



प्रधान आयुक्त का कार्यालय, सीमा शुल्क, अहमदाबाद

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

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**PREAMBLE**

A	फाइल संख्या/ File No.	:	VIII/10-55/SVPIA-B/O&A/HQ/2024-25
B	कारण बताओ नोटिस संख्या-तारीख / Show Cause Notice No. and Date	:	VIII/10-55/SVPIA-B/O&A/HQ/2024-25 dated 29.05.2024
C	मूल आदेश संख्या/ Order-In-Original No.	:	103/ADC/VM/O&A/2024-25
D	आदेश तिथि/ Date of Order-In-Original	:	19.07.2024
E	जारी करनेकी तारीख/ Date of Issue	:	19.07.2024
F	द्वारापारित/ Passed By	:	<b>Vishal Malani,</b> Additional Commissioner, Customs, Ahmedabad.
G	आयातक का नाम औरपता / Name and Address of Importer / Passenger	:	“Whom so ever it may concern” (1) To be pasted on the Notice Board of Custom House, Navrangpura, Ahmedabad – 380 009. (2) To be pasted on the Notice Board of Customs, SVPI Airport, Ahmedabad.
(1)	यह प्रति व्यक्ति के उपयोग के लिए निःशुल्क प्रदान किया जाता है जिन्हे 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 प्राप्त किया तारीख के 60 दिनों के भीतर आयुक्त कार्यालय, सीमा शुल्क (अपील), छवि मंजिल, हुड़को भवन, ईश्वर भुवन मार्ग, नवरंगपुरा, अहमदाबाद में कर सकता है।		
(3)	अपील के साथ केवल पांच (5.00) रुपये पे न्यायलय शुल्क टिकिट लगा होना चाहिए और इसके साथ होना चाहिए:		
(i)	अपील की एक प्रति और;		
(ii)	इस प्रति या इस आदेश की कोई प्रति के साथकेवल पांच (5.00) रुपये पे न्यायलय शुल्क टिकिट लगा होना चाहिए।		
(4)	इस आदेश के विरुद्ध अपील करने इच्छुक व्यक्ति को 7.5% अधिकतम 10 करोड़ शुल्क हम करना होगा जहां शुल्क या ड्यूटी और जुर्माना विवाद में है या जुर्माना जहां इस तरह की दंड विवाद में है और अपील के साथ इस तरह के भुगतान का प्रमाण पेश करने में असफल रहने पर सीमा शुल्क अधिनियम, 1962 के धरा 129 के प्रावधानों का अनुपालन नहीं करने के लिए अपील को खारिज कर दिया जायेगा।		

### **Brief facts of the case :**

A semi-solid paste of gold and chemical mix substance covered with white tape and affixed with a blue coloured underwear was found from the dustbin of the washroom of the arrival hall of Terminal-1 SVPIA, Ahmedabad during the random check-up visit. The dustbin along with the underwear was brought to the AIU office by the cleaning staff of SVPIA Terminal-1, namely Shri Himantbhai Solanki.

2. Acting on the said information, Superintendent, AIU, SVPI Airport called for two independent Panchas at 10:05 Hrs. on 14.01.2024. The AIU officers then informed the Panchas about the semi-solid paste of gold and chemical mix substance covered with white tape and affixed with a blue coloured underwear. Then in presence of the punches the AIU officers remove the semi-solid paste of gold and chemical mix substance covered with white tape and affixed with a blue coloured underwear which was kept inside the dustbin of the washroom of arrival hall of Terminal-1. Entire proceedings were recorded under Panchnama dated 14.01.2024.

2.1 The AIU officers informed the Panchas that, the said semi-solid paste of gold and chemical mix substance covered with white tape and affixed with a blue coloured underwear which required to be confirmed and also to be ascertained its purity and weight. For the same Shri Soni Kartikey Vasantrai, the Government Approved Valuer was contacted and requested him to come to the office of the Air Intelligence Unit, SVPI, Airport Ahmedabad for testing and valuation purpose. In reply the Government Approved valuer informs the officers that, the facility to extract the gold from such chemical mix substance covered with white tape and affixed with a blue coloured underwear is possible only at his workshop further to ascertain purity and weight of the same is available at his shop only. As such the AIU officers and the Panchas visited the shop situated at 301, Golden Signature, Behind Ratnam Complex, Nr. National Handloom, C.G. Road, Ahmedabad-380006, where AIU officer introduced Shri Soni Kartikey Vasantrai, the Government Approved Valuer to the Panchas. Here, after weighing the said chemical mix substance covered with white tape and affixed with

a blue coloured underwear on his weighing scale, Shri Kartikey Vasantrai Soni informed that the chemical mix substance covered with white tape and affixed with a blue coloured underwear was weighing 1001.76 grams. AIU Officers took the photograph of the same which is as under:



2.2 The Government approved valuer after removing white tape shows the chemical mix substance affixed with a blue coloured underwear and told that chemical mix substance affixed with a blue coloured underwear required purification process to obtain pure gold. After completing purifying and testing process, the Government Approved valuer submitted the Valuation Certificate No. 1133/2023-24 dated 14.01.2024. After purifying the said chemical mix substance affixed with a blue coloured underwear consisting of Gold & Chemical mix, gold bar weighing **889.30** Grams having purity 999.0/24 Kt. was recovered which is having Tariff Value of **Rs.50,12,384/-** (Rupees Fifty Lakhs Twelve Thousand Three Hundred Eighty Four Only) and Market Value of **Rs.57,44,878/-** (Rupees Fifty seven Lakhs Forty four Thousand Eight Hundred Seventy Eight Only) which has been calculated as per the Notification No. 95/2023-Customs (N.T.) dated 29.12.2023 (gold) and Notification No. 01/2024-Customs (N.T.) dated 05.01.2024 (exchange rate). The outcome of the said testing is summarized as under:

Sr. No.	Details of Items	PCs	Gross Weight in Gram	Net Weight in Gram	Purity	Market Value (Rs)	Tariff Value (Rs)
1	Gold Bar	1	1001.76	889.30	999.0/24 Kt	57,44,878/-	50,12,384/-

The image of gold bar derived from chemical mix substance covered with white tape and affixed with a blue coloured underwear is as under:-



2.3 The method of purifying, testing and valuation used by Shri Soni Kartikey Vasantrai was done in a perfect manner in presence of the independent Panchas and the AIU officers. All were satisfied and agreed with the testing and Valuation Certificate No: 1133/2023-24 dated 14.01.2024 given by Shri Soni Kartikey Vasantrai and in token of the same, the Panchas put their dated signature on the said valuation report.

2.4 As the said one gold bar derived from semi-solid paste of gold and chemical mix substance covered with white tape and affixed with a blue coloured underwear found from the dustbin of the washroom of the arrival hall of Terminal-1 SVPIA, Ahmedabad during the random check-up visit, it was not possible to identify as to who is the owner of the said gold bar. Therefore, as there was no claimant for the said Gold Bar and any proper and legitimate claimant of the same could not be identified, the recovered one gold bar was termed as '**Unclaimed**'. Since the recovered one gold bar weighing 889.30 Grams was found to be "Unclaimed" but were recovered without any legitimate Import documents inside the Customs Area, the same fall under the category of 'Smuggled Goods' and stand liable for confiscation under the Customs Act, 1962. Therefore, the said one gold bar weighing 889.30 Grams having purity 24KT/ 999.0 and having Tariff Value of Rs.50,12,384/- (Rupees Fifty Lakhs Twelve Thousand Three Hundred

Eighty Four Only) and Market Value of Rs.57,44,878/- (Rupees Fifty seven Lakhs Forty four Thousand Eight Hundred Seventy Eight Only) from the semi-solid paste of gold and chemical mix substance covered with white tape and affixed with a blue coloured underwear weighing 889.30 grams, and the White coloured tape used to cover the semi solid substance consisting of Gold & Chemical mix were placed under seizure by the AIU Officers of Customs under the reasonable belief that the subject Unclaimed Gold is liable for confiscation, under Panchnama dated 14.01.2024 drawn at the premises of the SVPI Airport, Ahmedabad and Seizure Memo Order dated 14.01.2024.

3. In view of the above, the Noticee(s) i.e. **unknown passenger(s)/ person(s)** who is/ are claiming the ownership of the said gold, is/ are hereby called upon to show cause in writing to the Additional Commissioner of Customs, having his office located at 2<sup>nd</sup>Floor, 'Custom House' Building, Near All India Radio, Navrangpura, Ahmedabad-380 009, as to why:

- (i) One Gold Bar weighing **889.30** grams having purity 24KT/ 999.0 and having Tariff Value of **Rs.50,12,384/-** (Rupees Fifty Lakhs Twelve Thousand Three Hundred Eighty Four Only) and Market Value of **Rs.57,44,878/-** (Rupees Fifty seven Lakhs Forty four Thousand Eight Hundred Seventy Eight Only) derived from the semi solid substance consisting of Gold & Chemical mix totally weighing 889.30 Grams concealed in the White coloured tape recovered from the dustbin of wash room at Terminal-1 SVPI Airport, Ahmedabad and placed under seizure under Panchnama proceedings dated 14.01.2024 and Seizure Memo Order dated 14.01.2024, should not be confiscated under the provision of Section 111(d), 111(f), 111(i), 111(j), 111(l) and 111(m), of the Customs Act, 1962;
- (ii) The packing material i.e. white coloured tape used for concealment of the said gold bar in semi solid form consisting of Gold & Chemical mix, seized under Panchnama dated 14.01.2024 and Seizure memo order dated 14.01.2024, should not be confiscated under Section 119 of the Customs Act, 1962;

(iii) Penalty should not be imposed upon the unknown passenger(s)/ person(s) who is/ are claiming the ownership of the said gold, under Sections 112 of the Customs Act, 1962, for the omissions and commissions mentioned hereinabove.

**Defense reply and record of personal hearing: -**

4. The noticee i.e. unknown person(s)/ passenger(s)/ original importer or any other claimant has not submitted any written submission to the Show Cause Notice issued.

5. The noticee i.e. unknown person(s)/ passenger(s) / original importer or any other claimant has not appeared for personal hearing granted to them on 09.07.2024; 11.07.2024 and 15.07.2024. The letter for personal hearing were served by way of placing on the Notice Board of Customs House Building and SVPI Airport.

**Discussion and Findings:**

6. I have carefully gone through the facts of this case. Further, after granting sufficient opportunities to be heard in person, no one came forward to claim the goods and did not appear in personal hearing as well as filed any written reply to the Show Cause Notice. I therefore proceed to decide the instant case on the basis of evidences and documents available on record.

7. In the instant case, I find that the main issues that are to be decided is whether the Gold totally weighing 889.30 grams, having Tariff Value of Rs.50,12,384/- (Rupees Fifty Lakhs Twelve Thousand Three Hundred Eighty-Four Only) and Market Value of Rs.57,44,878/- (Rupees Fifty-Seven Lakhs Fourty-Four Thousand Eight Hundred Seventy-Eight Only) derived from gold paste weighing 1001.76 grams recovered from unknown person(s)/passenger(s), which were seized vide Seizure Order/Memo under Panchnama proceedings both dated 14.01.2024 on the reasonable belief that the said goods were smuggled into India, are liable for confiscation under Section 111 of the Customs Act, 1962 (hereinafter referred to as 'the Act') or not; packing materials used for packing and concealment of seized goods is

liable for confiscation under the Act and whether the unknown person(s)/ passenger(s) is liable for penalty under the provisions of Section 112 of the Act.

**8.** I find that the Panchnama clearly draws out the fact that a semi-solid paste of gold and chemical mix substance covered with white tape and affixed with a blue coloured underwear was found from the dustbin of the washroom of the arrival hall of Terminal-1 SVPIA, Ahmedabad during the random check-up visit. The dustbin along with the underwear was brought to the AIU office by the cleaning staff of SVPIA Terminal-1, namely Shri Himantbhai Solanki. Acting on the said information, Superintendent, AIU, SVPI Airport called for two independent Panchas at 10:05 Hrs. on 14.01.2024. The AIU officers then informed the Panchas about the semi-solid paste of gold and chemical mix substance covered with white tape and affixed with a blue-coloured underwear. Then in presence of the punches the AIU officers removed the semi-solid paste of gold and chemical mix substance covered with white tape and affixed with a blue coloured underwear which was kept inside the dustbin of the washroom of arrival hall of Terminal-1. Entire proceedings were recorded under Panchnama dated 14.01.2024.

**9.** I also find that the government approved valuer weighed the said goods/ material and weight of the said goods was found to be 1001.76 grams. It is also on record that the Govt. Approved Valuer extracted gold bar from the said gold paste & chemical mix and after completing, purifying and testing process, the Government Approved valuer certified that, the said gold bar is weighing 889.30 grams of 24 Kt./999.0 purity gold having market value of Rs.57,44,878/- (Rupees Forty Six Lakh Fifty-Seven Thousand Four Hundred Twelve Only) and Tariff Value of Rs.50,12,384/- (Rupees Fifty Lakhs Twelve Thousand Three Hundred Eighty-Four Only), which were seized vide Seizure Memo/ Order under Panchnama proceedings both dated 14.01.2024, in the presence of the Panchas.

**10.** I also find that unknown passenger(s)/ importer, has neither questioned the manner of the Panchnama proceedings nor

controverted the facts detailed in the Panchnama. Every procedure conducted during the Panchnama by the Officers was well documented and made in the presence of the Panchas. It is found that the unknown passenger had concealed/ hidden underwear in dustbin, which contained the semi-solid substance, from which 889.30 Grams gold was extracted. The gold was recovered from the washroom of the Arrival Hall of Terminal-1, with an intent to clear it illicitly and evade payment of Customs duty and thereby, contravening the provisions of the Customs Act, 1962 and the Rules and Regulations made under it.

**11.** I find that, the gold bar recovered after purifying the said semi solid substance weighing 1001.76 grams consisting of Gold & Chemical mix, gold bar weighing 889.30 Grams is of 999.0/24 Kt. Purity. Further, I find that the unknown passenger has improperly imported the said gold, by concealing/ hiding it in underwear recovered from the toilet, which contained the semi-solid substance, from which 889.30 Grams gold was extracted. By such an act of improperly importation/ smuggling of gold, the unknown passenger has contravened the provisions of Para 2.26 of the Foreign Trade Policy 2015-20 and section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 read with Section 3(2) and 3(3) of the Foreign Trade (Development and Regulation) Act, 1992 further read in conjunction with Section 11(3) of the Customs Act, 1962 and the relevant provisions of the Baggage Rules, 2016, Customs Baggage Declaration Regulations, 2013 and Notification No. 50/2017-Customs dated 30.06.2017 as amended.

**12.** From the facts discussed above, it is proved that all the above acts of contravention on the part of the said unknown passenger (s)/original importer has rendered the said Gold weighing 889.30 grams of 24 Kt/999.00 purity having tariff value of Rs.50,12,384/- and market Value of Rs.57,44,878/- placed under seizure under Panchnama dated 14.01.2024, liable for confiscation under the provisions of Section 111(d), 111(i), 111(j) and 111(m) of the Customs Act, 1962. By using the modus of concealment of the said gold, it is observed that the unknown passenger(s)/importer(s) was fully aware that the goods are offending in nature on its import. It is seen that the unknown passenger(s)/importer(s) has involved himself in carrying, keeping, concealing and has dealt with the impugned gold in a manner

which he knew were liable to confiscation under the Act. It therefore, proved that the unknown passenger has committed an offence of the nature described in Section 112 (a) & 112 (b) of the Customs Act, 1962 making him liable for penalty under Sections 112(a)(i) of the Customs Act, 1962.

**13.** I find that the said 01 gold bar of 24 Kt., totally weighing 889.30 grams derived from gold paste carried and concealed in underwear weighing 1001.76 grams recovered from the toilet, as discussed above, was to smuggle without declaring it to Customs authorities and by this act, the unknown passenger(s)/importer(s) or any other claimant has held the said goods liable for confiscation. I, therefore, refrain from using my discretion to give an option to redeem the gold on payment of redemption fine, as envisaged under Section 125 of the Customs Act, 1962.

**14.** Given the facts of the present case before me, the said 01 gold bar of 24 Kt., totally weighing 889.30 grams, concealed in underwear, in form of semi-solid substance, recovered from the toilet, by the unknown passenger is therefore liable to be confiscated absolutely. I therefore hold in unequivocal terms that the said 01 gold bar of 24 Kt., totally weighing 889.30 grams, placed under seizure would be liable to absolute confiscation under Section 111(d), 111(i), 111(j) and 111(m) of the Customs, Act, 1962. Further, the packing materials i.e. white coloured tape, used for concealment of the semi-solid substance is also liable for absolute confiscation under section 119 of the Customs Act, 1964.

**15.** The act of concealing the gold, with intention to smuggle the same into India by evading Customs Duty has also rendered the unknown passenger(s)/ importer(s) or any other claimant liable for penalty under Section 112 of the Customs Act, 1962. However, since the passenger/ owner of the imported impugned gold is not known and nobody else has come forward to claim the impugned gold/ goods, I desist from imposing personal penalty under the provisions of Section 112 of the Act on unknown passenger/ person in this case.

**16.** Accordingly, I pass the following Order.

ORDER

- i. I order absolute confiscation of 1 Gold Bar of 24 Kt./999 purity gold, totally weighing **889.30 grams**, having Market Value of **Rs.57,44,878/-** (Rupees Fifty-Seven Lakhs Fourty-Four Thousand Eight Hundred Seventy-Eight Only) and Tariff Value of **Rs.50,12,384/-** (Rupees Fifty Lakhs Twelve Thousand Three Hundred Eighty-Four Only), recovered for the washroom of Arrival Hall of Terminal-1, under the provisions of Sections 111(d), 111(l) and 111 (j) of the Customs Act, 1962;
- ii. I order absolute confiscation of the packing material i.e. white coloured tape, used for concealment of the said gold bar in semi solid form consisting of Gold & Chemical mix, used for packing and concealment of seized gold, under Section 119 of the Customs Act, 1962.

**17.** Accordingly, the Show Cause Notice No. VIII/10-55/SVPIA-B/O&A/HQ/2024-25 dated 29.05.2024 stands disposed of.

*Vishal Malani*  
(Vishal Malani)  
Additional Commissioner  
Customs, Ahmedabad

DIN : 20240771MN000000E826  
F. No. VIII/10-55/SVPIA-B/O&A/HQ/2023-24 Date : 19.07.2024  
O/C

To,

"Whom so ever it may concern"

- 1) To be pasted on the Notice Board of Customs House, Navrangpura, Ahmedabad-380009;
- 2) To be pasted on the Notice Board of Customs, SVPI Airport, Ahmedabad.

Copy to:-

- (i) The Principal Commissioner of Customs, Ahmedabad. (Kind Attn: RRA Section).
- (ii) The Deputy Commissioner of Customs (AIU), SVPIA, Ahmedabad.
- (iii) The Deputy Commissioner of Customs (Task Force), Ahmedabad.
- (iv) The System In-Charge, Customs, HQ., Ahmedabad for uploading on the official web-site.
- (v) Guard File.

*22/7/24*

RECEIVED	3 <sup>rd</sup>
CUSTOMS (HQ), A'BAD	
DATE : 22-7-24	
SIGN : <i>T. Ahmad</i>	
NAME : _____	