger.

**24.3** I find that given the discussion in the foregoing Paras, it is evident that Mr. Navnitbhai Jagdishbhai Makwana had admitted that he was carrying the said Diamonds with the intent to smuggle them outside India without declaring them before customs officers. Further, the Government approved valuer after examining the diamonds recovered from Mr. Navnitbhai Jagdishbhai Makwana, identified the same as natural diamonds having a total weight of 703.29 Carats and certified their market value to be Rs.3,53,56,300/-. The said goods were then placed under seizure vide Seizure Order/Memo dated 06.03.2025 under Panchnama dated 05-06.03.2025 under the reasonable belief that the goods clandestinely carried by the passenger to be “smuggled goods” as defined under Section 2(39) of the Customs Act, 1962. Given

the facts of the present case before me and the judgements and rulings cited above, the natural diamonds weighing 703.29 carats recovered from the passenger, are liable to absolute confiscation under Section 113(d), 113(e), 113(h), and 113(i) of the Customs Act, 1962. Further, remnants of the packing material used for concealment of the seized Natural Diamonds seized vide Seizure Memo dated 06.03.2025 are also liable for confiscation under Section 119 of the Customs Act, 1962.

**24.4** I find that by the above acts of contravention, the passenger i.e. Mr. Navnitbhai Jagdishbhai Makwana had rendered the impugned goods to confiscation under the provisions of Section 113(d), 113(e), 113(h), and 113(i) of the Customs Act, 1962. By using the modus of concealing the natural diamond in his rectum, it is observed that the passenger was fully aware that the export of said goods was offending in nature. It has also been admitted by the noticee in his statement that the diamonds were handed over to him by one Mr. Ashokbhai who was known to him. Further, upon questioning the noticee could not produce any legal documentary proof/evidence of the acquisition of the said diamond, the noticee replied that he did not have any such documents with him. It is therefore very clear that he has knowingly carried the diamonds and intentionally not declared the same during his departure at the Customs, SVPI Airport. It is seen that he had involved himself in carrying, keeping, concealing and dealing with the impugned goods in a manner which he knew that the same was liable to confiscation under the Customs Act, 1962. It is therefore, proved beyond doubt that the noticee has committed an offence of the nature described in Section 114 of the Customs Act, 1962 making him liable for penalty under Section 114 (i) of the Customs Act, 1962 as amended.

**24.5** I find that the noticee had attempted to illicitly export the impugned diamonds by way of concealment in his rectum 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; Section 3, 7 and 11 of the Foreign Trade (Development and Regulation) Act, 1992; Rule 11 and 12 of the Foreign Trade (Regulation) Rules, 1993; DGFTFTP Notification No.43/2015-20 dated 22.11.2021 and Para 1.11/1.13, 2.05, 2.06, 2.08, 2.26/2.27 and 2.45 of Foreign Trade Policy 2015-2020/2023. I find that the DGFT-FTP Notification No.43/2015-20 dated 22.11.2021 stipulates that “*Export of natural diamonds shall **not be permitted** unless the concerned exporter is registered with Gems & Jewellery EPC, which is the designated importing and exporting authority of India for Kimberley Process Certification Scheme (KPCS).*” The noticee could not produce any document evidencing registration with the Gems & Jewellery EPC. Further, the Foreign Trade Policy has mandated documents viz, Bill of Lading/ Airway Bill/ Lorry Receipt/ Railway Receipt/Postal Receipt; Commercial Invoice cum Packing List; Shipping Bill/Bill of Export/ Postal Bill of Export for export of goods. The noticee could not produce any of the requisite documents in this regard. Neither did he have an IEC (Importer Exporter Code) which is mandatory for export/import from/to India as detailed in paragraph 2.05 of the Foreign Trade Policy. 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.

**24.6** I find that as already discussed in the foregoing paras, the Hon'ble Supreme Court in the case of Om Prakash Bhatia reported in 2003 (155) ELT 423 (SC) has held 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, the goods would fall within the ambit of 'prohibited goods' if such conditions are not fulfilled. In the instant case, the diamonds were kept undeclared, concealed and were being carried by the said noticee without fulfilment of prescribed conditions. Further, when the noticee was asked to produce legal proof/document and KPC Certificate about the

possession of natural diamonds by him, he failed to produce any proof before the authorities. Therefore, it demonstrates that the diamonds recovered from the noticee were not legitimately sourced and were meant to be used for commercial purposes to earn some money. Further, the noticee has admitted in his statement that he had kept diamonds undeclared with the intent of smuggling the same for monetary consideration and therefore, the impugned goods, are to be treated as goods prohibited in nature. Thus, "mens rea" on the passenger's part is established as he did not declare to the Customs Authorities in any manner about the Natural Diamonds and also did not possess the documents evidencing the legitimate acquisition of the said diamonds and was smuggling the goods for monetary consideration.

**24.7** I find that the impugned 703.29 carats of natural diamonds, valued at Rs.3,53,56,300/- attempted to be improperly exported without declaration to the Customs are therefore, liable for absolute confiscation under Section 113(d), 113(e), 113(h) and 113(i) of the Customs Act, 1962. The noticee in his statements has confessed that he was carrying the impugned diamonds concealed in his rectum but had not declared the same before Customs Authorities at SVP International Airport as he wanted to smuggle the said goods. Given the discussions in the foregoing paragraphs, I hold that the Natural Diamonds weighing 703.29 Carats, clandestinely carried by the passenger Mr. Navnitbhai Jagdishbhai Makwana with an intention to export the same illicitly from Customs Airport without declaration are liable for absolute confiscation. In the instant case, I am therefore, not inclined to use my discretion to give an option to redeem the diamonds on payment of redemption fine, as envisaged under Section 125 of the Act. In this context, I find that the Hon'ble **High Court of Madras in the matter of Commissioner of Customs (Air), Chennai-I Versus P. Sinnasamy 2016 (344) E.L.T. 1154 (Mad.)** held-

*“Tribunal had arrogated powers of adjudicating authority by directing authority to release gold by exercising option in favour of respondent- Tribunal had overlooked categorical finding of adjudicating authority that respondent had deliberately attempted to smuggle 2548.3 grams of gold, by concealing and without declaration of Customs for monetary consideration- Adjudicating authority had given reasons for confiscation of gold while allowing redemption of other goods on payment of fine – Discretion exercised by authority to deny release, is in accordance with law- Interference by Tribunal is against law and unjustified-*

*Redemption fine- Option- Confiscation of smuggled gold – Redemption cannot be allowed, as a matter of right- Discretion conferred on adjudicating authority to decide- Not open to Tribunal to issue any positive directions to adjudicating authority to exercise option in favour of redemption.”*

In the case of **Samynathan Murugesan [2009 (247) ELT 21 (Mad)]**, the High Court upheld the absolute confiscation, ordered by the adjudicating authority, in similar facts and circumstances. Further, in the said case of smuggling of gold, the High Court of Madras in the case of Samyanathan Murugesan reported at 2009 (247) ELT 21(Mad) has ruled that as the goods were prohibited and there was concealment, the Commissioner's order for absolute confiscation was upheld.

**24.8** I, further, find that in a 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;

*89. 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).*

**24.9** Given the facts of the present case before me and the judgements and rulings cited above, the diamonds clandestinely carried by the passenger are liable to be confiscated absolutely. I, therefore, hold in unequivocal terms that the natural diamonds having a total weight of **703.29** Carats and valued at **Rs.3,53,56,300/-** carried by the noticee and placed under seizure, are liable for absolute confiscation under Section 113(d), 113(e), 113(h) and 113(i) of the Customs Act, 1962. I find that the Remnants of the packing material used for concealment of the seized Natural Diamonds seized vide Seizure Memo dated 06.03.2025 are liable for confiscation under Section 119 of the Customs Act, 1962.

**24.10** Based on the above findings, it is evident that the noticee, Mr. Navnitbhai Jagdishbhai Makwana in blatant violation of the provisions of the Customs Act, 1962, Baggage Rules, 2016; Foreign Trade (Development and Regulation) Act, 1992, Foreign Trade (Regulation) Rules, 1993; Foreign Trade Policy 2015-20/2023 attempted to improperly export/smuggle Natural Diamonds weighing 703.29 Carats valued at Rs.3,53,56,300/- which were concealed and were not declared before the Customs. Thus, the noticee has thereby rendered the said goods liable for confiscation under Section 113(d), 113(e), 113(h) and 113(i) of the Customs Act, 1962. I also find that the noticee is liable for penalty under Section 114 and 114AA of the Customs Act, 1962 for his abovementioned acts of commission and omission.

**24.11** It is also found that Mr. Ashokbhai Valjibhai Vaghani played a key role in orchestrating the attempted illegal export of diamonds. He recruited Mr. Navnitbhai Jagdishbhai Makwana by promising him ₹20,000 and covering his travel expenses for a trip to Vietnam. Mr. Vaghani supplied capsule-shaped packets of diamonds in Surat and gave explicit instructions to conceal them inside Mr. Makwana's rectum to evade Customs detection.

By these actions, he actively abetted and facilitated violations of the Customs Act, 1962, and the Foreign Trade (Development & Regulation) Act, 1992, making the diamonds and packing material liable for confiscation under Sections 113 and 119 of the Customs Act. His deliberate involvement in the smuggling attempt renders him liable for penalty under Sections 114 and 114AA of the Customs Act, 1962, for the acts of both commission and omission described above.

**24.12** It is also found that Mr. Haribhai, also known as Hareshbhai Jasmathabhai Vithani, was actively involved in the diamond smuggling conspiracy. He facilitated contact between Mr. Navnitbhai Jagdishbhai Makwana and the smuggling network by obtaining Makwana's personal details and passport copy through Mr. Ashokbhai Valjibhai Vaghani.

On 05.03.2025, Mr. Haribhai arranged for the polythene bag containing the seized diamond packets to be handed over to Mr. Makwana and subsequently assured him of support. Evidence, including WhatsApp records, confirmed that he sent travel documents, such as visa, hotel bookings, and flight tickets, from his mobile number.

By these acts, he knowingly facilitated the attempted illegal export of smuggled goods, in violation of the Customs Act, 1962, and the Foreign Trade (Development & Regulation) Act, 1992, making the diamonds and packing material liable for confiscation under Sections 113 and 119 of the Customs Act. His deliberate involvement in the smuggling attempt renders him liable for penalty under Sections 114 and 114AA of the Customs Act, 1962, for the acts of both commission and omission described above.

**25. Accordingly, I pass the following order:****ORDER**

- i.) I order absolute confiscation of the 703.29 Carats of Natural Diamonds Valued at ₹3,53,56,300/-** (Rupees Three Crore Fifty-Three Lakh Fifty-Six Thousand Three Hundred only) attempted to be exported out of India by the Mr. Navnit Makwana contrary to the provisions of the Customs Act 1962 and subsequently seized vide Seizure Order dated 06.03.2025 under Panchnama Proceedings dated 05-06.03.2025 under the provisions of the Section 113(d), 113(e), 113(h) & 113(i) of the Customs Act, 1962;
- ii.) I order absolute confiscation of remnants of the packing material used for concealment** of the seized Natural Diamonds seized vide Seizure Memo dated 06.03.2025 under Panchnama Proceedings dated 05-06.03.2025, under the provisions of the Section 119 of the Customs Act, 1962;
- iii.) I impose a penalty of Rs.15,00,000/-** (Rupees Fifteen Lakhs Only) on Mr. Navnitbhai Jagdishbhai Makwana under the provisions of the Section 114(i) of the Customs Act, 1962;
- iv.) I impose a penalty of Rs.15,00,000/-** (Rupees Fifteen Lakhs Only) on Mr. Navnitbhai Jagdishbhai Makwana under the provisions of the Section 114AA of the Customs Act, 1962;
- v.) I impose a penalty of Rs.10,00,000/-** (Rupees Ten Lakhs Only) on Mr. Ashokbhai Valjibhai Vaghani under the provisions of the Section 114(i) of the Customs Act, 1962;
- vi.) I impose a penalty of Rs.10,00,000/-** (Rupees Ten Lakhs Only) on Mr. Ashokbhai Valjibhai Vaghani under the provisions of the Section 114AA of the Customs Act, 1962;
- vii.) I impose a penalty of Rs.10,00,000/-** (Rupees Ten Lakhs Only) on Mr. Harehbhai Jasmatbhai Vithani/ Mr.Haribhai/ Mr. Haribhai Vithani under the provisions of the Section 114(i) of the Customs Act, 1962;
- viii.) I impose a penalty of Rs.10,00,000/-** (Rupees Ten Lakhs Only) on Mr. Harehbhai Jasmatbhai Vithani/ Mr.Haribhai/ Mr. Haribhai Vithani under the provisions of the Section 114AA of the Customs Act, 1962.
- 26.** Accordingly, the Show Cause Notice No. DRI/AZU/GI-02/ENQ-23/2025 dated 01.09.2025 stands disposed of.

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

**DIN:20260171MN000000CE42**

**F. No. VIII/10-41/DRI/SVPIA/O&A/HQ/2025-26**

**Date:19.01.2026**

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

To,

**1. Mr. Navnit Makwana,**  
S/o Jagdishbhai Makwana  
43, Jalaram Society,  
Ved Road, Surat, Gujarat-395004.

**Alternate Address**

Lundhara, Vallabhipur,  
Lundhar, Bhavnagar, Gujarat-364310,  
(E-Mail: [www.navnitmakwana1991@gmail.com](mailto:www.navnitmakwana1991@gmail.com))

**2. Mr. Ashokbhai Vaghani**  
S/o Mr. Valjibhai Vaghani,  
29, Green Heaven Society,  
Olpad, Vadod, Surat- 395004, Gujarat.  
(E-Mail: [palpal4279@gmail.com](mailto:palpal4279@gmail.com))

**3. Mr. Haribhai/  
Mr. Haribhai Vithani/  
Hareshbhai Jasmathabhai Vithani**  
D/302, Jal Darshan Aprtment,  
Near Parsiwad, Singanpore Gam,  
Surat City, Surat, Gujarat-395004.

**Copy to-**

1. The Principal Commissioner of Customs, Ahmedabad. (Kind Attn: RRA Section)
2. The Deputy Commissioner of Customs (AIU), SVPIA, Ahmedabad.
3. The Additional Director, DRI, AZU, Ahmedabad.
4. The Deputy Commissioner of Customs (TRC), Ahmedabad.
5. The Deputy Commissioner of Customs (Prosecution), Ahmedabad.
6. The System In-Charge, Customs, HQ., Ahmedabad for uploading on the web-site.
7. Guard File.