



## प्रधान आयुक्त का कार्यालय, सीमा शुल्क, अहमदाबाद

“सीमा शुल्क भवन”, पहली मंजिल, पुराने हाई कोर्ट के सामने, नवरंगपुरा, अहमदाबाद – 380009

### OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, AHMEDABAD

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### SHOW CAUSE NOTICE

(Under Section 124 of the Customs Act, 1962)

Whereas, an intelligence was gathered by Directorate of Revenue Intelligence, Ahmedabad Zonal Unit (herein after referred as 'DRI') that persons belonging to few Angadia firms coming from Mumbai on board Saurashtra Mail train (No. 22945) may carry smuggled gold and other contraband/high valued goods through Kalupur Railway Station, Ahmedabad. Further, these persons would board the cars/vehicles in the "Pick-up" area outside the railway station.

2. Whereas, acting on the said intelligence, the officers from DRI intercepted 15 passengers who were approaching the vehicles in the 'Pick up' area outside the Railway Station at around 04:50 hrs on 07.06.2023. The said passengers were carrying different bags and they informed that they were working for different Angadiya firms. Thereafter, taking into consideration the quantum of baggages and reasons of safety, the officers with the consent of the passengers took them to the DRI, Ahmedabad Zonal Unit office situated at Unit No. 15, Magnet Corporate Park, Near Sola Flyover, Behind Intas Corporate Building, Thaltej, Ahmedabad, for the examination of the baggage. The proceedings were recorded in the presence of the independent panchas under Panchnama dated 07.06.2023 (**RUD-1**).

3. Accordingly, the examination of the baggage of the passengers was done in separate rooms of the DRI, Ahmedabad office under respective Panchnamas dated 07.06.2023 (**RUD-2**). During examination of the bags of two passengers, who identified themselves as Shri N.J. Patel and Shri K.K. Thakor, employees working for Aangadiya firm- M/s. Patel Amrut Kantilal & Company, the officers found that their bags contained various parcels. The officers opened each and

every parcel contained in the bags and prepared inventory of all the goods found during the examination of baggages.

4. Whereas, on completion of the examination of the goods, the officers found that certain parcels containing gold which appeared to be of foreign origin. Further, the passenger could not produce any documents showing legitimate import of the said goods and these goods appeared to be of the nature of smuggled goods. The details of said gold, as identified vide the markings on the gold and labels of the parcels are as follows:-

TABLE-I

Sr No.	Party from	Party to	Commodity	Nos.	Total Weight as mentioned on label of goods (in gms)	Mark
1	Deepankar	Bharat Chain	Gold (I)	1 Cut Bar	52.12	valcambi suisse
2	Self	Rishabh Jewellers	Gold (I)	4 bar+1 cut bar+ 1 Piecc	450	JS BR Melter Assayer
3	Sapna Surat	Gujarat Bullions	Gold (I)	8 Bars	800	SG Melter Assayer, Jay Renuka Refinery
4	Amish V Malji	Pahini Jewellers	Gold (I)	2 Bars	200	Argor Heraeus SA
5	Pramod	GBR Chandresh Bhai	Gold (I)	lumps	500	
6	Damodardas Jewellers	V N Exports (Labour)	Gold Bar (I)	1 Pc.	100	RRC 100 Gms For Job Work
7	Vasundhara Jewellers	R.B. Ornaments	Gold Bar (I)	2 Pcs.	148	JDR
8	Damodardas Jewellers	N D Jewellery	Gold Bar (I)	1 Pc.	100	RRC 100 Gms For Job Work
9	Jenny Silver	Nageshwar Chain	Gold Bar (I)	2 Pcs.	100	
10	Vasundhara Jewellers	Gopinath Jewellers	Gold Bar (I)	1 Pc.	100	JDR
11	Vasundhara Jewellers	S M Gold	Gold Bar (I)	2 Pcs. (Cut Pcs)	50	
12	Vama Gold	Aadey Jewellers	Gold Bar (I)	1 Pc (Cut Pc)	50.14	
13	Vama Gold	Tanisha jewellers	Gold Bar (I)	1 Pc (Cut Pc)	30	

\* The Indian origin gold was also detained due to the non-availability of any accompanying document viz. invoice etc with the passengers.

5. Whereas, on the reasonable belief that these goods are liable for confiscation under the provisions of the Customs Act, 1962, the officers placed the said goods under detention for further investigation.

**6. Accordingly, statement of Shri Amrutbhai Harjivandas Patel, partner of M/s. PATEL AMRUT KANTILAL ANGADIYA recorded under section 108 of the Customs Act, 1962 on 23.06.2023-**

6.1. Shri Amrutbhai Harjivandas Patel, Partner of M/s. Patel Amrut Kantilal Angadiya voluntarily presented himself on 23.06.2023 before the Senior Intelligence Officer, DRI, Ahmedabad Zonal Unit to tender his statement. His statement was thus recorded on 23.06.2023 (**RUD-3**), wherein he stated that he is engaged in the business in the field of Aangadiya (Courier) and that they receive goods in the form of parcels at one location and deliver the same to the location as specified by the sender of the parcel. He stated that they pay GST@18% as per the CGST rules and regulations. Their firm, M/s Patel Amrut Kantilal Angadia is specialized in courier services of Precious and valuable goods, documents, Gems and Jewellery, Diamonds etc. He further stated that their company provide the above business services in Ahmedabad, Mumbai, Delhi, Vadodara, Surat, Navsari, Annad, Rajkot, Bhavnagar, Junagarh, Surendranagar, Morbi, Kolhapur. On being asked about the procedure of booking and dispatch of parcels, he stated that their company's pickup vehicles generally go to the customers' office to collect the goods whereas in some case customer drop the goods at their office. Further, in their dealing of precious parcels, while collecting goods, the parcels are sealed by the sender of the parcel and they believe in the description of goods as mentioned on the parcel by the sender and collect freight on the basis of value declared by the sender of the parcel. On being asked about the documents of KYC collected from the sender and recipient he stated that in most of cases they pick up the parcels from the office or business premises of the customer and also deliver the parcel at the address and details provided by the sender. He further stated that the details like name and contact number are provided by the sender of the parcel and almost in all cases same is mentioned on the parcel. On being asked he further stated that they insist to take copy of invoice or delivery challan from the senders of the parcel to which majority of the customers informs them that the same is attached inside the parcel or sometimes outside the parcel. Regarding verification of value of cargo while collection of goods, he stated that they receive goods on said to contain basis and act on the basis of invoice or the description provided by the customers. On being asked about procedure of delivery of the parcels, he stated that the parcels are delivered by them to the customers at their premises and sometimes in case of urgency the customer collects the parcel from our

branch. On being further asked about the type of goods we may transport in the parcels he stated that any legitimate goods with proper invoice can be transported but they mainly accept parcels related to precious and valuable goods, documents, Gems and Jewellery, Diamonds, Cash etc. He was shown the Panchnama dated 07.06.2023, wherein the parcels carried by their Angadiya employee were detained. On perusal, he submitted following documents in respect of the gold detained vide Panchnama dated 07.06.2023:

**TABLE-II**

S. No.	Item Description	Weight of the gold (in grams)	Details of Sender	Details of recipient	Documents submitted
1.	Gold (I) 1 Cut Bar	52.120	Shri Dipanker	M/s. Bharat Chain	Delivery challan/Insurance certificate of Aanagadiya dated 06.06.2023
2.	Gold (I) 4 bar+1 cut bar+ 1 Piece	478.030	M/s. Heer Gold, Surat	M/s. Pahini Jewellers	Copy of invoice stating return issue for job work by M/s. Heer Gold to M/s. Rushabh Jewels submitted.
3.	Gold (I) 8 Bars	800	M/s. Sapna Bullion, Surat,	M/s. Gujarat Bullion	Letter stating that gold is sent for job work. Also, invoice issued by M/s. Elvee Jewels Pvt. Ltd. and M/s. Jay Renuka Gold to M/s. Sapna Bullion submitted.
4.	Gold (I) 2 Bars	200	Shri Amish V Malji	M/s. Pahini Jewellers	Copy of Bill, Invoice submitted
5.	Gold (I) lumps	500	Pramod Shah (M/ Poonam Jewellers, Surat)	M/s. Gujarat Bullion (Chandresh Bhai)	Letter stating that gold is sent for job work. Also invoice issued by Ms. Anitaben Shah & Lishaben Shah to M/s. Poonam Jewellers.
6.	Gold Bar (I) 1 Pcs.	100.00	M/s. Damodardas Jewellers	M/s. V N Exports (Labour)	Copy of delivery challan submitted
7.	Gold Bar (I) 2 Pcs.	150.00	M/s. Vasundhara Jewellers	M/s. R.B. Ornaments	Delivery challan submitted
8.	Gold Bar (I) 1 Pcs.	100.00	M/s. Damodardas Jewellers	M/s. N D Jewellery	Copy of delivery challan submitted
9.	Gold Bar (I) 2 Pcs.	100.00	M/s. Jenny Silver	M/s. Nageshwar Chain	Copy of invoice dated 06.06.2023 issued by M/s. Jeni Silver submitted
10.	Gold Bar (I) 1 Pcs.	100.00	M/s. Vasundhara Jewellers	M/s. Gopinath Jewellers	Delivery challan submitted
11.	Gold Bar (I) 2 Pcs. (Cut Pcs)	50.00	M/s. Vasundhara Jewellers	M/s. S M Gold	Delivery challan submitted
12.	Gold Bar (I) 1 Pcs (Cut Pcs)	50.140	M/s. Vama Gold	M/s. Aadey Jewellers	Copy of invoice dated 06.06.2023 submitted
13.	Gold Bar (I) 1 Pcs (Cut Pcs)	30.00	M/s. Vama Gold	M/s. Tanisha Jewellers	Copy of invoice dated 06.06.2023 submitted

6.2. On being asked to produce documents related to import of gold bars as mentioned at Sr. No. 1 and 4 of the table above, Shri Amrutbhai Harjivandas Patel, stated that the customers have submitted copy of Delivery Challan and invoices pertaining to Shri Dipankar Ghosh and Shri Amish V. Malji of M/s. V.Navinchandra Hirachand Malji Jewellers & Co. and he informed that he is having only these documents in relation to gold bars as mentioned at Sr. No. 1 and 4 of the above table.

6.3. On being asked as to what kind of goods can be transported by them, he stated that any legitimate goods with proper invoice can be transported but mainly they accept parcels related to precious and valuable goods, documents, Gems and Jewellery, Diamonds, Cash etc. He admitted that they cannot accept parcels related to foreign currency and foreign origin gold in bars or any other form, but sometimes the customer misdeclare the correct description and nature of the goods in the parcel.

#### **VALUATION AND SEIZURE OF DETAINED GOODS-**

7. Shri Kartikey Vasantrai Soni, Govt. Approved Gold Assayer, examined the detained gold in presence of independent panchas and Shri Amrutbhai Harjivandas Patel under panchnama dated 08.08.2023 (**RUD-4**) drawn at DRI office situated at Unit No. 15, Magnet Corporate Park, Near Sola Flyover, Behind Intas Corporate Building, Thaltej, Ahmedabad. Shri Kartikey Vasantrai Soni, Gold Assayer certified the purity of Gold, weight, rate of gold vide his valuation report dated 28.08.2023 (**RUD-5**). As per the valuation report, the details of the detained gold are as follows:-

**TABLE-III**

Sr No.	Party from	Party to	Weight	Purity	Marking	Indian / Imported marking	Rate Per Gram	Value
1	Deepankar	Bharat Chain	52.120	999.0	Valcambi Suisse		6050	315326
4	Amish V Malji	Pahini Jewellers	200.000	999.0	Argor Heraeus SA	Imported	6050	1210000
2	Self	Rishabh Jewellers	400.000	999.0	JSBR	Indian	6050	2420000
			78.030	999.0	GTB	Indian	6050	472081.5
3	Sapna Surat	Gujarat Bullions	500.000	999.0	SG	Indian	6050	3025000
			300.000	999.0	RTR	Indian	6050	1815000
5	Pramod	GBR Chandresh Bhai	500.000	999.0	No Marking		6050	3025000
6	Damodardas Jewellers	V N Exports (Labour)	100.000	999.0	RRG	Indian	6050	605000

7	Vasundhara Jewellers	R.B. Ornaments	150.000	999.0	JDR	Indian	6050	907500
8	Damodardas Jewellers	N D Jewellery	100.000	999.0	RRG	Indian	6050	605000
9	Jenny Silver	Nageshwar Chain	100.000	999.0	DBR	Indian	6050	605000
10	Vasundhara Jewellers	Gopinath Jewellers	100.000	999.0	JDR	Indian	6050	605000
11	Vasundhara Jewellers	S M Gold	50.000	999.0	Fine Gold 999	Indian	6050	302500
12	Vama Gold	Aadcy Jewellers	50.140	999.0	Fine Gold 999	Indian	6050	303347
13	Vama Gold	Tanisha jewellers	30.000	999.0	GC	Indian	6050	181500

8. From the valuation report, it is determined that the detained gold as mentioned at Sr. No. 1 and 4 in the table above are of foreign origin. Further, the sender or the intended recipient of the gold could not produce the relevant documents pertaining to the import of the said gold. In view of the same, the detained goods, detailed as follows, were placed under seizure under the provisions of Section 110 of Customs Act, 1962, under the reasonable belief that the same were liable to confiscation under the provisions of Customs Act, 1962. The details of seizure memo and goods seized are as under:-

(i) One cut piece of gold bar of foreign origin, weighing 52.120 grams in total, valued at Rs. 3,15,326/- (Three Lakhs Fifteen Thousand Three Hundread & Twenty Six Only) pertaining to Shri Dipankar Ghosh, Anand placed under seizure vide Seizure Memo (DIN- 202310DDZ1000000B6CA) dated 25.10.2023. **(RUD-6)**

(ii) Two gold bars of foreign origin, weighing 200 grams in total, valued at Rs. 12,10,000/- (Twelve Lakhs and Ten Thousand Only) pertaining to Shri Amish V. Malji, M/s. V. Navinchandra Hirachndra Malji Jewellers & Co. placed under seizure vide Seizure Memo (DIN- 202310DDZ1000000E192) dated 25.10.2023. **(RUD-7)**

#### RELEASE OF THE INDIAN ORIGIN GOLD

9. M/s. Patel Amrut Kantilal Angadiya submitted certain documents as detailed at para 6.1 above pertaining to their Indian origin gold detained under the Panchnama dated 07.06.2023. Accordingly, the representative of the said Angadiya firm was called to the DRI office and the gold as mentioned in the table in the para 6.1 above, except the seized gold at Sr. Nos. 1 & 4, was released

to the Aangadiya firms. The proceedings thereof were recorded under Panchnama dated 07.12.2023 (**RUD-8**) in the presence of the independent panchas. Thus, the seized gold, as detailed below, was again sealed back and kept in the DRI custody.

**TABLE-IV**

<b>S.N</b>	<b>Item Description</b>	<b>Details of Sender</b>	<b>Details of intended recipient</b>
1.	Cut piece of gold bar (foreign origin) of 52.12 grams weight	Shri Dipankar Ghosh	M/s. Bharat Chain
2.	2 gold bars (foreign origin) of 200 grams	Shri Amish V. Malji, M/s. Navinchandra Hirachndra Malji Jewellers & Co.	M/s. Pahini Jewellers

**INVESTIGATION W.R.T. 52.120 GRAMS OF FOREIGN ORIGIN GOLD BAR**

**10. During the course of investigation, statement of Shri Dipankar Ghosh, proprietor OF M/s. Vishwakarma Cutting Press, was recorded under section 108 of The Customs Act, 1962 on 22.01.2024-**

10.1. Summons dated 16.01.2024 (under Section 108 of Customs Act, 1962) was issued to Shri Dipankar Ghosh and accordingly, statement of Shri Dipankar Ghosh, Proprietor of M/s. Vishwakarma Cutting Press was recorded on 22.01.2024 (**RUD-9**). On being asked about their work, he stated that they only do artisan work of jewellery making as per the designs provided by the customers. He further stated that they do not purchase or sell the gold bullion or jewellery and they are not into trading or retail business. On being asked about his work profile in the firm, he stated that he is handling all day to day work related to dealing with the customers, accounts etc.

10.2 During the statement, Shri Dipankar Ghosh interalia stated the said cut piece of foreign origin gold bar of 52.120 grams was given to him for making gold chain by Shri Jigarbhai Rana of M/s. Kusum Jewellers, 10, Dev Red Square Complex, Opposite Yogi Petrol Pump, Near New Bus Stand, Anand. Further, on being asked, he stated that the customer, i.e. Shri Jigarbhai had ordered a specific design for the gold chain for which a special machine was required. For the said purpose, he had contacted M/s. Bharat Chain, Ahmedabad to make the gold chain as they had the required machine to make the said design of the gold chain. For the same purpose, they had handed over the said gold piece of 52.12

grams to M/s. Patel Amrut Kantilal Aangadiya for delivery to M/s. Bharat Chain in the evening of 06.06.2023.

10.3. Further, on being asked about as to whether the said gold piece was smuggled in India, he stated that he had no idea about that and that they were to merely make the gold chain from the gold provided to them by M/s. Kusum Jewellers, Anand. On being asked, he stated that M/s. Kusum Jewellers is one of their regular customers. He also stated that they had never been provided any import documents for the gold by M/s. Kusum Jewellers.

10.4. On being asked about the verification of foreign origin gold, he stated that they never verify the origin of the gold. He stated that they merely make jewellery out of whatever gold or silver piece/ nugget provided by their customers and charge as per jewellery design. He stated that he does not have knowledge of Customs/ GST rules or whether the gold piece is illegally or legally procured from the source. On being asked about the mode of payment, he stated that his customers mostly pay in cash for the orders after the job work. And in this case payment was not made by M/s. Kusum Jewellers. Further, he stated that he gives a handwritten receipt to the customer whenever any gold/ silver is given to them for jewellery making.

10.5. On being asked about the import documents for the import of said foreign origin gold piece of 52.12 grams, he stated he has not been supplied any import documents for the said gold of foreign origin weighing 52.120 grams. He stated that he will be able to provide the same once he receives the said documents from M/s. Kusum Jewellers, Anand.

**11. During the course of investigation, statement of Shri Injamul Haque Sarkar, Proprietor of M/s. Bharat Chain, recorded under section 108 of The Customs Act, 1962 on 24.01.2024-**

11.1. Summons dated 16.01.2024 under Section 108 of Customs Act, 1962 was issued to M/s. Bharat Chain, Ahmedabad, the intended recipient of the gold sent by shri Dipankar Ghosh and accordingly, statement of Shri Injamul Haque Sarkar, Proprietor of M/s. Bharat Chain was recorded **on 24.01.2024 (RUD-10)**, wherein he interalia stated that he is engaged in the craft of jewellery making for which he receives Gold Bars or Cut pieces of Gold from various jewellers for making of jewellery. He further stated he has no idea about foreign origin gold however he knows that gold is identified by the hall mark on it. He stated that Shri Dipankar Ghosh is an old friend and he resides in Anand. Shri Dipankar Ghosh used to get some order made through him. On being asked about the detained foreign origin gold cut piece of 52.120 grams, he stated that the said

gold was being sent by Shri Dipankar Ghosh for making of a gold chain; however, he was not aware if the said gold was of foreign origin. He also stated that he does not have import documents pertaining to the said gold and he is also not aware about the same.

**12. During the course of investigation, statement of Jigarkumar Arvindbhai Rana, Proprietor of M/s. Kusum Jewellers, Aanad recorded under section 108 of The Customs Act, 1962 on 15.02.2024-**

**12.1** As per the statement of Shri Dipankar Ghosh recorded on 22.01.2024, the foreign origin gold seized by DRI in respect of them had been supplied by M/s. Kusum Jewellers, Anand. In view of the same, Summons dated 09.02.2024 under Section 108 of Customs Act, 1962 were issued to M/s. Kusum Jewellers, Anand to tender statements and submit details of import of gold or purchase of foreign origin gold during the relevant period. Shri Jigarkumar Arvindbhai Rana, proprietor of M/s. Kusum Jewellers accordingly appeared for tendering of statement on **15.02.2024. (RUD-11)**

**12.2** During his statement, Shri Jigarkumar Arvindbhai Rana stated that his firm M/s. Kusum Jewellers is engaged in the retail sale of gemstones, gold and silver jewelry. On being asked, he also stated that they are not engaged in the trading of gold bars and procure only readymade jewelry from various wholesale dealers and sell them in retail market. On being asked about his work profile in his firm, he stated that he is handling all the day to day work, work related to sale and purchase, accounts etc.

**12.3** On being asked about 52.120 grams of gold handed over to Shri Dipankar Ghosh as stated by Shri Dipankar in his statement dated 22.01.2024, Shri Jigarkumar denied about handing over any such gold of 52.12 grams to Shri Dipankar Ghosh or any of his employee for jewellery making. He stated that they have not issued any invoice to Shri Dipankar Ghosh or his firm and also no payment was received by them in respect of the said gold of 52.12 grams. He further stated that they have never worked with Shri Dipankar Ghosh. On being asked about the ownership of the parcel of Shri Dipankar containing 52.12 grams of gold detained by DRI, Shri Jigarkumar stated that they are not owing the ownership of the said gold and the ownership lies completely with Shri Dipankar Ghosh.

**13. During the course of further investigation, statement of Shri Dipankar Ghosh, Proprietor of M/s. Vishwakarma Cutting Press, recorded under section 108 of The Customs Act, 1962 on 18.03.2024-**

13.1. In view of the submission made by Shri Jigarbhai Rana of M/s. Kusum Jewellers as stated above, Summons dated 07.03.2024 under Section 108 of Customs Act, 1962 was again issued to Shri Dipankar Ghosh and accordingly statement of Shri Dipankar Ghosh was recorded on 18.03.2024 (**RUD-12**), wherein, among other things, he was shown the statement dated 15.02.2024 of Shri Jigarbhai Rana of M/s. Kusum Jewellers.

13.2. On being asked about the identity mark or Sr. No. of the cut piece of the seized gold bar, he stated that he does not remember the exact markings on the said gold bar cut piece of 52.120 grams, but he stated that he was aware the said gold bar cut piece had imported marking and was of foreign origin. On being asked, he stated that he does not have any invoice for the said gold of 52.120 grams of gold and also, he stated that he was not issued any invoice for the same. However, it may be possible that the same may be purchased from some retailer as sometimes he purchased gold from retailers on the basis of rates, availability and requirement.

13.3. On being asked, he stated that he had not verified the purity of gold and he had just purchased the said gold from the person based on rate. On being asked, he also stated that he is not aware of the name or identity of the said person from whom he had purchased the said gold as sometimes such type of persons come to their shop for sale of gold in small quantity. On being asked, he stated that it is possible that the said person had smuggled or brought in the said gold through Ahmedabad Airport or any other airport from abroad as the gold bar cut piece is of foreign origin. He further stated that such person offered them the gold at a cheaper rate, therefore, they purchased the gold based on its purity and rates.

13.4. Shri Dipankar Ghosh also stated that he does not have any import documents for their seized gold of 52.120 grams as it was not provided by the person from whom they had purchased the said gold. On being asked as to why they did not seek any import documents from that person as that person offered him the gold on a cheaper rate, he stated that they do not have any legal knowledge of the Customs Act or rules.

13.5. On being asked about the ownership of the detained gold of 52.120 grams, Shri Dipankar stated that he owes the ownership of the said gold. He further stated that he was aware that the said gold was of foreign origin before it was sent by them to M/s. Bharat Chain for making of chain for a customer. He also stated that it is possible that the detained gold of 52.120 grams might have been smuggled through Ahmedabad or any other airport. He also stated that he did

not inquire much into it as he was not aware of the legal provisions of the Customs Act and Rules. He stated that he made decision to purchase the said gold as he was getting the said gold at below market price.

#### **INVESTIGATION W.R.T. 200 GRAMS OF FOREIGN ORIGIN GOLD BAR**

**14. During the course of further investigation, statement of Shri Amish Vikramkumar Malji, authorized signatory of M/s. V. Navinchandra Hirachand Malji Jewellers & Co., recorded under section 108 of The Customs Act, 1962 on 25.01.2024-**

14.1. Summons dated 16.01.2024 under Section 108 of Customs Act, 1962 was issued to Shri Amish Malji of M/s. V. Navinchandra Hirachand Malji Jewellers & Co. and accordingly, statement of Shri Amish Malji was recorded on 25.01.2024 **(RUD-13)**. On being asked, Shri Amish V. Malji stated that he started this firm M/s. V. Navinchandra Hirachand Malji Jewellers & Co., which is registered in his mother's name, for the retail sale of gold and silver jewelry. He stated that they also purchase raw gold in the form of bars or cut pieces for job work and get the jewellery made from outside workshops based in Surat and Mumbai. On being asked about his work profile in his firm, he stated that he is handling all the day to day work, work related to sale and purchase of gold bars and gold & silver Jewellery, accounts etc.

14.2. During the statement, Shri Amish Malji, on being asked regarding the said gold bars of 200 grams, stated that the said gold bars were meant to be sent by them to M/s. Pahini Jewellery Ltd., Ahmedabad in lieu of the payment outstanding on their part to M/s. Pahini Jewellery Ltd. He stated that they had purchased some jewellery from M/s. Pahini Jewellery Ltd., Ahmedabad in the past and in exchange, they had agreed to settle a part of the payment by means of the raw gold being sent by them. On being asked, he stated that the two gold bars were handed over by them to Aangadiya firm- M/s. Patel Amrut Kantilal & Co. on 06.06.2023 for delivery to M/s. Pahini Jewellery Ltd., Ahmedabad.

14.3. On being asked specifically about the two no. of seized gold bar having total weight of 200 grams of 999 purity, he stated that the said gold bars are of foreign origin. Further, on being asked about as to whether the said gold bars were smuggled in India, he stated that they had purchased the gold bars from various persons who sell gold and jewellery in retail. Further he stated that it might be possible that they had brought in the said gold from Mumbai or Surat Airport. On being asked about the Import dockets for the import of the said

foreign origin gold bar of 200 gms, he stated that they do not have the import documents for the same and it is difficult to get it from the retailers.

**15. During the course of further investigation, statement of Shri Miteshbhai Devendrabhai Shah, Director of M/s. Pahini Jewellery Limited, recorded under section 108 of The Customs Act, 1962 on 25.01.2024-**

15.1. Summons dated 16.01.2024 under Section 108 of Customs Act, 1962 was issued to M/s. Pahini Jewellery Limited, Ahmedabad and accordingly, statement of Shri Miteshbhai Devendrabhai Shah, Director of M/s. Pahini Jewellery Limited was recorded on 25.01.2024 (**RUD-14**). On being asked, he stated that their firm is engaged in the making and wholesale trading of gold jewelry. He stated that they purchase raw gold in the form of bars or cut pieces for job work from various traders based in Ahmedabad and also the gold and silver jewellery from various traders based in Ahmedabad and Surat. On being asked about his work profile in his firm, he stated that he is handling all the day to day work, work related to sale and purchase of gold bars and gold & silver Jewellery, accounts etc.

15.2. On being asked specifically about the two seized gold bars having total weight of 200 grams of 999 purity, he stated that the said Gold bars were being sent to us in lieu of the gold jewellery that was earlier being sold by us to M/s. V. Navinchandra Hirachand Malji Jewellers and Co., Surat. He stated that they had sold some jewellery in the past to M/s. V. Navinchandra Hirachand Malji Jewellers and Co., Surat for which payment was outstanding on their part. In lieu of this payment, Shri Amish V. Malji had informed Shri Miteshbhai Devendrabhai Shah that he is sending 200 grams of gold bars to Shri Miteshbhai through Aangadiya. Accordingly, on the agreement of Shri Miteshkumar, he had handed over the said gold bars to M/s. Patel Amrut Kantilal Angadiya on 06.06.2023 for delivery to M/s. Pahini Jewellery Limited.

15.3. On being asked about the origin of the said gold bars of 200 grams seized, he stated that he is not aware of the origin of the gold bars and whether the said gold bars are of foreign or Indian origin and it was also not informed to them by M/s. V. Navinchandra Hirachand Malji Jewellers and Co., Surat. Further, on being asked about as to whether the said gold was smuggled in India, he stated that he has no idea about that. He also stated that they have never been provided any import documents for the gold bars by M/s. V. Navinchandra Hirachand Malji Jewellers and Co..

15.4. On being asked about the payment for the purchase of Gold bars, he stated that they have not made any payment to M/s. V. Navinchandra Hirachand Malji Jewellers and Co., Surat and the said gold was sent by them to adjust payment

against the jewellery sold earlier by M/s. Pahini Jewellery Ltd to M/s. V. Navinchandra Hirachand Malji Jewellers & Co. On being asked, he also stated that M/s. V. Navinchandra Hirachand Malji Jewellers & Co. have not issued invoice to M/s. Pahini Jewellery Ltd as the said gold was not received by them, nor they have made any payment for the said gold. On being asked about the ownership of the gold of 200 grams of foreign origin, he stated that they do not owe the ownership of the gold of 200 grams and it lies with M/s. V. Navinchandra Hirachand Malji Jewellers and Co., Surat.

**16.** Whereas, it appears that the burden of proof in case of 'Gold' in terms of Section 123(1) of Customs Act, 1962 that they are not smuggled goods shall be laid on Shri Dipankar Ghosh and Shri Amish V. Malji respectively. It appears that both the persons i.e. Shri Dipankar Ghosh, proprietor of M/s Vishwakarma Cutting Press and Shri Amish V. Malji, authorised signatory of M/s. V. Navinchandra Hirachand Malji Jewellers & Co. accepted in their respective statements recorded u/s 108 of Customs Act, 1962 that they did not possess any documents relating to genuine/ legitimate import of these gold bars.

**17.** Whereas, the investigation could not be completed in the stipulated time period of six months from the date of the detention of goods. The competent authority vide letter dated 01.12.2023 (**RUD -15**) granted the extension by a further period of six months for issuance of Show Cause Notice in respect of seized goods in terms of the first proviso of Section 110(2) of the Customs Act, 1962 as amended by the Finance Act, 2018.

#### **18. LEGAL PROVISIONS:-**

**18.1** The provisions of law, relevant to import of goods in general, the Policy and Rules relating to the import of gold, the liability of the goods to confiscation and liability of the persons concerned to penalty for improper/illegal imports under the provisions of the Customs Act, 1962 and other laws for the time being in force, are summarized as follows:-

**a) Para 2.26 of Foreign Trade Policy 2015-20:**

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) Para 2.1 of the Foreign Trade Policy 2015-20:**

The item wise export and import policy shall be specified in ITC (HS) notified by DGFT from time to time.

**c) Under ITC (HS) heading sub code 98030000, import of all dutiable articles, imported by a passenger or a member of a crew in his baggage is restricted and their import is allowed only in accordance with the provisions of the**

Customs Baggage Rules by saving clause 3(1)(h) of the Foreign Trade (Exemption from Application of Rules in Certain Case) Order, 1993.

**d) 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.

**e) 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.

**f) Section 7 of the Foreign Trade (Development and Regulation) Act, 1992:**

No import can take place without a valid Import Export Code Number unless otherwise exempted

**g) 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.

**h) Rule 11 of the Foreign Trade (Regulation) Rules, 1993- Declaration as to value and quality of imported goods:**

On the importation into, or exportation out of, any customs ports of any goods, whether liable to duty or not, the owner of such goods shall in the Bill of Entry or the Shipping Bill or any other documents prescribed under the Customs Act, 1962 (52 of 1962), state the value, quality and description of such goods to the best of his knowledge and belief and in case of exportation of goods, certify that the quality and specification of the goods as stated in those documents, are in accordance with the terms of the export contract entered into with the buyer or consignee in pursuance of which the goods are being exported and shall subscribe a declaration of the truth of such statement at the foot of such Bill of Entry or Shipping Bill or any other documents.

**i) Rule 14 of the Foreign Trade (Regulation) Rules, 1993: Prohibition regarding making, signing of any declaration, statement or documents,**

1. No person shall employ any corrupt or fraudulent practice for the purposes of importing or exporting any goods.

2.

**j) Section 2 of the Customs Act, 1962: Definitions -**

In this Act, unless the context otherwise requires,

(3) "baggage" includes unaccompanied baggage but does not include motor vehicles;

(3A) "beneficial owner" means any person on whose behalf the goods are being imported or exported or who exercises effective control over the goods being imported or exported;

(14) "dutiable goods" means any goods which are chargeable to duty and on which duty has not been paid;

(22) "goods" includes-

1. vessels, aircrafts and vehicles;
2. stores;
3. baggage;
4. currency and negotiable instruments; and
5. any other kind of movable property;

(23) "import", with its grammatical variations and cognate expressions, means bringing into India from a place outside India;

(26) "importer", in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes <sup>22</sup> [any owner, beneficial owner] or any person holding himself out to be the importer;

(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;

(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 of the Customs Act 1962.

**k) 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.*

**l) Section 11A (a) of the Customs Act, 1962;**

*(a) 'illegal import' means the import of any goods in contravention of the provisions of this Act or any other law for the time being in force.*

**m) Section 77 of the Customs Act 1962:**

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

**n) Section 110 of Customs Act, 1962:**

*If the proper officer has reason to believe that any goods are liable to confiscation under this Act, he may seize such goods.*

**xv. Section 111 of Customs Act, 1962: Confiscation of improperly imported goods, etc. The following goods brought from a place outside India shall be liable to confiscation: -**

.....  
*(d) any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;*

.....  
*(i) any dutiable or prohibited goods found concealed in any manner in any package either before or after the unloading thereof;*

(j) any dutiable or prohibited goods removed or attempted to be removed from a customs area or a warehouse without the permission of the proper officer or contrary to the terms of such permission;

.....

(l) any dutiable or prohibited goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77;

(m) any goods which do not correspond in respect of value or in any other particular with the entry made under this Act or in the case of baggage with the declaration made under section 77 in respect thereof, or in the case of goods under trans-shipment, with the declaration for trans-shipment referred to in the proviso to sub-section (1) of section 54;

**xvi. Section 112. Penalty for improper importation of goods, etc.-**

Any person,-

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

(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111,

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 not exceeding the value of the goods or five thousand rupees, 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 goods in respect of which the value stated in the entry made under this Act or in the case of baggage, in the declaration made under section 77 (in either case hereafter in this section referred to as the declared value) is higher than the value thereof, to a penalty not exceeding the difference between the declared value and the value thereof or five thousand rupees, whichever is the greater;

(iv) in the case of goods falling both under clauses (i) and (iii), to a penalty not exceeding the value of the goods or the difference between the declared value and the value thereof or five thousand rupees, whichever is the highest;

(v) in the case of goods falling both under clauses (ii) and (iii), to a penalty not exceeding the duty sought to be evaded on such goods or the difference between the declared value and the value thereof or five thousand rupees], whichever is the highest.

**xvii. Section 117- Penalties for contravention, etc., not expressly mentioned.**

Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding [one lakh rupees] [ Substituted by Act 18 of 2008, Section 70, for " ten thousand rupees" ].

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

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

**xviii. Section 123. 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.

**xix.** 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.

**xx.** Customs Notification No. 50 /2017 -Customs dated 30.06.2017, as amended, issued by the Central Government; and RBI Circular No. 25 dated 14.08.2013 [RBI/2013-14/187, AP (DIR Series)] permit the import of gold into India by eligible passenger/specified entities, subject to certain conditions.

**xxi.** In terms of the Circular No. 34/2013-Cus. issued by the Directorate General of Export Promotion vide F. No. DGEP/EOU/G & J/16/2009 dated 04.09.2013, import of gold is restricted and gold is permitted to be imported only by the agencies notified by DGFT which are as follows:

- a)** Metals and Minerals Trading Corporation Limited (MMTC);
- b)** Handicraft and Handloom Export Corporation (HHEC);
- c)** State Trading Corporation (STC);
- d)** Project and Equipment Corporation of India Ltd. (PEC);
- e)** STC Ltd.;
- f)** MSTC Ltd.;
- g)** Diamond India Ltd. (DIL);
- h)** Gems and Jewellery Export Promotion Council (G & J EPC);
- i)** A star Trading House or a Premier Trading House under Paragraph 3.10.2 of the Foreign Trade Policy and
- j)** Any other authorized by Reserve Bank of India (RBI).

Hence, the import of gold by any other persons/agencies other than the above mentioned is restricted in terms of the Circular No. 34/2013-Cus. issued by the Directorate General of Export Promotion and the same is liable to be confiscation under the Customs Act, 1962.

Further, CBIC's instructions issued vide F. No. 495/6/97-Cus. VI dated 06.05.1996 and reiterated in letter F. No. 495/19/99-Cus VI dated 11.04.2000

clearly states that the import of goods in commercial quantity would not be permissible within the scope of the Baggage Rules, even on payment of duty.

**18.2** A combined reading of the above mentioned legal provisions under the Foreign Trade (Development and Regulation) Act, 1992 and the Customs Act, 1962, read with the notification and orders issued there under, it appears that certain conditions have been imposed on the import of gold into India as a baggage by a passenger, in as much as, only passengers complying with certain conditions such as he/she should be of Indian origin or an Indian passport holder with minimum six months of stay abroad etc. can only import gold in any form and the same has to be declared to the Customs at the time of their arrival and applicable duty has to be paid in foreign currency. These conditions are nothing but restrictions imposed on the import of gold or gold jewellery through passenger baggage. The Hon'ble Supreme Court of India in the case of Sheikh Mohd. Omer Vs Collector of Customs, Calcutta, reported in 1983 (13) ELT 1439, clearly laid down that any prohibition applies to every type of prohibitions which may be complete or partial and even a restriction on import is to an extent, a prohibition. Hence, the restriction imposed on import of gold through passenger baggage is to an extent, a prohibition.

#### **19. SUMMARY OF THE INVESTIGATION:-**

**19.1** From the investigation conducted so far, it appears that:

(a) During the search of the baggage of the passengers intercepted outside Kalupur Railway Station on 07.06.2023, two passengers working for Aangadiya firm - M/s. Patel Amrut Kantilal Angadiya were found in possession of certain amount of foreign origin gold. The said gold was subsequently detained on the reasonable belief that the same are liable for confiscation under the provisions of the Customs Act, 1962.

(b) As per the labels present on the parcels of the gold detained on 07.06.2023 and documents submitted by Shri Amrutbhai Harjivandas Patel, Partner of M/s. Patel Amrut Kantilal Angadiya during his statement dated 23.06.2023, it appeared that: (i) one cut piece of gold bar having total weight of 52.120 grams having Valcumbi Suisse marking was being sent by Shri Dipankar Ghosh to M/s. Bharat Chain, Ahmedabad. (ii) 02 gold bars having total weight 200 grams having Argor Heraeus SA markings were being sent by Shri Amish V. Malji of M/s. V. Navinchandra Hirachand Malji Jcwellers & Co. to M/s. Pahini Jewellery Ltd, Ahmedabad.

(c) Shri Kartikey Vasantray Soni, Gold Assayer, examined the said gold in presence of independent panchas and the representative of the Aangadiya firm and certified the purity of Gold, weight, rate of gold vide his valuation report dated **28.08.2023 (RUD-5)** ascertained that the said cut piece of gold bar of 52.120 grams pertaining to Shri Dipankar Ghosh and two gold bars of total weight 200 grams pertaining to Shri Amish V. Malji are of foreign origin and their fair value as per market rate are Rs. 3,15,326/- and Rs.12,10,000/- respectively.

(d) The said foreign origin gold, i.e. 52.120 grams pertaining to Shri Dipankar Ghosh and foreign origin gold, i.e., 200 grams pertaining to Shri Amish V. Malji appear to be smuggled goods as Shri Dipankar Ghosh and Shri Amish V. Malji informed that they do not possess any documents relating to import of the said gold. Therefore, the said gold pertaining to Shri Dipankar Ghosh and Shri Amish V. Malji were placed under seizure vide Seizure Memos dated 25.10.2023 (**RUD- 6 & 7**) under the provisions of Section 110 of Customs Act, 1962, on the reasonable belief that the same were liable to confiscation under the provisions of Customs Act, 1962.

(e) Statement of the Shri Dipankar Ghosh was recorded u/s 108 of the Customs Act, 1962 in which he admitted that he was aware that the said gold was of foreign origin but he does not have import documents pertaining to the said gold. He also stated that sometimes they purchase gold from persons who come to their shop to sell gold in retail based on purity and rate, however, he was not provided any import documents or invoice by the said person. He also stated that it is possible that such persons might have smuggled the said gold from any Airport. He also admitted that he is owner of the seized goods.

(f) Statement of the Shri Amish Malji was recorded u/s 108 of the Customs Act, 1962 in which he stated that it is possible that the said goldbars might be smuggled in India as they had purchased the gold bars from various persons who sell gold and jewellery in retail. Further he stated that it might be possible that they had brought in the said gold from Mumbai or Surat Airport. On being asked about the Import documents for the import of the said foreign origin gold bar of 200 gms, he stated that they do not have the import documents for the same and it is difficult to get it from the retailers. He also accepted that his firm is owner of the seized gold.

(g) Statements of the intended recipients of the gold, i.e. Shri Injamul Haque Sarkar of M/s. Bharat Chain (intended recipient of 52.120 grams

gold sent by Shri Dipannkar Ghosh) and Shri Miteshbhai Devendrabhai Shah of M/s. Pahini Jewellery Limited (intended recipient of 200 grams gold sent by Shri Amish V. Malji, of M/s. V. Navinchandra Hirachand Malji Jewellers & Co.) were recorded u/s 108 of the Customs Act, 1962 during which they stated that they were not aware of the origin of the said gold and they had also not made any payment in respect of the said gold.

(h) From the above, it thus appears that the said foreign origin gold, i.e. one cut piece of gold bar of 52.120 grams of Shri Dipankar Ghosh and 2 gold bars of 200 grams of Shri Amish V. Malji are smuggled goods in terms of Section 2(39) of Customs Act, 1962.

(i) The burden of proving that the Gold seized from the Aangadiya- M/s. Patel Amrut Kantilal Angadiya under Panchnama dated 07.06.2023 are not smuggled goods, lies on Shri Dipankar Ghosh and Shri Amish V. Malji respectively. It appears that during the investigation, both of them have failed to provide proof that the said foreign origin gold, i.e. 52.120 grams pertaining to Shri Dipankar Ghosh and 200 grams pertaining to Shri Amish V. Malji are not smuggled goods. Thus, it appears that the said foreign origin gold weighing 252.120 grams in total valued at Rs. 15,25,326/- (Fifteen Lakhs Twenty-Five Thousand Three Hundred Twenty-Six only) are liable for confiscation under the provisions of Section 111(d), 111(j), 111(l) and 111(m) of Customs Act, 1962.

## **20. ROLES PLAYED:-**

### **20.1 Shri Dipankar Ghosh: -**

Shri Dipankar Ghosh, proprietor of M/s. Vishwakarma Cutting Press, Anand had in his intial statement dated 22/01/2024 stated that the said cut piece of foreign origin gold bar of 52.120 grams was given to him for making gold chain by Shri Jigarbhai Rana of M/s. Kusum Jewellers, who had ordered a specific design for the gold chain for which a special machine was required. For the said purpose, he had contacted M/s. Bharat Chain, Ahmedabad to make the gold chain as they had the required machine to make the said design of the gold chain. He had handed over the said gold piece of 52.12 grams to M/s. Patel Amrut Kantilal Angadiya for delivery to M/s. Bharat Chain in the evening of 06.06.2023. Further, on being asked about as to whether the said gold piece was smuggled in India, he stated that he had no idea about that and that they were to merely make the gold chain from the gold provided to them by M/s. Kusum Jewellers, Anand. On being asked, he stated that M/s. Kusum Jewellers is one of their

regular customers. He also stated that they had never been provided any import documents for the gold by M/s. Kusum Jewellers. Later in his statement dated 18/03/2024 on being shown the statement of Shri Jigarkuma Rana of M/s. Kusum Jewellers he changed his version that he had purchased the said foreign origin gold of 52.120 grams from person who come to their shops to sell gold in retail. Thus, it emerges that he had intentionally tried to mislead the investigation by presenting wrong facts. He failed to provide proof that the said foreign origin gold of 52.120 grams. Further, he admitted that that he purchased as the same was available to him at cheaper rates. He admitted that he was aware that the said gold is of foreign origin. It appears that Shri Dipankar Ghosh had knowingly indulged/concerned himself in purchase of said foreign origin gold and acquiring the possession of the foreign origin gold of 52.120 grams. Further, as per Section 123 (1) of the Customs Act, the burden of proof lies on Shri Dipannkar Ghosh to establish that the said gold is not smuggled good, which he has failed to provide. He had thus acquired possession and had concerned himself in dealing with the cut piece of Gold Bar which he knew or had reason to believe are liable to confiscation under Section 111 of the Customs Act, 1962. It appears that Shri Dipankar Ghosh is culpable and the act of omission and commission made on his part for the smuggling of gold which are liable for confiscation, has rendered him liable for penalty under Section 112(a), 112(b) & 117 of the Customs Act, 1962.

## **20.2 Shri Amish V. Malji and M/s. V. Navinchandra Hirachand Malji Jewellers & Co.**

Shri Amish V. Malji, authorised signatory of M/s. V.Navinchandra Hirachand Malji Jewellers & Co admitted that he is handling all day to day work related to sale and purchase of gold bars and gold & silver jewellery, accounts etc. He also admitted that it is possible that the said goldbars might be smuggled in India as they had purchased the gold bars from various persons who sell gold and jewellery in retail. It appears that Shri Amish V. Malji has knowingly concerned himself in purchase of foreign origin gold bars of 200 grams. Neither Shri Amish V. Malji nor M/s. V. Navinchnadra Hirachand Malji Jewellers (being beneficial owner of the said gold) were able to produce documents evidencing legitimate import of the said Gold seized. In tems of provisions of Section 123 of the Customs Act, the burden of proof lies on Shri Amish V. Malji & M/s. V. Navinchandra Hirachand Malji Jewellers to establish that the said gold bars are not smuggled goods, which he has failed to provide. They had sent this foreign origin gold in lieu of previously obtained jewellery in the past from M/s. Pahini Jewellery. It appears that M/s. V. Navinchandra Hirachand Malji Jewellers had deliberately dealt with the said goods, i.e. foreign origin gold bars weiging 200

grams which they knew and could not provide legitimate documents of import and the said goods which were liable for confiscation under Section 111 of the Customs Act, 1962. Thus Shri Amish V. Malji, authorised signatory of M/s. V. Navinchandra Hirachand Malji Jewellers & Co and M/s. V. Navinchandra Hirachand Malji Jewellers & Co were owner of the goods had acquired possession and had concerned themselves in dealing with the Gold bars which they knew or had reason to believe are liable to confiscation under section 111 of the Customs Act, 1962. It appears that Shri Amish V. Malji & M/s. V. Navinchandra Hirachand Malji Jewellery are culpable and the acts of omission and commission made on their part for indulging in dealing, purchasing, selling of the said foreign origin gold bars weighing 200 grams which are liable for confiscation, has rendered them liable for penalty under Section 112(a), 112(b) & 117 of the Customs Act, 1962.

**20.3. M/s. Patel Amruthbai Kantilal Angadia and their Employees:-**

M/s. Patel Amruth Kantilal Angadia through their employees Shri K.K. Thakor and Shri N.J. Patel, had concerned them by dealing with carrying the foreign origin gold weighing 52.120 grams from Shri Dipankar Ghosh and 200 grams of foreign origin gold weighing 200 grams from Shri Amish V. Malji of M/s. V. Navinchandra Hirachand Malji without verifying the legitimate documents of import of such foreign origin gold from respective senders. Further, they admitted that they cannot accept the parcels containing foreign origin gold for transport. It appears that failed in their obligation to report the possession of foreign origin gold which are liable for confiscation under Section 111 of the Customs Act, to respective revenue authorities. By indulging themselves in such acts of omission and commission, they rendered them liable for penal action under Section 112(a), 112(b) & 117 of the Customs Act, 1962.

**21.** The documents relied upon in the investigation are listed in the **Annexure-R** to this Notice.

**22.** The cut piece of gold bar of foreign origin gold weighing 52.120 grams of Shri Dipankar Ghosh and 02 bars of foreign origin gold weighing 200 grams belonging to M/s. V. Navinchandra Hirachand Malji Jewellers and Co., and valued at Rs. 3,15,326/- and Rs. 12,10,000/- respectively, were seized from the employees of Aangadiya- M/s. Patel Amruth Kantilal Angadia, outside Kalupur Railway Station, Ahmedabad. Thus, in terms of Section 122 of Customs Act, 1962, the SCN issuing authority is Joint/ Additional Commissioner of Customs, Ahmedabad.

**23.** Therefore, view of above, M/s. Patel Amrut Kantilal Angadia (along with its Partner Shri , 71, Ghanchi Ni Pole, Madangopal Haveli Road, Manekchowk, Ahmedabad, Guajrat; Shri Dipankar Ghosh, proprietor of M/s. Vishwakarma Cutting Press, Mathiya Chora, Choksi Bazar, Anand, Resident of 604, Samruddhi Complex, Jivandeep Colony, Anand- 388001; Shri Amish V. Malji, Authorised Signatory of M/s. V. Navinchandra Hirachand Malji Jewellers and Co.; Resident of 6, Avkar, Sarjan Society, Opp. Sargam Shopping Center, parle point, Surat- 395007 and M/s. V. Navinchandra Hirachand Malji Jewellers and Co., Shop No.1 /2, Harsh Co-Op HSG Society, Ram Chowk, Ghod DOD Road, Surat are hereby called upon to show cause in writing to the Additional Commissioner of Customs, having his office located at 2nd Floor, 'Custom House' Building, Near All India Radio, Navrangpura, Ahmedabad-380 009, as to why:-

- a)** One cut piece of gold bar of foreign origin, weighing 52.120 grams in total, valued at Rs. 3,15,326/- (Three Lakhs Fifteen Thousand Three Hundread & Twenty Six Only) pertaining to Shri Dipankar Ghosh, Anand placed [under seizure vide Seizure Memo (DIN-202310DDZ1000000B6CA) dated 25.10.2023], should not be absolutely confiscated under the provisions of Section 111(d), 111(j), 111(l) and 111(m) of the Customs Act, 1962;
- b)** Two gold bars of foreign origin, weighing 200 grams in total, valued at Rs. 12,10,000/- (Twelve Lakhs and Ten Thousand Only) pertaining to Shri Amish V. Malji, M/s. V. Navinchandra Hirachndra Malji Jewellers & Co. [placed under seizure vide Seizure Memo (DIN-202310DDZ1000000E192) dated 25.10.2023. (RUD-7)], should not be absolutely confiscated under the provisions of Section 111(d), 111(j), 111(l) and 111(m) of the Customs Act, 1962.
- c)** Penalty should not be imposed on Shri Dipankar Ghosh, proprietor of M/s. Vishwakarma Cutting Press, Mathiya Chora, Choksi Bazar, Anand, Resident of 604, Samruddhi Complex, Jivandeep Colony, Anand- 388001 under section 112 (a) and 112 (b) of the Customs Act, 1962;
- d)** Penalty should not be imposed on Shri Dipankar Ghosh, proprietor of M/s. Vishwakarma Cutting Press, Mathiya Chora, Choksi Bazar, Anand, Resident of 604, Samruddhi Complex, Jivandeep Colony, Anand- 388001 under section 117 of the Customs Act, 1962;
- e)** Penalty should not be imposed on Shri Amish V. Malji, Authorised Signatory of M/s. V. Navinchandra Hirachand Malji Jewellers and Co.; Resident of 6, Avkar, Sarjan Society, Opp. Sargam Shopping Center, parle point, Surat- 395007 under section 112 (a) and 112 (b) of the Customs Act, 1962;

- f) Penalty should not be imposed on Shri Amish V. Malji, Authorised Signatory of M/s. V. Navinchandra Hirachand Malji Jewellers and Co.; Resident of 6, Avkar, Sarjan Society, Opp. Sargam Shopping Center, parle point, Surat- 395007 under section 117 of the Customs Act, 1962;
- g) Penalty should not be imposed on M/s. V. Navinchandra Hirachand Malji Jewellers and Co.,, Shop No.1 /2, Harsh Co-Op HSG Society, Ram Chowk, Ghod DOD Road, Surat under section 112 (a) and 112 (b) of the Customs Act, 1962;
- h) Penalty should not be imposed on M/s. V. Navinchandra Hirachand Malji Jewellers and Co.,, Shop No.1 /2, Harsh Co-Op HSG Society, Ram Chowk, Ghod DOD Road, Surat under section 117 of the Customs Act, 1962;
- i) Penalty should not be imposed on M/s. Patel Amrut Kantilal Angadia, 71, Ghanchi Ni Pole, Madangopal Haveli Road, Manekchowk, Ahmedabad, Guajrat under section 112 (a) and 112 (b) of the Customs Act, 1962;
- j) Penalty should not be imposed on M/s. Patel Amrut Kantilal Angadia, 71, Ghanchi Ni Pole, Madangopal Haveli Road, Manek chowk, Ahmcdabad, Gujarat under section 117 of the Customs Act, 1962;
- k) Penalty should not be imposed on Shri N.J. Patel carrier of seized goods (as mentioned in para supra) and also an employee for Aangadiya firm-M/s. Patel Amrut Kantilal & Company under section 112 (a) and 112(b) of the Customs Act, 1962;
- l) Penalty should not be imposed on Shri N.J. Patel carrier of seized goods (as mentioned in para supra) and also an employee for Aangadiya firm- M/s. Patel Amrut Kantilal & Company under section 117 of the Customs Act, 1962;
- m) Penalty should not be imposed on Shri K.K. Thakor, carrier of seized goods (as mentioned in para supra) and also an employee for Aangadiya firm-M/s. Patel Amrut Kantilal & Company under section 112 (a) and 112(b) of the Customs Act, 1962;
- n) Penalty should not be imposed on Shri K.K. Thakor, carrier of seized goods (as mentioned in para supra) and also an employee for Aangadiya firm-M/s. Patel Amrut Kantilal & Company under section 117 of the Customs Act, 1962.

**24.** The Noticee are further required to state specifically in the written reply as to whether they wishes to be heard in person before the case is adjudicated. If no specific mention is made about this in the written reply,

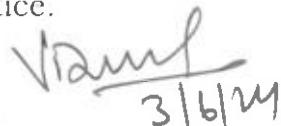
it shall be presumed that they do not wish to be heard in person. They should produce at the time of showing cause, all the evidences which he intends to reply upon in defense.

**25.** The Noticee/s, are further required to note that the reply should reach within 30 (thirty) days or within such extended period as may be allowed by the adjudicating authority. If no cause is shown against the action proposed above within 30 days from the receipt of this show cause notice or if anyone does not appear before the adjudicating authority as and when the case is posted for hearing, the case is liable to be decided ex-parte on the basis of facts and evidences available on record.

**26.** This show cause notice is issued without prejudice to any other action that may be taken against her, under this Act or any other law for the time being in force, or against any other company, person(s), goods and conveyances whether named in this notice or not.

**27.** Department reserves its right to amend, modify or supplement this notice at any time prior to the adjudication of the case. The investigating agency reserves its right to bring on record further evidence against the noticees of the Show Cause Notice and also to issue Show Cause Notice to any other person not covered in this Show Cause Notice, found to be involved, by issue of an addendum or Supplementary Show Cause Notice or Separate Show Cause Notice.

**28.** The relied upon documents for the purpose of this notice are listed in Annexure 'R' and copies thereof are enclosed with this notice.

  
3/6/24  
(Vishal Malani)  
Additional Commissioner  
Customs, Ahmedabad.

F. No. VIII/10-81/DRI-AZU/O&A/HQ/2024-25  
**DIN-20240671MN0000337653**

Dated 03.06.2024

**BY SPEED POST:**

To,

- 1) Shri Dipankar Ghosh, proprietor of M/s. Vishwakarma Cutting Press, Mathiya Chora, Choksi Bazar, Anand, Resident of 604, Samruddhi Complex, Jivandeep Colony, Anand- 388001
- 2) Shri Amish V. Malji, Authorised Signatory of M/s. V. Navinchandra Hirachand Malji Jewellers and Co., Resident of 6, Avkar, Sarjan Society, Opp. Sargam Shopping Center, parle point, Surat- 395007
- 3) M/s. V. Navinchandra Hirachand Malji Jewellers and Co., Shop No.1 /2, Harsh Co-Op HSG Society, Ram Chowk, Ghod DOD Road, Surat.

- 4) M/s. Patel Amrut Kantilal Angadia, 71, Ghanchi Ni Pole, Madangopal Haveli Road, Manekchowk, Ahmedabad, Guajrat.
- 5) Shri K.K. Thakor, c/o M/s. Patel Amrut Kantilal Angadia, 71, Ghanchi Ni Pole, Madangopal Haveli Road, Manekchowk, Ahmedabad, Guajrat.
- 6) Shri N.J. Patel, c/o M/s. Patel Amrut Kantilal Angadia, 71, Ghanchi Ni Pole, Madangopal Haveli Road, Manekchowk, Ahmedabad, Guajrat.

**Copy to:**

- 1) The Principal Commissioner of Customs, Ahmedabad Commissionerate, for information please.
- 2) The Additional Director General, Directorate of Revenue Intelligence, Ahmedabad Zonal Unit, Ahmedabad
- 3) The Superintendent System In-Charge, Customs, HQ., Ahmedabad for uploading on the official web-site i.e. <http://www.ahmedabadcustoms.gov.in>.
- 4) The Deputy Commissioner, SVPIA, Ahmedabad, with request to affix the same at Notice Board at Airport (for any information to any other claimant)
- 5) Notice Board at Customs House, Ahmedabad (for any information to any other claimant)
- 6) Guard File.

**Annexure -R**  
**LIST OF RELIED UPON DOCUMENTS**

<b>RUD No.</b>	<b>Statement / RUD</b>	<b>Remarks</b>
1	Panchnama dated 07.06.2023 (Running panchnama from Kalupur Railway Station, Ahmedabad to Officer of DRI, AZU, Thaltej)	Copy enclosed (in CD)
2	Panchnama dated 07/08.06.2023 drawn at Officer of Directorate of Revenue Intelligence, Ahmedabad Zonal Unit i.r.o. examination of the baggage of the employee of M/s. Patel Amrut Kantilal Angadia	Copy enclosed (in CD)
3	Statement dated 23.06.2023 of Shri Amrutbhai Harjivandas Patel, Partner of M/s. Patel Amrut Kantilal Angadia recorded under Section 108 of the Customs Act, 1962	Copy enclosed (in CD)
4	Panchnama dated 07.08.2023, wherein Shri Kartikey Vasantrai Soni, Govt. Approved Gold Assayer, examined the detained gold in presence of independent panchas and Shri Amrutbhai Harjivandas Patel drawn at DRI office situated at Unit No. 15, Magnet Corporate Park, Near Sola Flyover, Behind Intas Corporate Building, Thaltej, Ahmedabad.	Copy enclosed (in CD)
5	Valuation Report dated 28.08.2023 given by Shri Kartikey Vasantrai Soni, Govt. approved Gold Assayer certified the purity of Gold, weight, value of gold.	Copy enclosed (in CD)
6	Seizure Memo (DIN- 202310DDZ1000000B6CA) dated 25.10.2023 i.r.o. seizure of One cut piece of gold bar of foreign origin, weighing 52.120 grams in total, valued at Rs. 3,15,326/- (Three Lakhs Fifteen Thousand Three Hundread & Twenty Six Only) pertaining to Shri Dipankar Ghosh, Anand	Copy enclosed (in CD)
7	Seizure Memo (DIN-202310DDZ1000000E192) dated 25.10.2023 i.r.o. seizure of Two gold bars of foreign origin, weighing 200 grams in total, valued at Rs. 12,10,000/- (Twelve Lakhs and Ten Thousand Only) pertaining to Shri Amish V. Malji, M/s. V. Navinchandra Hirachandra Malji Jewellers & Co.	Copy enclosed (in CD)
8	Panchnama dated 07.12.2023, recorded the release of Indian Origin Gold to M/s Patel Amrut Kantilal Angadiya, drawn at DRI Office situated at Unit No. 15, Magnet Corporate Park, Near Sola Flyover, Behind Intas Corporate Building, Thaltej, Ahmedabad.	Copy enclosed (in CD)
9	Statement dated 22.01.2024 of Shri Dipankar Ghosh, Proprietor of M/s. Vishwakarma Cutting Press recorded under Section 108 of the Customs Act, 1962 .	Copy enclosed (in CD)
10	Statement dated 24.01.2024 of Shri Injamul Haque Sarkar, Proprietor of M/s. Bharat Chain recorded under Section 108 of the Customs Act, 1962	Copy enclosed (in CD)
11	Statement dated 15.02.2024 of Shri Jigarkumar Arvindbhai Rana, proprietor of M/s. Kusum Jewellers recorded under Section 108 of the Customs Act, 1962.	Copy enclosed (in CD)
12	Statement dated 18.03.2024 of Shri Dipankar Ghosh, Proprietor of M/s. Vishwakarma Cutting Press recorded under Section 108 of the Customs Act, 1962 .recorded under section 108 of the Customs Act, 1962.	Copy enclosed (in CD)
13	Statement dated 25.01.2024 of Shri Amish Malji, Authorised Signatory of M/s. V. Navinchandra Hirachand Malji Jewellers & Co. recorded under Section 108 of the Customs Act, 1962.	Copy enclosed (in CD)
14	Statement dated 25.01.2024 of Shri Miteshbhai Devendrabhai Shah, Director of M/s. Pahini Jewellery Limited was recorded on 25.01.2024	Copy enclosed (in CD)
15	<b>Letter dated 01.12.2023, granting extension for period of six months for issuance of Show Cause Notice i.r.o. Seized goods in terms of the first proviso of Section 110(2) of the Customs Act, 1962</b>	Copy enclosed (in CD)