



प्रधान आयुक्त का कार्यालय, सीमा शुल्क, अहमदाबाद

सीमा शुल्क भवन, "पहली मंजिल, पुराने हाईकोर्ट के सामने, नवरंगपुरा, अहमदाबाद - 380009.

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PREAMBLE

A	फ़ाइल संख्या/ File No.	:	VIII/26-10/AIU/CUS/2024-25
B	कारण बताओ नोटिस संख्या-तारीख / Show Cause Notice No. and Date	:	VIII/26-10/AIU/CUS/2024-25 dated 29.10.2024
C	मूल आदेश संख्या/ Order-In-Original No.	:	04/ADC/SRV/SRT-AIRPT/2025-26
D	आदेश तिथि/ Date of Order-In-Original	:	04.07.2025
E	जारी करने की तारीख/ Date of Issue	:	04.07.2025
F	द्वारा पारित/ Passed By	:	Shree Ram Vishnoi, Additional Commissioner
G	आयातक/यात्री का नाम और पता / Name and Address of Importer / Passenger	:	Ms. Tasnimbanu Akibhusen Saiyed 8/995, Momnawad Panwala, Bapuni Chal, Gopipura, Sunvali, Surat City, PIN-395001, Gujarat
(1)	यह प्रति उन व्यक्तियों के उपयोग के लिए निःशुल्क प्रदान की जाती है जिन्हे यह जारी की गयी है।		
(2)	कोई भी व्यक्ति इस आदेश से स्वयं को असंतुष्ट पाता है तो वह इस आदेश के विरुद्ध अपील इस आदेश की प्राप्ति की तारीख के 60 दिनों के भीतर आयुक्त कार्यालय, सीमा शुल्क अपीलचौथी मंजिल, हुडको भवन, ईश्वर भुवन मार्ग, नवरंगपुरा, अहमदाबाद में कर सकता है।		
(3)	अपील के साथ केवल पांच (5.00) रुपये का न्यायालय शुल्क टिकिट लगा होना चाहिए और इसके साथ होना चाहिए:		
(i)	अपील की एक प्रति और;		
(ii)	इस प्रति या इस आदेश की कोई प्रति के साथ केवल पांच (5.00) रुपये का न्यायालय शुल्क टिकिट लगा होना चाहिए।		
(4)	इस आदेश के विरुद्ध अपील करने इच्छुक व्यक्ति को 7.5 % (अधिकतम 10 करोड़ शुल्क) (अदा करना होगा जहां शुल्क या छूटी और जुर्माना विवाद में है या जुर्माना जहां इस तरह की दंड विवाद में है और अपील के साथ इस तरह के भुगतान का प्रमाण पेश करने में असफल रहने पर सीमा शुल्क अधिनियम, 1962 की धारा 129 के प्रावधानों का अनुपालन नहीं करने के लिए अपील को खारिज कर दिया जायेगा।		

BRIEF FACTS OF THE CASE:-

1. Acting on information gathered through passenger profiling, one passenger who was suspected to be carrying high value dutiable/prohibited goods in-person or in the baggage, was intercepted by the officers of the Air Intelligence Unit (AIU) (hereinafter referred to as the "officers"), near the green channel of the Arrival Hall of International Terminal of International Airport, Surat. The passenger, namely Ms. Tasnimbanu Akibhusen Saiyed (hereinafter referred to as the "Passenger/Noticee"), aged 32 years, w/o Shri Akibhusen Najmalhusen Saiyed, residing at 8/995, Momnawad Panwala, Bapuni Chal, Gopipura, Sunvali, Surat City, PIN-395001, Gujarat, holding passport No. W3775678 had arrived at Surat International Airport by Indigo Flight No. 6E1508 dated 08.05.2024. The passenger carried three pieces of baggage, viz. one blue colour trolley bag of brand "Nautica", one grey colour trolley bag of brand "Safari" and one brown colour carton. The lady Customs Officer asked the passenger whether she had anything to declare, to which the passenger replied in the negative. The officers informed the passenger that they would conduct a personal search and a detailed examination of her baggage. Thereafter, in compliance with Section 102 of the Customs Act, 1962, the lady officer asked the passenger whether she wanted to be searched in the presence of the Executive Magistrate or the Superintendent (Gazetted Officer) of Customs, to which the passenger expressed her consent to be searched before the Superintendent of Customs. During the frisking of the passenger, a piece of metallic chain was recovered from around the passenger's neck. The chain, which appeared to be made of gold, was found to weigh approximately 41.00 grams. Additionally, the passenger was also found to be wearing two bangles on each hand. The four bangles were found to have a total weight of approximately 100.00 grams and also appeared to be made of gold.

2. Thereafter, the Customs officers passed the passenger's luggage through the XBIS scanner and conducted a thorough inspection after removing its contents. The details of items recovered from the baggage, including the gold. The details of items recovered from the baggage, including the gold items recovered in person, are as follows:

TABLE-I

Name of the passenger/ Passport No.	Sr. No.	Details of articles recovered	Quantity	Value (Rs.)
Tasnimbanu Akibhusen Saiyed (Passport No. W3775678)	1.	Gold bangles	04 piece- total 100.00 grams	Rs. 6,60,000/-
	2.	Gold chain	01 piece- 41.00 grams	Rs. 2,70,600/-
	3.	Google Pixel 7 Pro Phone 128 GB	02 Nos.	65000x2= Rs. 1,30,000/-
	4.	Ladies' suit (made in Pakistan)	07 pieces	1000x07= Rs. 7,000/-
	5.	Ladies Kurti (made in Pakistan)	18 pieces	600x18= Rs. 10,800/-

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	6.	Ladies' Pyjama (made in Pakistan)	03 pieces	400x3= Rs. 1,200/-
	7.	Parley Beauty Cream (made in Pakistan)	06 pieces	350x6= Rs. 2,100/-
			TOTAL	Rs. 10,81,700/-

3. Thereafter, the officers tried to contact the government-approved valuer for examination and valuation of the said recovered items, but the valuer was unreachable on 08.05.2024. Therefore, an approximate market value of the gold items recovered from the passenger was arrived at as detailed in Table I above. It was decided that the final value of the gold items will be ascertained under *panchnama* proceedings later by a government-approved valuer.

4. Further, the gold items viz. gold bangles and gold chain, along with other items, as per the 'Table' above, were kept in the respective baggage recovered from the passenger Ms. Tasnimbanu Akibhusen Saiyed. A *Panchnama* dated 08.05.2024 was drawn in the presence of the passenger and two independent *panchas*, and the entire proceedings were recorded. The goods (as enlisted in 'Table' above) were placed under seizure under the provisions of Section 110 of the Customs Act 1962 vide Seizure order dated 08.05.2024 under the reasonable belief that the said goods were smuggled into India and were liable for confiscation under the provisions of the Customs Act, 1962.

5. Further, the passenger produced the following documents of her travel and identity:

- i) Copy of Boarding Pass, from Dubai to Surat, of Indigo Flight No. 6E1508 dated 08.05.2024, Seat No. 15B, PNR No. CVL6VW.
- ii) Copy of Passport No. W3775678 issued at Surat on 05.09.2022 and valid up to 04.09.2032. Her address as per passport is 8/995-B, Valiyabhai Masjid, Gopipura, Momnawad, Surat M. Corp., Surat City, PIN-395001, Gujarat.

6. Thereafter, a Statement of Ms. Tasnimbanu Akibhusen Saiyed was recorded on 16.05.2024 under the provisions of Section 108 of the Customs Act, 1962, wherein she inter alia stated that:

- She resided at 8/995, Momnawad Panwala, Bapuni Chal, Gopipura, Sunvali, Surat City, PIN-395001, Gujarat, with her father-in-law, mother-in-law, husband, brother-in-law and two sons; that she worked as a beautician at her home beauty parlour and also through an online platform; that she had studied till B.A. and could read, write and understand Gujarati, Hindi and English languages;
- She was shown and explained the *panchnama* dated 08.05.2024 and 09.05.2024 drawn at International Airport, Surat by the officers of Customs AIU, International Airport, Surat, which was in English and after understanding the same she put her dated signature on the *panchnama* in token of acceptance of the facts stated therein;
- This was her seventh visit to Dubai as tourist and used to go Dubai with her husband Shri Akibhusen Najmalhusen Saiyed; she went there for her beauty parlour work and drawing of mehndi as well as to purchase beauty products for beauty parlour work in India; she had gone to Dubai on

04.05.2024 from CSMI Airport, Mumbai with her husband; they went there for her beauty parlour work and also to purchase beauty products for her beauty parlour work; the expenses of her current trip along with stay was met by her cousin maternal uncle, Shri Sayed Jamalluddin, who was a resident of Dubai; her uncle had more knowledge about online booking of tickets and afterwards she usually paid the expenses borne by her maternal uncle Shri Sayed Jamalluddin; she had not filed Annual Income;

- Her maternal uncle, Shri Sayed Jamalluddin who was a resident of Dubai gave her 02 new Google pixel phone, 01 HP elitebook laptop i5 8th Generation for her personal use; 4 gold bangles (approx. 100 gms) an 1 gold chain (approx. 41 gms) recovered from her was 9 year old jewellery and she did not have any invoice of the same; she had got some jewellery in her marriage in 2015 and the same jewellery was remelted and new jewellery was made at M/s Ambika Jewellers, Padra, Vadodara; she had an Estimate copy of it bearing No. 431 dated 06.05.2020 but she did not have the Invoice/Job work copy of the same; that she did not declare the said jewellery recovered from her possession, during departure to Dubai; she purchased 07 Ladies Suits (made in Pakistan), 18 pieces of Ladies Kurti (made in Pakistan) 03 pieces of Ladies Pyjama (made in Pakistan) and 06 pieces of Parley Beauty Cream (made in Pakistan); her uncle Shri Sayed Jamalluddin was a resident of Dubai and also lived in Surat at her address at 8/995- Dudwala Bapuri Chal, Gopipura Momnnawad, Surat, PIN-395001;
- She was aware that import of Gold, Mobile Phone and other items in commercial quantity, without payment of Customs duty was an offence, but she had intention to get some monetary benefit on account of such activity and therefore she tried to smuggle these items into the country; that she tried to smuggle these items by concealing the same and did not declare the goods brought by her before any Customs Officer;
- After clearing the immigration procedures, she collected her check-in baggage and during checkout, she was intercepted by the Customs officials and further procedures as stated in Panchnama dated 08.05.2024 and 09.05.2024 were carried out.”

7. Thereafter, the officers called Shri Salim Jafarbhai Dagnawala, the Government Approved Valuer, to the Customs office at Surat Airport on 09.05.2024, to ascertain the purity, weight and value of the above gold items seized under *panchnama* proceedings dated 08.05.2024. Thereafter, the officer informed the *panchas* that the seized gold items recovered from the passenger were kept in a sealed container inside Customs Warehouse, which was required to be opened for examination and valuation of the gold item by the Govt. approved valuer and such facts were required to be recorded under *Panchnama* proceedings in their presence. The officers introduced the *panchas* to Shri Salim Jafarbhai Dagnawala, Government Approved Valuer. The sealed Plastic Container, intact with the government seal, was produced before the *panchas* and the valuer. They found the packing list was wrapped on the container, which contained the details of the gold seized by the Customs officers, under *Panchnama* dated 08.05.2024. Thereafter, the aforesaid plastic container (belonging to Ms. Tasnimbanu Akibhusen Saiyed) was opened, after breaking the Customs seal, and the items inside the plastic container were taken out and kept on the table. Thereafter, the valuer examined and weighed the items and certified

the market value along with the Tariff value as per Notification No. 32/2024-Cus (NT) dated 30.04.2024 and Notification No. 34/2024-Cus (NT) dated 02.05.2024. The valuer issued a valuation certificate, Sr. No. 6 dated 09.05.2024, whose details are summarised below:

TABEL-II

Sr. No.	Description	Pcs.	Net weight (in gms)	Market value	Tariff value
1.	Gold Bangles (22 carat)	04	100.00	Rs. 6,60,000/-	Rs. 5,70,123/-
2.	Gold chain (22 carat)	01	41.00	Rs. 2,70,600/-	Rs. 2,33,750/-
Total Gold value				Rs. 9,30,600/-	Rs. 8,03,873/-

8. LEGAL PROVISIONS RELEVANT TO THE CASE:

a) As per Para 2.27 of the Foreign Trade Policy 2023 –

“Bona-fide household goods and personal effects may be imported as part of passenger baggage as per limits, terms and conditions thereof in Baggage Rules notified by Ministry of Finance.”

b) As per Section 3(2) of the Foreign Trade (Development and Regulation) Act, 1992 –

“ the Central Government may by Order make provision for prohibiting, restricting or otherwise regulating, in all cases or in specified classes of cases and subject to such exceptions, if any, as may be made by or under the Order, the import or export of goods or services or technology.”

c) As per Section 3(3) of the Foreign Trade (Development and Regulation) Act, 1992–

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

d) As per Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 –

“no export or import shall be made by any person except in accordance with the provisions of this Act, the rules and orders made thereunder and the foreign trade policy for the time being in force.”

e) As per Section 11(3) of the Customs Act, 1962–

“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.”

- f)** As per Section 2(3) of the Customs Act, 1962 — “**baggage**” includes unaccompanied baggage but does not include motor vehicles.
- g)** As per Section 2(22), of Customs Act, 1962 **definition of 'goods'** includes-
 - a. *vessels, aircrafts and vehicles;*
 - b. *stores;*
 - c. *baggage;*
 - d. *currency and negotiable instruments; and*
 - e. *any other kind of movable property;*

- h)** As per Section 2(33) of Customs Act 1962-

“prohibited goods means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force, but does not include 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)** As per Section 2(39) of the Customs Act 1962 –

“smuggling’ in relation to any goods, means any act or omission, which will render such goods liable to confiscation under Section 111 or Section 113.”

- j)** As per **Section 77** of the Customs Act 1962-

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

- k)** As per **Section 110** of Customs Act, 1962-

“if the proper officer has reason to believe that any goods are liable to confiscation under this Act, she may seize such goods.”

- l)** As per **Section 111 (d)** of the Customs Act 1962-

“Any goods which are imported or attempted to be imported or brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force shall be liable to confiscation”.

- m)** As per **Section 111 (i)** of the Customs Act 1962-

“Any dutiable or prohibited goods found concealed in any manner in any package either before or after the unloading thereof are liable to confiscation”.

- n)** As per **Section 111 (j)** of the Customs Act 1962-

“Any dutiable or prohibited goods removed or attempted to be removed from a customs area or a warehouse without the permission of the proper officer or contrary to the terms of such permission are liable to confiscation”.

o) As per Section 112 of the Customs Act 1962-

“any person,

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

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

p) As per Section 119 of Customs Act 1962,

“any goods used for concealing smuggled goods shall also be liable for confiscation.”

q) As per Section 123 of Customs Act 1962 (Burden of proof in certain cases)

(1) where any goods to which this section applies are seized under this Act in the reasonable belief that they are smuggled goods, the burden of proving that they are not smuggled goods shall be-

(a) in a case where such seizure is made from the possession of any person -

*(i) on the person from whose possession the goods were seized; and
(ii) if any person, other than the person from whose possession the goods were seized, claims to be the owner thereof, also on such other person;*

(b) in any other case, on the person, if any, who claims to be the owner of the goods so seized.

(2) This section shall apply to gold, [and manufactures thereof,] watches, and any other class of goods which the Central Government may by notification in the Official Gazette specify.

r) As per Customs Baggage Declaration Regulations, 2013-

“all passengers who come to India and having anything to declare or are carrying dutiable or prohibited goods shall declare their accompanied baggage in the prescribed form.”

s) As per DGFT Notification No. 36/2015-2020 dated 18.12.2019-

“Import policy of gold in any form, other than monetary gold and silver in any form, is amended from ‘Free’ to ‘Restricted’; import is allowed only through nominated agencies as notified by RBI (in case of banks) and DGFT (for other agencies)”

9. CONTRAVICTION AND VIOLATION OF LAWS

From the facts and circumstances discussed above, it appeared that:

(a) Ms. Tasnimbanu Akibhusen Saiyed had actively involved herself in the instant case of smuggling of dutiable goods into India. The passenger had improperly imported dutiable goods without declaring them to the Customs, by way of concealment in person and her baggage. She concealed the goods with a deliberate and mala fide intention to smuggle them into India and fraudulently circumvented the restrictions and prohibitions imposed under the Customs Act, 1962 and other allied Acts, Rules and Regulations. The dutiable goods improperly imported by her with commercial considerations without declaration before the proper officer of Customs could not be treated as bona fide household goods or personal effects. The details of the goods and value are as follows:

Sr. No.	Details of articles recovered	Quantity	Market Value (Rs.)	Tariff Value (Rs.)
1.	Gold Bangles	04 pieces- 100.00 grams	Rs. 6,60,000/-	Rs. 5,70,123/-
2.	Gold Chain	01 pieces- 41.00 grams	Rs. 2,70,600/-	Rs. 2,33,750/-
3.	Google Pixel 7 Pro Phone 128 GB	02 Nos.	65000x2= Rs. 1,30,000/-	
4.	Ladies' suit (made in Pakistan)	07 pieces	1000x07= Rs. 7,000/-	
5.	Ladies Kurti (made in Pakistan)	18 pieces	600x18= Rs. 10,800/-	
6.	Ladies' Pyjama (made in Pakistan)	03 pieces	400x3= Rs. 1,200/-	
7.	Parley Beauty Cream (made in Pakistan)	06 pieces	350x6= Rs. 2,100/-	
TOTAL Market Value (including gold)			10,81,700/-	8,03,873/-

Ms. Tasnimbanu Akibhusen Saiyed had thus contravened the Foreign Trade Policy read with Section 3(2) and 3(3) of the Foreign Trade (Development and Regulation) 2015-20, Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 Act, 1992 and DGFT Notification No. 36/2015 2020 dated 18.12.2019.

- (b) By not declaring the value, quantity and description of the goods imported by her, the said passenger violated the provisions of Baggage Rules, 2016, read with section 77 of the Customs Act, 1962 read with Regulation 3 of Customs Baggage Declaration Regulations, 2013.
- (c) The dutiable goods improperly imported by the passenger, Ms. Tasnimbanu Akibhusen Saiyed, by concealing the same, without declaring it to the Customs, was thus liable for confiscation under Section 111(d), (i) and (j) read with Section 2 (22), (33), (39) of the Customs Act, 1962 and further read in conjunction with Section 11(3) of the Customs Act, 1962.
- (d) Ms. Tasnimbanu Akibhusen Saiyed, by her above-described acts of omission and commission on her part had rendered herself liable to penalty under Section 112 of the Customs Act, 1962.
- (e) As per Section 123 of the Customs Act, 1962, the burden of proving that the said improperly imported dutiable goods as per above Table having

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market value of Rs. 10,81,700/- and tariff value of Rs. 8,03,873/- without declaring it to the Customs, are not smuggled goods, was upon the passenger/Noticee, Ms. Tasnimbanu Akibhusen Saiyed.

10. Therefore, a Show Cause Notice F. No. VIII/26-10/AIU/CUS/2024-25 dated 29.10.2024 was issued to Ms. Tasnimbanu Akibhusen Saiyed calling upon her to show cause in writing to the Additional Commissioner of Customs, Surat International Airport, Surat, having his office situated on 4th Floor, Customs House, beside SMC Ward Office, Althan-Bhimrad Road, Althan, Surat – 395007 within thirty days from the receipt of the notice as to why:-

- (i)** The recovered goods as per Table having Market value of Rs. 10,81,700/- (Rupees Ten Lakh Eighty-One Thousand Seven Hundred Only) and Tariff Value of Rs. 8,03,873/- (Rupees Eight Lakhs Three Thousand Eight Hundred Seventy-Three only) should not be confiscated under Section 111(d), 111(i) and 111(j) of the Customs Act, 1962;
- (ii)** The baggage, i.e., one blue colour trolley bag of brand 'Nautica' seized vide Seizure Memo dated 08.05.2024, should not be confiscated under Section 119 of the Customs Act, 1962;
- (iii)** A penalty should not be imposed upon her under Section 112 of the Customs Act, 1962.

11. DEFENCE REPLY

In the Show Cause Notice, the noticee was asked to submit her written reply/defence submission to the notice within the stipulated time. A defence reply dated 20.12.2024 to the Show cause notice has been received by this office from Mrs. Kiran Kanal and Mrs. Shivanagi Kherajani (Authorised representative) on behalf of their client Ms. Tasnimbanu Akibhusen Saiyed, wherein they have stated that, as under:

- The noticee has denied each and every allegation, contention, and averment in the Show Cause Notice and has reserved her right to dispute the same unless specifically admitted.
- The noticee arrived from Dubai at Surat International Airport on 08.05.2024 via Indigo Flight No. 6E 1508 and was intercepted based on passenger profiling. The noticee was carrying a 22 KT Gold Chain (1 piece, 30 grams), 22 KT Gold Bangles (4 pieces, 100 grams), two Google Pixel 7 Pro mobile phones, Pakistani ladies' garments, and beauty creams, collectively valued at ₹10,81,700/-.
- The noticee had her Panchnama drawn and her statement recorded under Section 108 of the Customs Act. She claimed that her correct statement was recorded on 09.05.2024, but a false and adverse statement was allegedly recorded on 16.05.2024 without her knowledge. The noticee has clarified that she had shown the Customs authorities the duty-paid receipt for the gold jewellery on 09.05.2024 itself, having paid customs duty previously at Mumbai International Airport in October 2023. The noticee

has explained that the gold chain and bangles were her personal, everyday wearable jewellery, duly declared earlier, and not newly purchased abroad.

- The noticee has alleged that the Customs officers have incorrectly recorded the weight of her gold chain as 41 grams, which actually weighed 30 grams, creating a mismatch with her duty-paid receipts. Further, the noticee has asserted that Customs officials intentionally interchanged her gold chain with that of her husband to fabricate evidence for seizure.
- The noticee has stated that she is a beautician by profession, traveling to Dubai for procuring beauty products for her parlour work and funding her own travel expenses through earnings from her profession. The noticee has emphasized that all goods seized were for her personal use and her family's use, and not intended for resale or smuggling activities.
- The noticee has asserted that she had tried to inquire about the declaration procedure but was not given an opportunity to declare the goods properly as she was whisked away by a plainclothes officer. The noticee has submitted that her oral declaration attempt must be accepted, as oral declarations are recognized under Customs law.
- The noticee has strongly denied the allegations of concealment, explaining that the jewellery was worn openly and other goods were kept in normal baggage without any concealment. The noticee has contended that the confiscation under Sections 111(d), 111(i), and 111(j) of the Customs Act is not applicable as the goods were neither prohibited nor restricted.
- The noticee has highlighted that the seized goods, particularly the gold jewellery, being personal effects and duty-paid, are not liable for confiscation. The noticee has informed that the officer, despite seeing the duty-paid receipt and her explanations, proceeded with seizure without just cause. The noticee has stated that if at all there has been any violation, it is a technical lapse due to ignorance regarding declaration requirements for personal use items like mobile phones, garments, and creams.
- The noticee has reiterated that she has never acted as a carrier for anyone nor brought goods for commercial gain. The noticee has pointed out the inconsistency in the Customs record, where the seizure memo shows 41 grams gold chain instead of the correct 30 grams, leading to serious doubts about the fairness of the seizure.
- The noticee has submitted that under Section 125 of the Customs Act, 1962, an option for redemption fine must be provided even in case of dutiable goods. The noticee has referred to precedents where redemption fines have been allowed in similar cases and requested parity of treatment to avoid injustice.
- The noticee has prayed for the unconditional release of her 22 KT Gold Chain and Bangles, being her personal gold on which duty has already been paid. The noticee has further prayed that the other dutiable goods, like mobile phones, garments, and beauty creams, be permitted to be redeemed on payment of nominal fine and applicable duty, treating the violation as a technical one.

- The noticee has reiterated that the seized gold and goods were intended solely for personal and family use, and not for any commercial sale. The noticee has argued that absolute confiscation would be disproportionate and inconsistent with the legislative intent of Section 125 of the Customs Act. The noticee has submitted that different treatment should not be given in her case, considering similar past cases where redemption was granted by the same adjudicating authority. The noticee has annexed copies of the duty-paid receipt and supporting documents along with the reply, requesting that the same be duly considered in her favour.

12. RECORD OF PERSONAL HEARING

“Audi alteram partem” is an essential principle of natural justice that dictates to hear the other side before passing any order. Therefore, opportunities to be heard in person were granted to the noticee to appear for personal hearing in virtual mode on 28.02.2025, 11.03.2025 and 13.06.2025. Ms. Kiran Kanal attended the personal hearing in virtual mode on 11.03.2025 on behalf of their client Ms. Tasnimbanu Akibhusen Saiyed, reiterating the defence submission dated 20.12.2024. Further, due to a change of the Adjudicating authority during this period, a fresh personal hearing was scheduled for the noticee on 13.06.2025, which was attended by Ms. Kiran Kanal on the noticee's behalf in virtual mode. Advocate Kiran Kanal reiterated the points mentioned in the defence submission dated 20.12.2024, stating that the seized gold was duty-paid and had been brought by her client during an earlier visit to India. She referred to the duty-paid receipts attached to the reply and shown during the statement recording. She submitted that her client is ready to pay duty on the other seized goods. However, since her client was stopped for the gold, there was no chance to pay duty on the different items. She also submitted that all the goods were for personal use. Further, she requested the release of the gold and agreed to pay duty on the rest.

13. DISCUSSION AND FINDINGS

I have carefully reviewed the facts of the case, the relied-upon documents, defence submission of the noticee, its enclosures, and the relevant legal provisions. I, therefore, proceed to decide the instant case based on the evidence and documents available on record.

14. In the instant case, I find that the main issues to be decided against the noticee, Ms. Tasnimbanu Akibhusen Saiyed, are:

- (i)** The recovered goods (as per ‘Table’ below) having market value of Rs. 10,81,700/- (Rupees Ten Lakhs Eighty-One Thousand Seven Hundred Only) and Tariff value of Rs. 8,03,873/- (Rupees Eight Lakhs Three Thousand Eight Hundred Seventy-Three Only) seized vide Seizure Order dated 08.05.2024 under *panchnama* proceedings dated 08/09.05.2024 should be confiscated under Section 111(d), 111(i) and 111(j) of the Customs Act,1962; or otherwise
- (ii)** The baggage, i.e. one blue colour trolley bag of brand ‘Nautica’ seized vide Seizure Memo dated 08.05.2024, should be confiscated under Section 119 of the Customs Act, 1962 or otherwise;

(iii) A penalty should be imposed upon her under Section 112 of the Customs Act, 1962.

Name of the passenger	Sr. No.	Details of articles recovered	Quantity	Value (Rs.)
Tasnimbanu Akibhusen Saiyed	1.	Gold bangles	04 pieces- 100.00 grams	6,60,000
	2.	Gold chain	01 piece- 41.00 grams	2,70,600
	3.	Google Pixel 7 Pro Phone 128 GB	02 Nos.	65000 x 2 = 1,30,000
	4.	Ladies' suit (made in Pakistan)	07 pieces	1000 x 07 = 7,000
	5.	Ladies Kurti (made in Pakistan)	18 pieces	600 x 18 = 10,800
	6.	Ladies' Pyjama (made in Pakistan)	03 pieces	400 x 3 = 1,200
	7.	Parley Beauty Cream (made in Pakistan)	06 pieces	350 x 6 = 2,100
			TOTAL	Rs. 10,81,700/-

15.1 I find that Panchnama has drawn out the fact that based on information gathered through passenger profiling, Ms. Tasnimbanu Akibhusen Saiyed, who was suspected to be carrying some high value dutiable/prohibited goods, was intercepted by the officers of the Air Intelligence Unit (AIU) and Customs officers of Surat International Airport near the green channel of the Arrival Hall of International Terminal of International Airport, Surat. The passenger was found to be carrying three pieces of baggage, viz, one blue colour trolley bag of brand "Nautica", one grey colour trolley bag of brand "Safari" and one brown colour carton. Further, upon frisking and physical search of the passenger, a piece of metallic chain was recovered from around the neck area of the passenger. The one chain, which appeared to be made of gold, was found to be weighing 41.00 grams (approx.). Further, the passenger was also found to be wearing two bangles on each of her hands. The four bangles were found to be weighing 100.00 grams (approx.), which also appeared to be made of gold. Thereafter, the Customs officers passed the luggage carried by the passenger through the XBIS Scanner machine and also thoroughly checked her luggage after withdrawing its contents and checked, whereby the following items were recovered. The details of items recovered from the baggage, including the gold items recovered from the person, are detailed in the table above.

15.2 Further, as the Government-approved valuer was unavailable on 08.05.2024, a provisional valuation of the recovered gold was made, with final valuation to be conducted during subsequent *panchnama* proceedings. Further, gold items viz. gold bangles and gold chain, along with other items, as per 'Table', was kept in the respective baggage recovered from the passenger Ms. Tasnimbanu Akibhusen Saiyed, and was placed under seizure under the provisions of Section 110 of the Customs Act 1962 vide Seizure order dated 08.05.2024 under *panchnama* proceedings dated 08.05.2024, on a reasonable belief that the said goods were smuggled into India and was liable for confiscation under provisions of the Customs Act, 1962. Subsequently, the Customs officers called Shri Salim Jafarbhai Dagnawala, the Government Approved Valuer, to the Customs office at Surat Airport on 09.05.2024, to ascertain the purity, weight and value of the above gold items seized under *panchnama* proceedings dated 08.05.2024. Thereafter, the Govt. Approved Valuer examined and weighed the items and certified the Market value along with the Tariff value as per Notification

No. 32/2024-Cus (NT) dated 30.04.2024 and Notification No. 34/2024-Cus (NT) dated 02.05.2024 under valuation certificate bearing No. 6 dated 09.05.2024 and the same was detailed as below:

Sr. No.	Description	Pcs.	Net weight (in gms)	Market value	Tariff value
1.	Gold Bangles (22 carat)	04	100.00	Rs. 6,60,000/-	Rs. 5,70,123/-
2.	Gold chain (22 carat)	01	41.00	Rs. 2,70,600/-	Rs. 2,33,750/-
Total Gold value				Rs. 9,30,600/-	Rs. 8,03,873/-

Further, I find that the passenger, in her statement dated 16.05.2024, has admitted to carrying the said gold items without declaration before the Customs officers, with the intent of deriving monetary benefit from such activity. It is also noted that the noticee has acknowledged that the gold items recovered from her possession belonged to her.

16. Further, I find that the passenger had neither questioned the manner of the *panchnama* proceedings at the material time nor contested the facts detailed in the *panchnama* during the recording of her statement dated 16.05.2024 under Section 108 of the Customs Act, 1962. Every procedure conducted during the *panchnama* by the officers was well documented and made in the presence of the *panchas* and the passenger. I also find that the passenger admitted in her statement dated 16.05.2024 that she was carrying the said gold items and other commercial goods without declaring them before the customs officers. She has also admitted that she knew that the import of such goods in commercial quantity without payment of Customs duty is an offence as per the Customs Act, 1962, but she intended to evade Customs duty, and so she tried to import the said goods into the country without declaration to the Customs authorities. In fact, in her statement, the passenger has clearly admitted that she had carried the said gold items on her person & dutiable goods in her baggage and she did not declare the same on her arrival before the Customs and thereby, has violated provisions of Customs Act, the Baggage Rules, the Foreign Trade (Development & Regulations) Act, 1992, the Foreign Trade (Development & Regulations) Rules, 1993 and the Foreign Trade Policy 2023.

17. Further, I find that the noticee, vide her submission letter dated 20.12.2024, has disputed the weight of the 22 KT Gold Chain. The noticee has claimed the weight of the seized 22 KT gold chain was 41.00 grams instead of 30.00 grams, which was recovered from the noticee as mentioned in the Show Cause Notice dated 29.10.2024. Further, the noticee stated in her defence submission dated 20.12.2024 that the seized gold chain weight was incorrectly shown in the letter dated 08.05.2024 with Order Under Section 110 (1) and 110 (3) of The Customs Act, 1962. However, the noticee has not elaborated/discussed the grounds for disagreement. The entire process of weighing the gold items was done in the presence of *panchas*, noticee, and Customs officers under the *panchanama* dated 08.05.2024. Further, the noticee had admitted in her statement dated 16.05.2024 that she was carrying a gold chain weighing 41.00 grams (approx.) and 04 gold bangles weighing a total of 100.00 grams (approx..) gold bracelet without making a declaration before the Customs officers with the intent to get some monetary benefit on account of such activity. Hence, the objections of the noticee are without any basis/grounds/facts/evidence, and I do not deem them fit for consideration.

18. Further, I find that the noticee has contended in her submission dated 20.12.2024 in reply to the Show Cause Notice that the seized 22 KT gold chain and gold bangles are her regular wearable gold items, which are not newly bought. Further, she has stated that she had already paid duty once in October 2023 at CSMI Airport, Mumbai, and the same jewellery had already been declared at CSMI Airport, Mumbai, and she has also submitted the Baggage Receipt No. BR/INBOM4/17-10-2023/007673 dated 17.10.2023 as evidence to support her claim. In this regard, it is pertinent to note that passengers departing from India with valuable items such as jewellery, electronics, etc., who intend to bring them back upon re-entry, are required to obtain an Export Certificate from the Customs Department to claim exemption from Customs duty upon re-importation, as stipulated in Circular No. 2/2002-Cus-Cus VI dated 08.01.2002. The said export certificate is mandatory under the Customs Act, 1962, and the same must be submitted by the passenger on arrival to the Customs authorities for verification. The passengers are also required to declare items imported by them under Section 77 of the Customs Act, 1962 if any are liable to Customs duty. In the present case, it has been observed that no declaration, as mandated under Section 77 of the Customs Act, 1962, was made by the noticee in respect of the seized gold items at the time of her departure to Dubai, which has been duly admitted by her in the statement dated 16.05.2024. Consequently, it is evident that the noticee failed to comply with the procedural requirement of obtaining an Export Certificate from the Customs authorities, as stipulated under Circular No. 2/2002-Cus-Cus VI dated 08.01.2002, which is essential for availing exemption from Customs duty on the re-importation of the said gold jewellery. I find that the noticee has also submitted a copy of the baggage receipt No. BR/INBOM4/17-10-2023/007673 dated 17.10.2023 in respect of Ms. Tasnimbanu Akibhusen Saiyed of Mumbai International Airport. In this regard, I believe this contention of the noticee is just an afterthought and not backed by any solid documentary evidence. It is crucial to emphasise that merely providing a copy of the baggage receipt cannot establish any relation between the said seized gold items mentioned in 'Table-I' and items mentioned in the above-mentioned baggage receipt. Further, there is also a difference in weight between the seized gold items mentioned in Table-I and the items mentioned in the baggage receipt submitted by the noticee. Further, as per the statement dated 16.05.2024, the noticee has categorically confessed that she was fully aware that import of gold and other goods in commercial quantities without payment of Customs duty is an offence, and the same was done by her to get some monetary benefit. Hence, the claim of the noticee is without any basis/grounds/facts/evidence and is not fit to be considered. Further, upon examination of the noticee's statement, it is noted that she has claimed to have received certain jewellery at the time of her marriage in the year 2015, which was subsequently remelted and converted into new jewellery at M/s Ambika Jewellers, Padra, Vadodara. She has submitted an estimate copy bearing No. 431 dated 06.05.2020 in support of this claim; however, she has admitted to not possessing the corresponding invoice or job work receipt for the said transaction. I do not find the aforementioned piece of evidence submitted by the noticee to be of significant evidentiary value; hence, I disregard it.

19. Further, I have observed that the passenger has confessed in her statement dated 16.05.2024 that she had not declared the gold and other items carried by her on her arrival to the Customs authorities. I observe that the 'Free Allowance' is allowed only on the bona fide baggage as per-Rule 4 of Baggage Rules, 2016. It is a clear case of non-declaration with an intent to import the gold items and other items improperly. Thus, it is proved that the passenger has violated Section

77 of the Customs Act, 1962 for import/smuggling of gold and other goods. Thus, the act of the noticee does not warrant consideration under Section 79 of the Customs Act, 1962, and Para 2.27 of the Foreign Trade Policy 2023 has been violated. Thus, in the instant case. I am not inclined to allow 'Free Baggage Allowance' to the Noticee.

20. From the foregoing facts, it is evident that Ms. Tasnimbanu Akibhusen Saiyed brought gold items and other dutiable goods from Dubai to Surat with the intent to improperly import the same and to remove them without payment of the applicable Customs duty. By virtue of the violation committed by the passenger, the goods enumerated in the 'Table' furnished in Para 14 above are rendered liable to confiscation under the provisions of Sections 111(d), 111(i), and 111(j) of the Customs Act, 1962. The commission of the above act has made the impugned goods fall within the ambit of '**smuggling**' as defined under Section 2(39) of the Customs Act, 1962.

21. Further, I have observed that the noticee had not filed the baggage declaration form and had not declared the gold items and other goods/items which were in her possession, as envisaged under Section 77 of the Customs Act, 1962 read with the Baggage Rules and Regulation 3 of Customs Baggage Declaration Regulations, 2013. It has also been observed that the import was for personal use. Further, the ownership of the seized gold items by Ms. Tasnimbanu Akibhusen Saiyed cannot be denied, as she claims ownership of the seized gold items in her statement recorded on 16.05.2024 and her written submissions.

22.1 From the discussion held so far, it can be reasonably concluded that the passenger has admitted in her statement dated 16.05.2024 that the gold chain & gold bangles were meant for personal use. In addition, the weight of one 22 KT gold chain was 41 grams, and the weight of four 22 KT gold bangles was 100.00 grams, which in my reckoning does not constitute a commercial quantity. The seized gold items, i.e. chain and bangles, are of 22 carats, which further demonstrates that the gold jewellery carried by her was for her personal use, as admitted by her in the statement dated 16.05.2024 and written submission dated 20.12.2024. Further, it is a matter of common knowledge that a gold item of 22 Carat is suitable for use as jewellery/ornament. Also, there is nothing on record proving that the noticee is a habitual offender or working as part of an organized smuggling syndicate. As there was no such prohibition on the import of gold jewellery on payment of duty, I am not ready to hold that gold in the form of 22 carat jewellery was prohibited goods. In the instant case, it merits attention that the seized gold items (in the form of a gold chain & bangles), which were brought for personal use and were not concealed, were found on the neck area of the noticee & the bangles were worn on her hands by the noticee. The gold, albeit concealed, was only worn around her neck which is not an ingenious mode of concealment and as ruled by the authority in Order No: 245/2027-CUS9WZ)/ASAR/MUMBAI dated 29.09.2021 in case of Shri Memon Anjum "**there at times is resorted to by travellers with a view to keep the precious goods secure and safe**".

22.2 Further, I note that a similar view has been upheld by the Revisionary authority in the **Order No. 694/2023-CUS(WZ)/ASRA/MUMBAI issued vide F. No. 371/345/B/2022-RA/7191 dated 28.09.2023 in the case of Shri Bunti Amaral Bajaj** wherein the Revisionary Authority upheld the order of the original adjudicating authority by considering keeping of gold in pocket of trousers and wearing around the neck as not cases of ingenious concealment.

22.3 Further, I also find similar views upheld in the Order issued vide **F. No. 371/170/B/WZ/2019/356 dated 19.01.2023 in the case of Shri Jayeshkumar Kantilal Modhpatel**, the Revisionary Authority stated that:

"In the instant case, the quantum of gold under import is small and is not of commercial quantity. The impugned gold was recovered from the wallet being carried by the Applicant. Government observes that sometimes passengers resort to such methods to keep their valuables /precious possessions safe. There are no allegations that the Applicant is a habitual offender and was involved in similar offences earlier. Also there is nothing on record to prove that the Applicant was part of an organized smuggling syndicate."

23.1 Further, I 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 At, 1962 had recorded that "restriction" also means prohibition and had reiterated the stance of Hon'ble Supreme Court in the case of Om Prakash Bhatia reported at 2003 (155) ELT 423 (SC). 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 enjoyed with a duty, to enforce the statutory provisions, rules and notification, in letter and spirit, in consonance with the objects and intent of the Legislature, imposing prohibitions/restriction 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, whichever, 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)"

23.2 Thus, from the above, it is clearly established that the import of gold in violation of the law and the rules laid down therein renders the gold as prohibited goods. In addition, it is also clear as per Section 125 of the Customs Act, 1962, whenever confiscation of any goods is ordered, an option to pay a fine in lieu of confiscation may be given to the owner or the person from whose custody the goods have been seized in the case of prohibited goods. Further, I seek to strengthen support for my argument from the **Order No. 666/2023-CUS(WZ)/ASRA/Mumbai issued vide F.No.: 371/226/B/2021-RA/6799 dated 14.09.2023** in the case of Smt. Shah Vidhi Kunal it was held that:

" A plain reading of the Section 125 shows that the adjudicating authority is bound to give an option of redemption goods and not subjected to any prohibition. In case of prohibited goods such as gold, educating authority may allow redemption. There is no bar on the adjudicating authority allowing redemption of prohibited goods. The exercise of discretion will depend on the nature of the good and the nature of the prohibition. For instance, spurious drugs, arms, ammunition, hazardous goods, contaminated flora or fauna, food which does not meet the food safety standards etc. are harmful to the society if allowed to find their way into the domestic market. On the other hand, release of certain goods on redemption fine, even though the same becomes prohibited as conditions of import have not been satisfied, may not be harmful to the society at large."

23.3 Further, a similar view has been upheld in the case of ***M/s. Alfred Menezes VS Commissioner of Customs, (C.S.I), Airport Mumbai***, the Hon'ble Tribunal held that the adjudicating authority has discretion in granting redemption of goods even in the case of prohibited goods.

23.4 Further, Hon'ble Supreme Court in the case of ***M/s Raj Grow Impex /CIVIL APPEAL NO(s) 2217-2218 of 2021 arising out of SLP (c) Nos. 14633-14634 of 2020 order dated 17.06.2021 iterated that:***

"71.1. It is hardly of any debate that discretion has to be exercised judiciously and, for that matter, all the facts and all the relevant surrounding factors as also the implication of exercise of discretion either way have to be properly weighed and a balanced decision is required to be taken."

23.5 Further, I would like to reinforce my stand by placing my reliance on the following cases/orders wherein the option to redemption has been granted and absolute confiscation has been set-a-side vide *Order No. 12/2021-CUS(WZ)/ASAR dated 18.01.2021* by the Revisionary Authority, GOI issued under F. No: 371/44/B/2015-RA/785 dated 29.01.2021. Similar view was taken by **Revision Authority** vide **Order No. 287/2022-CUS(WZ)/ASAR/Mumbai dated 10.10.2022; Order No. 245/2021- CUS(WZ)/ASAR dated 29.09.2021 issued under F. No: 371/44/B/15-RA/2020 dated 06.10.2021 and Order No: 314/2022-Cus(WZ)/ASAR/Mumbai dated 31.10.2022 issued from F. No: 371/273/B/WZ/2018 dated 03.11.2022**. It is important to note here that all three of the above-mentioned orders of the Revisionary Authority have been accepted by the department.

23.6 Furthermore, I find that the issue of redemption of goods has travelled through various appellate fora. I find that in the following cases, the Hon'ble Supreme Courts, High Courts, and the appellate fora allowed redemption of seized goods:

- (i) ***Sapna Sanjeev Kohli vs. Commissioner – 2010(253) E.L.T.A52(S.C.).***
- (ii) ***Union of India vs. Dhanak M Ramji – 2010(252) E. L. T. A102(S.C.)***
- (iii) ***Shaikh Jamal Basha Vs. G.O.I. – 1997(91) E. L. T. 277(A. P.)***
- (iv) ***Commissioner of Cust. & C. Ex. Nagpir-I Vs. Mohd. Ashraf Armar – 2019(369) E. L. T. 1654 (Tri. Mumbai)***
- (v) ***Shri R. P. Sharma, Additional Secretary in RE Ashok Kumar Verma – 2019(369) E. L. T. 1677 (G. O. I.)***
- (vi) ***Suresh Bhosle Vs. Commissioner of Customs (Rev.) Kolkatta – 2009(246)E. L. T. 77(Cal.)***
- (vii) ***T. Elavarasan Versus Commissioner Of Customs (Airport), Chennai reported at 2011 (266) E.L.T. 167 (Mad.)***

Thus, it can be construed from the '***ratio decidendi***' of the aforesaid judgments that, as per Section 125, even in the case of prohibited goods, discretion can be exercised by the adjudicating authority in granting redemption of the goods.

23.6 In view of the discussion in the foregoing paragraphs, it is reasonable to infer that the goods seized were not in commercial quantity and were brought for personal use by the noticee and not for sale. Also, it is significant to state that the modus utilized by the noticee does not constitute an ingenious method of concealment of gold. Therefore, I am of the considered opinion that absolute confiscation of the said gold jewellery of the noticee will not be reasonable. On the

aforesaid grounds, I am of the considered view that the option of redemption can be granted for the impugned seized gold jewellery on payment of a redemption fine, as laid down under Section 125 of the Customs Act, 1962.

24.1 Further, I find that besides the above-mentioned gold items, the noticee had also brought the following dutiable goods:

Sr. No.	Details of articles recovered	Quantity	Rate (Rs.)	Market Value (Rs.)
1.	Google Pixel 7 Pro Phone 128 GB	02	Rs. 65000	Rs. 1,30,000
2.	Ladies' suit (made in Pakistan)	07 pieces	Rs. 1000	Rs. 7,000
3.	Ladies Kurti (made in Pakistan)	18 pieces	Rs. 600	Rs. 10,800
4.	Ladies' Pyjama (made in Pakistan)	03 piece	Rs. 400	Rs. 1,200
5.	Parley Beauty Cream (made in Pakistan)	06 pieces	Rs. 350	Rs. 2,100
Total of Other items/goods				Rs. 1,51,100

In this regard, I find that the aforementioned goods are commercial in nature and were brought by the noticee without making any declaration before the Customs, which is tantamount to a violation of Section 77 of the Customs Act, read with the Baggage Rules, 2016 and Regulation 3 of the Customs Baggage Declaration Regulations, 2013. It is undeniably confirmed that despite her knowledge and belief that the said other goods carried undeclared by her are an offence under the provisions of the Customs Act, 1962 and the Regulations made under it, the noticee has attempted to clear the same without making any declaration. The noticee, in her statement dated 16.05.2024 recorded under Section 108 of the Customs Act, has confessed that she did not declare the said goods as she intended to clear the same illicitly without payment of Customs duty. It is also observed that these goods were also not for any personal or bona fide use, but rather for commercial purposes. Thus, it is irrefutably established that the noticee has violated Section 77 and Section 79 of the Customs Act, 1962 for import/smuggling of goods which were not for bona fide use and thereby violated para 2.27 of the Foreign Trade Policy 2023.

24.2 Further, I find that in view of the foregoing, the said various other goods/articles seized vide Seizure order dated 08.05.2024 under *Panchnama* proceedings dated 08/09.05.2024 are liable for confiscation, under the provisions of Sections 111(d), 111(i) and 111(j) of the Customs Act, 1962. Notwithstanding, it is relevant to observe that the noticee had placed the items in her baggage, which cannot be perceived as an ingenious method of concealment, even though she failed to declare the dutiable items in her baggage to the Customs officer. Further, I find it essential to highlight that the noticee has claimed ownership of the said goods in her submission dated 20.12.2024. I find it appropriate at this juncture to allude to a few cases wherein the Revisionary Authority has granted the option for redemption and has set aside absolute confiscation :

- Order No. 12/2021-CUS(WZ)/ASAR dated 18.01.2021 by the Revision authority, GOI issued under F. No:371/44/2015-RA/ 785 dated 29.01.2021,
- (Order No.287 / 2022-CUS(WZ)/ASAR/Mumbai dated 10.10.2022;
- (Order No. 245 / 2021- CUS(WZ) / ASAR dated 29.09.2021 issued under F. No 371/44/B/15-RA/2020 dated 06.10.2021 and

- Order No: 314 /2022-Cus(WZ)/ASAR/ Mumbai dated 31.10.2022 issued from F. No: 371/273/B/WZ/2018 dated 03.11.2022.

Therefore, upon an exhaustive review of the preceding, I would like to exercise my discretion to give an option to the noticee to redeem the seized goods on payment of a redemption fine, as provided under Section 125 of the Customs Act, 1962. In addition to the redemption fine, the passenger would also be liable for payment of applicable duties and other levies/charges in terms of Section 125(2) of the Customs Act, 1962.

24.3 Further, upon going through the defence submission of the noticee dated 20.12.2024, I find that the noticee has admitted the ownership of goods and has expressed her willingness to pay the appropriate customs duties along with fine & penalty. I also find that the authorised representative of the noticee has reiterated the written submission in the personal hearings (virtual mode) held on 26.12.2024 and 13.06.2025.

24.4 Further, I find that in terms of Notification No. 05/2019-Customs dated 16.02.2019, all goods originating in or exported from the Islamic Republic of Pakistan are classifiable under Tariff Entry No. 9806 0000, which attracts Basic Customs duty @ 200%. The following impugned goods are made in Pakistan and thus attract Customs duty along with social welfare surcharge at a rate of 10% of the customs duty collected, payable along with any other charges if applicable. The details of the goods are as:-

Sr. No	Description	Quantity	Rate (Rs.)	Market value (Rs.)
1	Ladies' suit (made in Pakistan)	07 pieces	1000	7,000
2	Ladies Kurti (made in Pakistan)	18 pieces	600	10,800
3	Ladies' Pyjama (made in Pakistan)	03 pieces	400	1,200
4	Parley Beauty Cream (made in Pakistan)	06 pieces	350	2,100
			TOTAL	21,100

25. Further, I find that the noticee in her statement dated 16.05.2024 has admitted to having carried the impugned gold and other goods without declaration to the Customs Authorities. Further, in her written submission dated 20.12.2024, the noticee has contended that her failure to declare the seized goods before the Customs Authority was due to ignorance of the legal requirement. However, it is a well-established principle of law that '**ignorantia juris non excusat**' — ignorance of the law is no excuse. This legal maxim affirms that a person cannot evade liability for contravening a statutory provision merely on the ground of being unaware of its existence or content. Accordingly, the noticee cannot validly invoke lack of awareness as a defence for her failure to comply with the mandatory requirement of declaration before the Customs authorities. Further, my view is considerably fortified by the observation made by the **Hon'ble High Court of Madras in the case of Assistant Collector of Central Excise Vs, Nagappa Chettiar, reported as 7979(4) E.L.T. (J179) (Mad.)** wherein the Hon'ble Court has stated that:

"An accused cannot plead ignorance of law as a sufficient excuse for her failure to file declaration.... because ignorance of law is no excuse. "

Further, it is relevant to observe that ***mens rea***, in the context of Customs violations, includes not only direct intent but also the culpable or blameworthy conduct of the individual involved. In the present case, the conduct of the passenger carrying 22-carat gold items and other dutiable goods into India from Dubai without declaration and with the intention to evade the payment of lawful Customs duty clearly reflects such culpable intent. Also, the act of attempting to import these goods without disclosure and in violation of the statutory requirements under the Customs Act, 1962, establishes a deliberate and wilful contravention of law. Therefore, I am of the considered opinion that the goods so seized are liable for action under the relevant provisions of the Act, including confiscation and penal consequences.

26. After a careful evaluation of the facts of the case, the relied-upon documents, and the defence submissions made by the noticee, in light of the relevant provisions of the Customs Act, 1962, I find that the noticee was actively involved in the act of smuggling the impugned gold items and other dutiable goods, having failed to declare the same before the Customs authorities. This was done despite her knowledge and belief that carrying prohibited or restricted goods, as well as goods in commercial quantity, constitutes an offence under the provisions of the Customs Act, 1962 and the Regulations framed thereunder. It is, therefore, evident that the noticee has knowingly concerned herself with the carrying, removal, possession, and dealing in goods which she knew, or had reason to believe, were liable for confiscation under Section 111 of the Customs Act, 1962. Accordingly, I find the noticee liable for penal action under Section 112 of the Customs Act, 1962, and I hold accordingly. Further, I also hold that the baggage, i.e., one blue colour trolley bag of brand 'Nautica' seized vide Seizure Memo dated 08.05.2024 used for smuggling of goods, is liable for confiscation under Section 119 of the Customs Act, 1962.

27. Accordingly, in the exercise of the powers vested in me as the Adjudicating Authority, I hereby issue the following order:

ORDER

- (i)** I order confiscation of the one gold chain of 22 carat weighing 41.00 grams and four gold bangles of 22 carat weighing 100.00 grams having total market value of Rs. 9,30,600/- (Rupees Nine lakh thirty thousand Six hundred only) under Section 111(d), 111(i) and 111(j) of the Customs Act, 1962;
- (ii)** However, I give an option to Ms. Tasnimbanu Akibhusen Saiyed to redeem the impugned one gold chain of 22 carat weighing 41.00 grams and four gold bangles of 22 carat weighing 100.000 grams on payment of redemption fine of **Rs. 1,00,000/- (Rupees One Lakh only)** under Section 125(1) of the Customs Act, 1962. In addition to redemption fine, the passenger would also be liable for payment of applicable Customs duty along with other applicable charges if any, in terms of Section 125(2) of the Customs Act, 1962. In terms of Section 125(3), in case the redemption fine imposed under sub-section (1) is not paid within a period of one hundred

and twenty days from the date of the order, such option for redemption shall become void, unless an appeal against the order is pending.

(iii) I order confiscation of two Google Pixel 7 Pro phones 128 GB, valued at Rs. 1,30,000/- (Rupees One Lakh Thirty Thousand only) under Section 111(d), 111(i) and 111(j) of the Customs Act,1962;

(iv) However, I give an option to Ms. Tasnimbanu Akibhusen Saiyed to redeem the impugned two Google Pixel 7 Pro phones 128 GB, on payment of a redemption fine of **Rs. 13,000/- (Rupees Thirteen Thousand only)** under Section 125(1) of the Customs Act, 1962. In addition to redemption fine, the passenger would also be liable for payment of applicable Customs duty along with other applicable charges if any, in terms of Section 125(2) of the Customs Act, 1962. In terms of Section 125(3), in case the redemption fine imposed under sub-section (1) is not paid within a period of one hundred and twenty days from the date of the order, such option for redemption shall become void, unless an appeal against the order is pending.

(v) I order confiscation of 07 pieces of Ladies' suit (made in Pakistan) valued at Rs. 7,000/- (Rupees Seven Thousand only), 18 pieces of Ladies Kurti (made in Pakistan) valued at Rs.10,800/- (Rupees Seven Thousand Two Hundred only), 03 pieces of Ladies Pyjama (made in Pakistan) valued at Rs.1,200/- (Rupees Twelve Hundred only), 06 pieces of Parley Beauty Cream (made in Pakistan) valued at Rs. 2,100/- (Rupees Two Thousand One Hundred only), thus, all goods having a cumulative value of Rs. 21,100/- (Rupees Twenty One Thousand One Hundred only) under Section 111(d), 111(i) and 111(j) of the Customs Act,1962 alongwith confiscation of the baggage, i.e., one blue colour trolley bag of brand 'Nautica' seized vide Seizure Memo dated 08.05.2024 used for smuggling goods under Section 119 of the Customs Act, 1962.

(vi) However, I give an option to Ms. Tasnimbanu Akibhusen Saiyed to redeem the at above (v) on payment of a redemption fine of **Rs. 4,000/- (Rupees Four Thousand Only)** under Section 125(1) of the Customs Act, 1962. In addition to redemption fine, the passenger would also be liable for payment of Customs duty along with other applicable charges if any, in terms of Section 125(2) of the Customs Act, 1962 read with the Notification No. 05/2019-

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Customs dated 16.02.2019. In terms of Section 125(3), in case the redemption fine imposed under sub-section (1) is not paid within a period of one hundred and twenty days from the date of the order, such option for redemption shall become void, unless an appeal against the order is pending.

(vii) I impose a penalty of **Rs. 1,00,000/- (Rupees One Lakhs only)** on Ms. Tasnimbanu Akibhusen Saiyed under the provisions of Section 112(b) of the Customs Act 1962, in respect of goods mentioned at (i), (iii) and (v) above.

28. Accordingly, the Show Cause Notice F. No. VIII/26-10/AIU/CUS/2024-25 dated 29.10.2024 stands disposed of.

(Shree Ram Vishnoi)
Additional Commissioner,
Customs, Ahmedabad

BY SPEED POST AD/E.MAIL/WEBSITE

F.No.VIII/26-10/AIU/CUS/2024-25

Date:04.07.2025

DIN: 20250771MN0000222CAB

To,

Ms. Tasnimbanu Akibhusen Saiyed

8/995, Momnawad Panwala, Bapuni
Chal, Gopipura, Sunvali, Surat City,
PIN-395001, Gujarat.

Copy to:

1. The Principal Commissioner of Customs, Ahmedabad. (Kind Attn: RRA Section).
2. The Deputy/Assistant Commissioner of Customs (TRC), Ahmedabad.
3. The Superintendent (Recovery)/(Warehouse), Customs, Surat International Airport.
4. The System In-Charge, Customs, H.Q., Ahmedabad, for uploading on the official website (via email)
5. Guard File.