



सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद
OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD,
चौथी मंज़िल 4th Floor, हडको भवन HUDCO Bhawan, ईश्वर भुवन रोड Ishwar Bhuvan Road
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009
दूरभाष क्रमांक Tel. No. 079-26589281

DIN – 20250771MN000071237A

क	फाइल संख्या FILE NO.	S/49-283/CUS/AHD/24-25 S/49-284/CUS/AHD/24-25 S/49-285/CUS/AHD/24-25
ख	अपील आदेश संख्या ORDER-IN- APPEAL NO. (सीमा शुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962):	AHD-CUSTM-000-APP-138 to 140-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	10.07.2025
ङ	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN- ORIGINAL NO.	Order – In – Original 222/ADC/SRV/O&A/2024-25 dated 09.01.2025
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	10.07.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	1. Shri Mahendrabhai Shambhubhai (Employee of M/s. Patel Madhavlal Maganlal & Company) Jain Dharamshala Building, Marchipole, Ratanpole, Ahmedabad 2. Shri Ramanbhai Kacharabhai Patel (Employee of M/s. Patel Madhavlal Maganlal & Company) Jain Dharamshala Building, Marchipole, Ratanpole, Ahmedabad 3. M/s. Patel Madhavlal Maganlal & Company (through Shri Hasmukhbhai H. Patel, Partner) Jain Dharamshala Building, Marchipole, Ratanpole, Ahmedabad



1	यह प्रति उस व्यक्ति के निजी उपयोग के लिए मुफ्त में दी जाती है जिनके नाम यह जारी किया गया है।
	This copy is granted free of cost for the private use of the person to whom it is issued.
2.	सीमाशुल्क अधिनियम 1962 की धारा 129 डी डी (1) (यथा संशोधित) के अधीन निम्नलिखित श्रेणियों के मामलों के सम्बन्ध में कोई व्यक्ति इस आदेश से अपने को आहत महसूस करता हो तो इस आदेश की प्राप्ति की तारीख से 3 महीने के अंदर अपर सचिव/संयुक्त सचिव (आवेदन संशोधन), वित्त मंत्रालय, (राजस्व विभाग) संसद मार्ग, नई दिल्ली को पुनरीक्षण आवेदन प्रस्तुत कर सकते हैं।
	Under Section 129 DD(1) of the Customs Act, 1962 (as amended), in respect of the following categories of cases, any person aggrieved by this order can prefer a Revision Application to The Additional Secretary/Joint Secretary (Revision Application), Ministry of Finance, (Department of Revenue) Parliament Street, New Delhi within 3 months from the date of communication of the order.
	निम्नलिखित सम्बन्धित आदेश/Order relating to :
(क)	बैगेज के रूप में आयातित कोई माल।
(a)	any goods imported on baggage
(ख)	भारत में आयात करने हेतु किसी वाहन में लादा गया लेकिन भारत में उनके गन्तव्य स्थान पर उतारे न गए माल या उस गन्तव्य स्थान पर उतारे जाने के लिए अपेक्षित माल उतारे न जाने पर या उस गन्तव्य स्थान पर उतारे गए माल की मात्रा में अपेक्षित माल से कमी हो।
(b)	any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination.
(ग)	सीमाशुल्क अधिनियम, 1962 के अध्याय X तथा उसके अधीन बनाए गए नियमों के तहत शुल्क वापसी की अदायगी।
(c)	Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.
.3	पुनरीक्षण आवेदन पत्र संगत नियमावली में विनिर्दिष्ट प्रारूप में प्रस्तुत करना होगा जिसके अन्तर्गत उसकी जांच की जाएगी और उस के साथ निम्नलिखित कागजात संलग्न होने चाहिए :
	The revision application should be in such form and shall be verified in such manner as may be specified in the relevant rules and should be accompanied by :
(क)	कोर्ट फी एक्ट, 1870 के मद सं. 6 अनुसूची 1 के अधीन निर्धारित किए गए अनुसार इस आदेश की 4 प्रतियां, जिसकी एक प्रति में पचास पैसे की न्यायालय शुल्क टिकट लगा होना चाहिए।
(a)	4 copies of this order, bearing Court Fee Stamp of paise fifty only in one copy as prescribed under Schedule 1 item 6 of the Court Fee Act, 1870.
(ख)	सम्बद्ध दस्तावेजों के अलावा साथ मूल आदेश की 4 प्रतियां, यदि हो
(b)	4 copies of the Order-in-Original, in addition to relevant documents, if any
(ग)	पुनरीक्षण के लिए आवेदन की 4 प्रतियां
(c)	4 copies of the Application for Revision.
(घ)	पुनरीक्षण आवेदन दायर करने के लिए सीमाशुल्क अधिनियम, 1962 (यथा संशोधित) में निर्धारित फीस जो अन्य रसीद, फीस, दण्ड, जब्ती और विविध मदों के शीर्ष के अधीन आता है में रु. 200/- (रुपए दो सौ मात्र) या रु. 1000/- (रुपए एक हजार मात्र), जैसा भी मामला हो, से सम्बन्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दो प्रतियां। यदि शुल्क, मांगा गया ब्याज, लगाया गया दंड की राशि और रुपए एक लाख या उससे कम हो तो ऐसे फीस के रूप में रु. 200/- और यदि एक लाख से अधिक हो तो फीस के रूप में रु. 1000/-
(d)	The duplicate copy of the T.R.6 challan evidencing payment of Rs.200/- (Rupees two Hundred only) or Rs.1,000/- (Rupees one thousand only) as the case may be, under the Head of other receipts, fees, fines, forfeitures and Miscellaneous Items being the fee prescribed in the Customs Act, 1962 (as amended) for filing a Revision Application. If the amount of duty and interest demanded, fine or penalty levied is one lakh rupees or less, fees as Rs.200/- and if it is more than one lakh rupees, the fee is Rs.1000/-.



4.	मद सं. 2 के अधीन सूचित मामलों के अलावा अन्य मामलों के सम्बन्ध में यदि कोई व्यक्ति इस आदेश से आहत महसूस करता हो तो वे सीमाशुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म सी.ए.-3 में सीमाशुल्क, केन्द्रीय उत्पाद शुल्क और सेवा कर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील कर सकते हैं				
	In respect of cases other than these mentioned under item 2 above, any person aggrieved by this order can file an appeal under Section 129 A(1) of the Customs Act, 1962 in form C.A.-3 before the Customs, Excise and Service Tax Appellate Tribunal at the following address :				
	<table border="1"> <tr> <td>सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ</td><td>Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench</td></tr> <tr> <td>दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016</td><td>2nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016</td></tr> </table>	सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2 nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench				
दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2 nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016				
5.	सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (6) के अधीन, सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (1) के अधीन अपील के साथ निम्नलिखित शुल्क संलग्न होने चाहिए-				
	Under Section 129 A (6) of the Customs Act, 1962 an appeal under Section 129 A (1) of the Customs Act, 1962 shall be accompanied by a fee of -				
(क)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए या उससे कम हो तो एक हजार रूपए.				
(a)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;				
(ख)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पाँच हजार रूपए				
(b)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees ;				
(ग)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रूपए से अधिक हो तो; दस हजार रूपए.				
(c)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees				
(घ)	इस आदेश के विरुद्ध अधिकरण के सामने, मांगे गए शुल्क के %10 अदा करने पर, जहां शुल्क या शुल्क एवं दंड विवाद में हैं, या दंड के %10 अदा करने पर, जहां केवल दंड विवाद में है, अपील रखा जाएगा।				
(d)	An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.				
6.	उक्त अधिनियम की धारा 129 (ए) के अन्तर्गत अपील प्राधिकरण के समक्ष दायर प्रत्येक आवेदन पत्र- (क) रोक आदेश के लिए या गलतियों को सुधारने के लिए या किसी अन्य प्रयोजन के लिए किए गए अपील : - अथवा (ख) अपील या आवेदन पत्र का प्रत्यावर्तन के लिए दायर आवेदन के साथ रुपये पाँच सौ का शुल्क भी संलग्न होने चाहिए.				
	Under section 129 (a) of the said Act, every application made before the Appellate Tribunal- (a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or (b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.				



ORDER IN APPEAL

M/s Patel Madhavlal Maganlal & Company [Noticee No 4] and its two employees Shri Mahendrabhai Shambhubhai [Noticee No 5] and Shri Ramanbhai Kacharabhai Patel [Noticee No 6],[referred to as 3 Appellants] have filed appeals against O-I-O No. 222/ADC/SRV/O&A/2024-25 dated 09.01.2025 (hereinafter referred to as 'impugned order') passed by Additional Commissioner of Customs, Ahmedabad (hereinafter referred to as the 'adjudicating authority') against penalty imposed under Section 112 (b) and 117 of Customs Act 1962.

2. Facts of the case in brief are that acting on specific intelligence that certain individuals associated with various Angadiya firms, arriving from Mumbai aboard the Saurashtra Mail train (No. 22945), might be carrying smuggled gold and other contraband/high-value goods, officers of the Directorate of Revenue Intelligence (DRI) conducted surveillance and intercepted 15 passengers in the 'Pick-Up' area outside the Railway Station at approximately 04:50 hrs. on 07.06.2023. These passengers were found carrying multiple bags and, upon inquiry, stated that they were working for different Angadiya firms. Considering the volume of baggage and for operational safety, the officers, with the consent of the passengers, escorted them to the DRI Ahmedabad Zonal Unit office for detailed examination of their belongings. The entire proceedings were recorded in the presence of independent panchas, and a Panchnama dated 07.06.2023 was drawn accordingly. The examination of the baggage was carried out separately in different rooms under respective Panchnamas of the same date. During the examination of the baggage belonging to two passengers, namely Shri Patel Mahendrabhai Shambhubhai (resident of 7/90, Brahmanvas, Balol, Mehsana, Gujarat) and Shri Ramanbhai Kacharabhai Patel (resident of A-31, Swami Vivekanand Nagar, Patan Road, Unjha, Mehsana, Gujarat – 384170), both stated to be employees of M/s Patel Madhavlal Maganlal & Company (Angadia firm), the officers discovered various parcels in their bags. Each parcel was individually opened, examined, and an inventory of all the goods was meticulously prepared. Upon completion of the examination, certain parcels were found to contain gold, which appeared to be of foreign origin. As the individuals were unable to produce any documents to establish legitimate import of the said goods, the goods in question were reasonably believed to be smuggled, and proceedings were initiated accordingly.

2.1 The details of said gold, as identified vide the markings on the gold and labels of the parcels are given in Table-I of the impugned O-I-O dated 09-01-2025 as under:-

TABLE-I

S. No.	Description as mentioned on packet	Weight	Sender	Addressed to
1	2 Yellow colour bars (Without markings)	3286.160g ms (as per	Kalamandir, Surat	Auro Metal Refinery Pvt. Ltd, Suruchi

		packing list)		House 10,44, Parimal Soc B/H Docter House Ellis Bridge, Ahmedabad.
2	8 Yellow colour Bars having markings Argor Heraeus SA Switzerland 100 g, Melter Assayer 999.0 followed by serial number (The serial number is partially scratched)	100gms each	Jainam	Nevil Soni , Ahmedabd
3	8 Yellow colour Bars having markings sam 100 g Gold, 999.0 followed by serial number (The serial number is partially scratched)	100gms each	Jainam	Nevil Soni , Ahmedabd
4	2 Yellow Colour Bars having markings valcambi Suisse 100g gold 999.0 followed by serial number (The serial number is partially scratched)	100gms each	Jainam	Nevil Soni , Ahmedabd
5	1 Yellow colour Bar having markings UBS 100 g gold 999.0 Switzerland Melter Assayer followed by serial number (The serial number is partially scratched)	100 gms	Jainam	Nevil Soni , Ahmedabd
6	1 Yellow colour bar having markings PAMP MMTC 100g GOLD 999.0 Melter Assayer followed by serial number (The serial number is partially scratched)	100 gms	Jainam	Nevil Soni , Ahmedabd
7	1 Yellow Colour Bar (Without markings) of irregular shape	489.480 gms as per voucher	Pradeep bhai, Solanki Jewellers	Abhishek bhai, 1328, Mandui Ni Pole Matawalo khancho Hari kishandas sheth Ni Pole, Astodia, Ahmedabad
8	3 Yellow colour Piece (Without markings) concealed in Indian Currency of irregular shape	262.009 gms as mentioned on the packing material. Indian Currency value Rs 22750/-	Gemcraft , Mumbai Contact No. 9819780002	Dhanlaxmi Chain, Jitu Bhai, C.G Road, Ahmedabad Contact No. 9998190884
9	2 Yellow colour Bars 'RRG'	1 (100 gms) and 1 (50 gms) as per invoice	Damodar as Jewellers, Alkapuri Arcade, R.C. Dutt Road, Vadodara-390005	Jaykumar Labhchandra Mandalia, 120, Zaveri Chambers, Ratan Pole, Manek Chowk, Ahmedabad-380001
10	1 Yellow colour Bar 'RRG'	100 gms as per invoice	Damodardas Jewellers, Alkapuri Arcade, R.C. Dutt Road,	Pramukh Jewellers, 1139-A, Pagathiyawalo Khancho, Devji Saraiyani pole, Manek Chowk,



[Handwritten signature]

			Vadodara-390005,	Ahmedabad-380001
11	1 Yellow colour Bar 'RRG'	100 gms as per invoice	Damodardas Jewellers, Alkapuri Arcade, R.C. Dutt Road, Vadodara-390005,	RBZ Jewellers Pvt Ltd, Block D, Ondeal Retail Park, Nr Rajpath Club, SG Highway, Ahmedabad - 380054
12	1 Yellow colour Bar 'JDR'	100 gms as per markings on the gold	RB	Shilp Jewellers
13	5 Yellow colour pieces of irregular shape along with Indian Currency	7.81 gms as per the slip found inside the parcel. Indian Currency Rs. 1100/-	Laxmi Gold	Gujarat Gold Centre
14	1 Yellow colour piece of irregular shape	Not found	Kalamandir, Surat	Aura Metal Refinery Pvt Ltd

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

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

2.1 During the course of investigation, Shri Hasmukhbhai Patel, Partner of M/s Patel Madhavlal Maganlal & Company, voluntarily appeared before the Senior Intelligence Officer, DRI, Ahmedabad Zonal Unit on 15.06.2023, and his statement was recorded on the same day. In his statement, Shri Patel stated that M/s Patel Madhavlal Maganlal & Company is a partnership firm established in 1974, located at Jain Dharamshala Building, Marchipole, Ratanpole, Ahmedabad, and is engaged in the Angadia (courier) business. The firm specializes in the courier of various goods, including precious and valuable items, documents, gems and jewellery, diamonds, etc., from one location to another as specified by the sender. For these services, the firm charges GST at the applicable rate of 18% in accordance with the CGST Rules and Regulations. He further stated that the firm's pickup vehicles also visit customers' offices to collect parcels. In most cases involving precious items, the parcels are sealed by the sender before being handed over, and the firm relies on the description provided on the parcel by the sender. The freight is charged based on the value declared by the sender. Upon accepting a sealed parcel for delivery, the firm issues a receipt which contains printed terms and conditions, including a specific clause stating that prohibited papers, chits, offending goods, or items banned by the Government for transportation are not accepted, and if any such items are found inside the parcel, responsibility lies



solely with the sender. He clarified that in cases involving cash, if the amount is later found to be unaccounted, the firm shall not be held liable, and it would again be the responsibility of the sender. The firm generally insists on obtaining invoices or delivery challans from customers; however, many customers inform that the same is either enclosed inside the parcel or affixed outside. The delivery of parcels is done either at the customer's premises or, in urgent situations, customers collect them directly from the firm's destination branch office. The firm does not accept parcels containing foreign currency or gold of foreign origin in bar or any other form. However, there may be instances where customers intentionally mis-declare the description and nature of goods in sealed parcels without informing the firm, and such mis-declaration is beyond the firm's knowledge or control. He also confirmed that Noticee No. 4 (the firm) possesses a valid GST registration and PAN issued by the Income Tax Department, and maintains its business books of account in compliance with applicable laws

2.2 However, Shri Hasmukhbhai Patel, the proprietor of the Angadia firm M/s Patel Madhavlal Maganlal & Company, was unable to produce any documents related to the gold bars listed at Serial Nos. 2, 3, 4, 5, and 6 of Table-I, as the customers (senders/recipients) had not provided any documentation at the time of dispatch. He assured the investigating officers that he would once again contact the concerned customers to obtain and submit the relevant documents pertaining to the aforementioned gold bars. Pursuant to this, during the course of investigation, the business premises of M/s Shree Jainam Jewels—identified by the Angadia firm as the sender of the parcels listed at Serial Nos. 2 to 6 of Table-I and as per the labels on the parcels—was searched under Panchnama dated 21.06.2023. The premises are located at 51/53, Saas Bahu Plaza, 3rd Floor, 36A, Opposite Mangal Murti Temple, Vithalwadi, Kalbadevi Road, Mumbai-400002. At the time of search, Shri Mahipal Jain (father of Shri Jaiman Jain, proprietor of M/s Shree Jainam Jewels), and Shri Dashrath Kumar, the firm's principal employee, were present. Shri Mahipal Jain stated that his son Shri Jaiman Jain is the proprietor of M/s Shree Jainam Jewels, which is engaged in the business of gold bullion marketing and trading in gold jewellery. During the search, in the presence of independent panchas, both Shri Mahipal Jain and Shri Dashrath Kumar denied having handed over any parcels to any representative of M/s Patel Madhavlal Maganlal & Company on 06.06.2023. To verify the claim, the officers called Shri Dayabhai Babbaldas Patel, an employee of M/s Patel Madhavlal Maganlal & Company, to the premises. In the presence of independent witnesses, Shri Dayabhai Patel affirmed that he had personally collected two parcels from Shri Dashrath Kumar on 06.06.2023 and also positively identified Shri Dashrath Kumar at the spot. Despite this identification, Shri Dashrath Kumar continued to deny having handed over any parcel to any person from the Angadia firm.

2.3 The residential premises of Shri Nevil Soni, the intended recipient of the parcels as per records of the Angadia firm, located at BH-1A, 234, Apna Nagar, Near Ambaji Temple, Gandhidham, Kutch - 370201, were searched on 21.06.2023 under



Panchnama of the same date. During the search, Shri Nevil Soni informed the officers that he, along with his father Shri Kantilal Soni, is primarily engaged in the property agency business. Subsequently, Shri Nevil Soni appeared before the Senior Intelligence Officer, DRI, Ahmedabad Zonal Unit (Regional Unit -- Gandhidham), on 21.06.2023, in response to a summons issued to him. In his statement, he confirmed that he uses mobile numbers 8758429797 and 8238979797. He further stated that M/s R.K. & Company is a proprietorship firm, with his father Shri Kantilal Soni as the proprietor, and that he, his father, and one Shri Balbhadra Singh (engaged as office boy) are associated with the firm. He also stated that, in addition to property dealings, the firm is involved in local trading of rough gold and silver, where "rough gold" (locally referred to as 'Rani gold') is derived from melting old gold ornaments. He clarified that their firm is not involved in any import or export activities. While acknowledging awareness of M/s Patel Madhavalal Maganlal & Company, Angadia firm (with a branch in Gandhidham), he categorically stated that they have never engaged in any business transactions with the said Angadia firm and do not have contact details of any of its personnel. He also denied having purchased any gold from Murnbai and claimed to have no knowledge of any individual named Jainam. Shri Nevil Soni was shown Annexure-B of the Panchnama dated 07.06.2023, which detailed the seizure of 20 gold bars of foreign origin, weighing 2 kilograms in total, recovered from the baggage of M/s Patel Madhavalal Maganlal & Company, Ahmedabad. When confronted with the fact that these gold bars were consigned in his name and were reportedly sent by an individual named Jainam from Mumbai through the Angadia firm, Shri Nevil Soni denied any knowledge of such a person and denied any business transaction with him. He further affirmed that the said gold did not belong to him or his firm.

2.4 During investigation, on production of documents pertaining to their Indian origin gold detained under Panchnama dated 07.06.2023, except the goods mentioned at Sr. Nos. 2, 3, 4, 5 and 6 of the above Table-I, were released to the Angadia firm. The proceedings thereof were recorded under Panchnama dated 22.06.2023 in presence of independent panchas and Shri Has mukhbhai Patel, the representative of Angadia firm M/s Patel Madhavalal Maganlal & Company.

2.5 Thus, the seized goods (20 Gold Bars) without legitimate documents, as detailed in below Table-II, were not released and continued under detention for further investigation:-

TABLE- II

S. No.	Parce I No.	Item Description	Details of sender	Details of recipient
1	2	8 Yellow Colour Bars having markings Argor Heraeus SA Switzerland 100 g, Melter Assayer 999. Followed by serial no.(partially scratched)	Jainam, 7715036590 / 8866820836 51/53, Vittal Vadi, Saas	Nevil Soni, Ahmedabad 8238979797
2	3	8 Yellow colour Bars having markings sam 100 g Gold, 999 followed		



		by Serial Number (The serial number is partially scratched)	Bahu Buiding, Third Floor, Kalba Devi Mumbai	
3	4	2 Yellow Colour Bars having markings Valcambi Suisse 100 g Gold 999 followed by serial number (The serial number is partially scratched)		
4	5	1 Yellow Colour Bar having markings UBS 100 g gold 999 Switzerland Melter Assayer followed by Serial number (The serial number is partially scratched)		
5	6	1 Yellow colour Bar having markings PAMP MMTC 100 g Gold 999 Melter Assayer followed by serial number (The serial number is partially scratched)		

2.6 Shri Kartikey Vasantraai Soni, the Gold Assayer examined the detained gold in presence of independent panchas and Shri Hasmukhbhai Patel under Panchnamas dated 07.06.2023 & 22.06.2023, both drawn at DRI office situated at Unit No. 15, Magnet Corporate Park, Near Sola Flyover, Behind Intas Corporate Building, Thaltej, Ahmedabad. The Gold Assayer certified the purity of Gold, weight, rate of gold for detained 20 Gold Bars vide his valuation report dated 18.09.2023. As per the valuation report, the gold bars, total 20 in nos., are having Imported Markings, weigh 2000 grams or 2 kg in total, having 999 purity and are valued at Rs. 1,21,00,000/-. In view of the same, the detained goods were placed under seizure on 05-10-2023 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.

2.7 During the course of further investigation, the statement of Shri Hasmukhbhai Patel, Partner of M/s Patel Madhavlal Maganlal & Company, was recorded on 29.01.2024 under Section 108 of the Customs Act, 1962. During his examination, he was shown the Panchnama dated 21.06.2023, wherein Shri Mahipal Jain (father of Shri Jaiman Jain) and Shri Dashrath Kumar, an employee of M/s Shree Jainam Jewels, had denied having handed over any gold to M/s Patel Madhavlal Maganlal & Company on 06.06.2023. In response, Shri Hasmukhbhai Patel reaffirmed that on 06.06.2023, Shri Dashrath Kumar had indeed booked a parcel with their firm for delivery to Shri Nevil Soni, Ahmedabad, and that the said parcel contained the 2 Kgs of gold which was subsequently seized. He further stated that Shri Dayabhai Babbaldas Patel, an employee of their firm, had personally collected the parcel from Shri Dashrath Kumar at the premises of M/s Shree Jainam Jewels on the aforementioned date. He also confirmed that a receipt was issued at the time of booking, and a corresponding entry was made in the firm's booking register. Shri Hasmukhbhai Patel asserted that the claims made by Shri Mahipal Jain and Shri Dashrath Kumar, denying the handover of any parcel to their firm on 06.06.2023, were false and misleading.

Shri Hasmukhbhai Patel was shown the statement of Shri Nevil Soni dated 21.06.2023. Upon being asked to specifically peruse Questions 7 and 10—which pertain to the

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contact details of M/s Patel Madhavlal Maganlal & Company and the 2 Kgs of foreign-origin gold detained by DRI under Panchnama dated 07.06.2023—he responded that he had inquired with his office and found that parcels had previously been delivered by their firm to Shri Nevil Soni as well. He further stated that the parcel detained under Panchnama dated 07.06.2023 was wrapped with a paper label that clearly mentioned the sender as "Jainam" and the intended recipient as "Nevil Soni", along with their respective phone numbers. On this basis, he asserted that Shri Nevil Soni's denial—that he neither knew Jainam nor conducted business with the firm—was untruthful. He added that, as per information received from his staff, Shri Nevil Soni had come near the DRI, Ahmedabad office on the morning of 07.06.2023 upon learning that his parcels had been detained by the officers. He also stated that, in May or June 2023, two additional parcels sent from Mumbai were delivered by their firm to Shri Nevil Soni in Ahmedabad, and that Shri Nevil Soni had personally collected those parcels from their Ahmedabad office. Shri Hasmukhbhai Patel assured that he would submit documentary proof of these earlier deliveries within three days, and accordingly, he has submitted copies of the relevant receipts. Regarding the foreign-origin gold weighing 2 Kgs, he clarified that he had no knowledge of the source from which Shri Jaiman of M/s Shree Jainam Jewels had procured the said gold. He emphasized that their firm merely collected sealed parcels from the shop of M/s Shree Jainam Jewels, with the gold being handed over in sealed plastic wrapping. He categorically stated that the ownership of the gold lies either with M/s Shree Jainam Jewels, Mumbai, or with Shri Nevil Soni, and not with his firm.

2.8 During the course of further investigation relating to the seizure of 2 Kgs of gold valued at Rs. 1,21,00,000/-, summons dated 21.06.2023 and 27.05.2024 were issued to Shri Jaiman Jain, Proprietor of M/s Shree Jainam Jewels, and Shri Dashrath Kumar, an employee of the same firm. In response, Shri Jaiman Jain, through his letter dated 22.06.2023, submitted that the summons issued on 21.06.2023 appeared to be vague in nature, and requested permission for the presence of an advocate during the recording of his statement. However, neither he nor Shri Dashrath Kumar appeared for the scheduled statement proceedings on the specified date and time. Similarly, Shri Nevil Soni, in response to the summons, sent an email to the official email ID of DRI, Ahmedabad Zonal Unit on 25.01.2024, stating that he was attending a training program in Dubai at the time and would be unable to appear before DRI officers until 27.02.2024. He further requested that his earlier statement recorded on 21.06.2023 be treated as his submission on record. However, it was noted that Shri Nevil Soni did not appear before DRI officers for further investigation up to the date of reporting. As the investigation could not be completed within the stipulated period of six months from the date of detention of the goods, the competent authority, in accordance with the first proviso to Section 110(2) of the Customs Act, 1962 (as amended by the Finance Act, 2018), granted a six-month extension for issuance of the Show Cause Notice, vide letter dated 01.12.2023.



3. Thereafter, a Show Cause Notice 03.06.2024 was issued vide F. No. VIII/10-82/DRI-AZU/O&A/HQ/2024-25 dated 03.06.2024 to following persons:-

- I. Shri Jainam Jain, Proprietor of M/s. Jainam Jewels, 51/53, Saas Bahi Plaza, 3rd Floor, 36A, Opposite Mangal Murti Temple, Vithalwadi, Kalbadevi Road, Mumbai-400002;
- II. Shri Dashrath Kumar, C/o M/s. Jainam Jewels, 51/53, Saas Bahu Plaza, 3rd Floor, 36A, Opposite Mangal Murti Tounch, Vithalwadi, Kalbadevi Road, Mumbai- 400002;
- III. Shri Nevil Soni, S/o Shri Kantilal Soni, A-234, Apna nagar, Nr. Ambaji Temple, Gandhidham, Kutch-370201;
- IV. M/s. Patel Madhavlal Maganlal & Company, Jain Dharamshala Buuilding, Marchipole, Ratenpole, Ahmedabad, Gujarat;
- V. Shri Mahendrabhai Shambhubhai, residing at 7/90, Brahamanvas Balol, Mehsana, Gujarat (employee of M/s. Patel Madhavlal Maganlal & Company) and
- VI. Shri Ramanbhai Kacharabhai Patel, (employee of M/s. Patel Madhavlal Maganlal & Company) residing at A-31, Swami Vivekanand Nagar, Patan Road, Unjha, Mehsana, Gujarat – 384170;

by the Additional Commissioner of Customs, Ahmedabad to show cause as to why:-

- a) The 20 gold bars having imported markings and weighing 2000 grams or 2 Kg in total, having purity 999 and valued at Rs.1,21,00,000/-(Rupees One Crore Twenty-One Lakhs Only) pertaining to M/s. Shri Jainam Jewels and Shri Nevil Soni, Gandhidham placed under seizure vide seizure memo (DIN-202310DDZ10000611838) dated 05.10.2023, 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) Penalty should not be imposed on Shri Jainam Jain, Proprietor of M/s. Jainam Jewels, 51/53, Saas Bahi Plaza, 3rd Floor, 36A, Opposite Mangal Murti Temple, Vithalwadi, Kalbadevi Road, Mumbai-400002 under section 112 (a)/112 (b)/117of the Customs Act, 1962;
- c) Penalty should not be imposed on Shri Dashrath Kumar, C/o M/s. Jainam Jewels, 51/53, Saas Bahu Plaza, 3rdFloor, 36A, Opposite Mangal Murti Tounch, Vithalwadi, Kalbadevi Road, Mumbai-400002 under section 112 (a)/112 (b)/117of the Customs Act, 1962;
- d) Penalty should not be imposed on Shri Nevil Soni, S/o Shri Kantilal Soni, A-234, Apna nagar, Nr. Ambaji Temple, Gandhidham, Kutch-370201 under section 112 (a)/112 (b)/117of the Customs Act, 1962;



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- e) Penalty should not be imposed on M/s. Patel Madhavlal Maganlal & Company, Jain Dharamshala Buuilding, Marchipole, Ratenpole, Ahmedabad, Gujarat under section 112 (a)/112 (b)/117of the Customs Act, 1962;
- f) Penalty should not be imposed on Shri Mahendrabhai Shambhubhai, residing at 7/90, Brahamanvas Balol, Mehsana, Gujarat(employee of M/s. Patel Madhavlal Maganlal & Company)under section 112 (a)/112 (b)/117of the Customs Act, 1962;
- g) Penalty should not be imposed on Shri Ramanbhai Kacharabhai Patel, (employee of M/s. Patel Madhavlal Maganlal & Company) residing at A-31, Swami Vivekanand Nagar, Patan Road, Unjha, Mehsana, Gujarat – 384170under section 112 (a)/112 (b)/117of the Customs Act, 1962

4. M/s. Patel Madhavlal Maganlal & Company, [Noticee No 4] and its 2 employee Shri Mahendrabhai Shambhubhai, [Noticee No 5] and Shri Ramanbhai Kacharabhai Patel, [Noticee No 6] filed their Reply to the SCN dated 03-06-2024, have objected the SCN and proposed action against them for imposing penalty under Section 112 and 117 of Customs Act 1962. Shri P. P. Jadeja, Consultant attended the personal hearings allowed on 29.11.2024 on behalf of Angadia firm M/s Patel Madhavlal Maganlal & Company and their employees Shri Mahendrabhai Shambhubhai and Shri Ramanbhai K. Patel and reiterated written submissions with a request to drop the penalties proposed in the SCN, qua Appellant and their both the employees. However, vide O-I-O No. 222/ADC/SRV/O&A/2024-25, dated 09.01.2025 issued by the Additional Commissioner of Customs, Custom House, Ahmedabad has ordered absolute confiscation of seized gold and imposed penalty under Section 112(b) and 117 of the Customs Act 1962 qua Appellant and their 2 employees also, apart from imposing penalty on sender of the gold and receiver of the seized gold, as shown in the O-I-O against all the Noticee.

5. Being aggrieved with the impugned Order on absolute confiscation of seized gold and imposed penalty under Section 112 (b) and 117 of the Customs Act 1962 qua Appellant and their 2 employees, the Appellant and their 2 employees have preferred their appeals on various ground as mentioned in the grounds of Appeals.

5.1 The O-I-O dated 09-01-2025 has imposed penalties as under:-

Noticee	Penalty u/s 112(b) of Act Rs.	Penalty u/s 117of Act Rs.	Total penalty [2 + 3 = 4]	Pre-deposit @ 7.5 % of total penalty u/s 129E of Customs Act 1962
1	2	3	4	5
M/s Patel Madhavlal Maganlal &	2,00,000/-	25,000/-	2,25,000/-	16,875/-





Company, [Noticee No 4]				deposited vide TR-6 challan No. 7479 dated 30-01-2025/-
Shri Mahendrabhai Shambhubhai, [Noticee No 5]	50,000	10,000/-	60,000	4500/- deposited vide TR-6 challan No. 7479 dated 30-01-2025
Shri Ramanbhai Kacharabhai Patel, [Noticee No 6]	50,000	10,000/-	60,000	4500/- deposited vide TR-6 challan No. 7479 dated 30-01-2025
Total	3,00,000	45,000/-	3,45,000/-	25,875/- deposited vide TR-6 challan No. 7479 dated 30-01-2025/-

5.2 Since these 3 Appeals have been filed on 13.02.2025 against the impugned O-I-O dated 09.01.2025, these Appeals are filed within time limit of 60 days under Section 128 (1) of Customs Act 1962. The Appellant M/s Patel Madhavlal Maganlal & Company have pre-deposited total amount of 25,875/- under Section 129E of Customs Act 1962 on behalf of these 3 Appellants vide TR-6 challan No. 7479 dated 30-01-2025, they comply with the requirement of mandatory pre-deposit u/s 129E of the Customs Act 1962. Hence, these 3 Appeals have been taken up for final disposal by a common order.

PERSONAL HEARING

6. Personal hearing was held on 02.07.2025. Shri P. P. Jadeja, Consultant and Practitioner appeared for PH. He reiterated submissions in Appeals, requested to set aside penalties and to allow the appeals with consequential reliefs, in the interest of justice.

DISCUSSIONS & FINDINGS:-

7. I have carefully gone through the Appeal Memorandum as well as records of the case and submissions made on behalf of Appellants during hearing. The issues to be decided in these 3 Appeals are whether the impugned Order passed by adjudicating authority is proper or otherwise on question of absolute confiscation of the seized gold and for imposing penalties under Section 112 (b) and Section 117 of the Customs Act, 1962 on these 3 Appellants.

7.1 I find that this impugned O-I-O dated 09.01.2025 has ordered the "absolute confiscation" of the seized 20 gold bars weighing 2000 grams or 2 Kgs, having purity 999 and totally valued at Rs.1,21,00,000/-. The O-I-O has also imposed



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penalty under Section 112 (b) and other penalty under Section 117 of the Customs Act 1962. For imposing penalties under Section 112 (b) and 117 of Customs Act 1962 against these 3 Appellants, this O-I-O has given findings as under:-

"Para 22.5.16 I find that in present case, two employees namely Shri Mahendrabhai Shambhubhai and Shri Ramanbhai Kacharabhai Patel of M/s. Patel Madhavlal Maganlal & Company ("Aangadia Firm") were intercepted by the officers of DRI in the 'Pick up' area outside the Kalupur Railway Station, Ahmedabad and on the examination of the baggage of the those two employees, the officers of DRI found that certain parcels containing gold which appeared to be of foreign origin. I find that the employees of the Aangadia Firm could not produce any documents showing legitimate import of the said goods and these goods appeared to be of the nature of smuggled goods. I find from the statement of Shri Hasmukhbhai Patel, Partner in M/s. Patel Madhavlal Maganlal & Company recorded under section 108 of the Customs Act, 1962 on 15.06.2023, that M/s. Patel Madhavlal Maganlal & Company is specialized in courier services of Precious and valuable goods, documents, Gems and Jewellery, Diamonds etc. and the said parcels were carried by their employees Shri Mahendrabhai Shambhubhai and Shri Ramanbhai Kacharabhai Patel for delivery to concerned recipients. Further, as discussed in foregoing paras, 20 Gold bars weighing 2000 grams having foreign marking sent by Shri Jainam Jain of M/s. Jainam Jewels were found to be smuggled Gold and found to be liable for confiscation under Section 111 of the Customs Act, 1962.

22.5.17 I find that M/s. Patel Madhavlal Maganlal & Company and its employees Shri Mahendrabhai Shambhubhai and Shri Ramanbhai Kacharabhai Patel had concerned themselves into smuggling of Gold as they had taken up to carry and deliver the said Gold without verifying the legitimate documents of import of such foreign origin gold from respective senders. I find that Shri Hasmukhbhai Patel, Partner in M/s. Patel Madhavlal Maganlal & Company admitted in his statement dated 15.06.2023 that they cannot accept the parcels containing foreign origin gold for transport. The quoted texted is reproduced below:-

"On being asked that which type of goods we may transport in the parcels, I state that any legitimate goods with proper Invoice can be transported but we mainly accept parcels related to precious and valuable goods, documents, Gems and Jewellery, Diamonds. On being specifically asked whether we can accept foreign currency, Foreign Origin gold, I state that we can not accept the parcels related to foreign currency, Foreign origin gold in bars or any other form, but sometimes it may be possible that the customer may mis declare the correct description and nature of goods in the parcel!"

22.5.18 I find from the statement of Shri Hasmukhbhai Patel that they 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, i.e. "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," they rendered them liable for penal action under Section 112(b) of the Customs Act, 1962.

22.5.19 I find that the employees Shri Mahendrabhai Shambhubhai and Shri Ramanbhai Kacharabhai Patel of M/s. Patel Madhavlal Maganlal & Company are well aware of their company's work as well as nature of their own job. They have to deal with delivery of precious and valuable goods, documents, jewellery, diamonds, cash etc. They were supposed to know the documents required with each type of goods mentioned above and the laws and rules governing their possession, carrying, selling, purchasing etc., ignorance of law is no excuse. I find that merely acting upon the directions of their employer M/s. Patel Madhavlal Maganlal & Company, was not expected from them however while receiving the parcels containing smuggled Gold, they should have checked the documents of legal purchase/import of the said smuggled Gold. I further find that both Shri Mahendrabhai Shambhubhai and Shri Ramanbhai Kacharabhai Patel had concerned themselves in carrying of the smuggled goods i.e. said Gold Bars which they know or have reasons to believe were liable to confiscation under Section 111 of Custom Act, 1962.

22.5.20 I also find that Shri Mahendrabhai Shambhubhai and Shri Ramanbhai Kacharabhai Patel are liable for penalty under Section 117 of the Customs Act, 1962 as they have contravened the provisions of the Customs Act and failed to comply with the provision of the Customs Act by not reporting to the concerned authorities about the smuggled gold."

7.2 It is seen from the case records that Appellant has contended the entire case is made out qua Appellant and its 2 employee only on erroneous base. There is no definite conclusion with evidence. This is on assumption or "suspicion". It is settled principle of law that suspicion, however, great it may be, it can not take place of truth. In facts of this case, DRI investigation has not come out with any contrary evidence against documents submitted by Appellants.

7.3 The Appellants have submitted that the impugned Order-in-Original (O-I-O) has imposed penalties without properly and judiciously appreciating the statements and documentary evidence placed on record by the Appellants, including their reply to the Show Cause Notice dated 30.06.2024. Accordingly, the penalties imposed under Section 112(b) of the Customs Act, 1962 are neither justified nor legally sustainable in respect of the present Appellants. The Appellants have further contended that, for a penalty under Section 112 (b) to be lawfully imposed, the presence of mens rea (guilty intent), supported by positive and cogent evidence, is a mandatory requirement. However, the impugned order dated 09.01.2025 does not bring on record any such evidence establishing guilty knowledge or intent on the part of the Appellants. It is relevant to note that the adjudicating authority has rightly refrained from invoking Section 112 (a) of the Customs Act, thereby acknowledging the absence of direct involvement in acts of smuggling or improper importation. The



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findings rendered in the O-I-O, in the absence of evidence proving mens rea, cannot be the basis for sustaining a penalty under Section 112 (b). Furthermore, the adjudicating authority has failed to duly consider the factual matrix and the documentary evidence submitted by the Appellants during the investigation, in their reply to the Show Cause Notice, and in the present appeal proceedings. The Appellants also submit that the documents produced in their defense should have been given due credence, and ought to have been considered sufficient to absolve them from any penal consequences. While the absolute confiscation of the gold bars which remain unclaimed may be justified on legal grounds, the penalties imposed under Sections 112 (b) and 117 of the Customs Act, in the absence of mens rea, are unwarranted and therefore deserve to be set aside.

7.4 The Appellant submits that Section 112 (b) of the Customs Act, 1962 clearly stipulates that a penalty may be imposed on any person who, by any act, omission, or abetment, is concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling, purchasing, or in any manner dealing with goods which he knows or has reason to believe are liable to confiscation under Section 111. This statutory provision unequivocally establishes that penalty under Section 112 (b) can only be imposed where there is a conscious or deliberate act, and where the person knows or has reason to believe that the goods in question are liable to confiscation under Section 111. In the present case, the Show Cause Notice merely proceeds on assumptions, alleging that the Appellant was involved in transporting or dealing with smuggled gold from Mumbai to Ahmedabad. However, the Appellant has categorically clarified that their firm does not knowingly transport or deal with any smuggled or prohibited goods, and that the gold in question was handed over to them in a sealed packet, with no disclosure or indication that the contents were smuggled. There is no evidence on record, either in the Show Cause Notice or as uncovered during the DRI investigation, to suggest that the Appellant had any knowledge or reason to believe that the said gold was of smuggled origin or liable to confiscation under Section 111. There is also no material on record to establish any act, omission, or abetment by the Appellant that would attract the provisions of Section 112 (b). Mere possession or transportation of a sealed parcel absent any mens rea or culpable knowledge cannot justify penal action under the said section. In the absence of any credible evidence establishing guilty knowledge, intent, or complicity, the penalty imposed under Section 112 (b) of the Customs Act, 1962 is legally unsustainable and deserves to be set aside in its entirety.

7.5 In my considered view, the penalty imposed on the Appellants under Section 112 (b) of the Customs Act, 1962 is not sustainable in the facts and circumstances of the present case. Section 112 (b) provides for the imposition of penalty on any person who acquires possession of, or is in any way concerned with carrying, depositing, concealing, selling, purchasing, or otherwise dealing with goods,



knowing or having reason to believe that such goods are liable to confiscation under Section 111 of the Act. The Order-in-Original (O-I-O) holds that the Appellants were concerned with the transport or handling of smuggled gold, thereby attracting liability under Section 112 (b). However, upon perusal of the investigation records, it is evident that no direct evidence has been brought on record by the DRI beyond the seizure of 2 Kgs of gold and the statements of the Appellants to establish that the Appellants had knowledge or reason to believe that the said gold was smuggled or liable to confiscation. It is a settled legal principle that penalty under Section 112 (b), being quasi-criminal in nature, requires proof of mens rea or conscious knowledge, and cannot be imposed merely on assumptions or presumptions. From the available records, there is nothing to indicate that the Appellants were aware that the seized gold was smuggled into India or that it was liable to confiscation under Section 111. Their statements are exculpatory and do not reveal any incriminating knowledge or involvement. The evidentiary value of the materials on record is not sufficient to arrive at a definite conclusion that the Appellants had knowingly and consciously dealt with smuggled gold. The circumstantial evidence relied upon is not conclusive, and such evidence cannot substitute for direct proof of culpable knowledge, which is essential to attract penalty under Section 112 (b). It is also relevant to note that penalty has been imposed solely under Section 112 (b), and not under Section 112 (a), reinforcing that the allegation is not based on any direct act of improper import but on alleged subsequent dealing. The essential ingredients of Section 112(b) notably mens rea have not been established against the Appellants. Accordingly, I find force in the Appellants' submission that, in the absence of positive and conclusive evidence to prove guilty knowledge, the penalty imposed under Section 112 (b) is not justified. Therefore, the penalty imposed against the three Appellants under Section 112 (b) of the Customs Act, 1962, deserves to be set aside.

7.6 It is further observed that the impugned Order-in-Original has also imposed penalty under Section 117 of the Customs Act, 1962. However, Section 117 is a residual provision, applicable only in cases of contraventions where no express penalty is elsewhere provided under the Act. The section stipulates that any person who contravenes any provision of the Act, or abets such contravention, or fails to comply with any provision of the Act with which it was his duty to comply, shall be liable to a penalty not exceeding four lakh rupees, only where no specific penalty is otherwise prescribed. In the present case, the Show Cause Notice dated 30.06.2024 and the Order-in-Original dated 09.01.2025 have already invoked and imposed penalty under Section 112 (b) of the Customs Act, which is a specific and express penal provision applicable to the facts of this case. No distinct contravention, independent of what is already covered under Section 112 (b), has been established to warrant a separate penalty under Section 117. Moreover, the impugned order does not record any clear or independent finding justifying the invocation of Section 117 in addition to the penalty imposed under Section 112 (b). In the absence of such a justification and given that



Section 112 explicitly applies, the invocation of Section 117 is unwarranted. Accordingly, I am of the considered view that the penalty imposed under Section 117 of the Customs Act, 1962, is not justified in the facts and circumstances of this case and therefore deserves to be set aside.

8. In view of the above findings, I am of the considered opinion that the impugned Order-in-Original No. 222/ADC/SRV/O&A/2024-25, dated 09.01.2025 is liable to be modified to the extent that:

- (1) Penalties imposed under Section 112 (b) and 117 of the Customs Act 1962 on Appellants M/s Patel Madhavlal Maganlal & Company [Noticee No 4] and its two employees Shri Mahendrabhai Shambhubhai [Noticee No 5] and Shri Ramanbhai Kacharabhai Patel [Noticee No 6] are set aside.
- (2) Remaining part of the impugned Order-in-Original dated 09-01-2025 is not interfered, at this stage.

9. In view of the above, the Appeals filed by the 3 Appellants are allowed in above terms, with consequential reliefs, if any, in accordance with the law.



सत्यापित/ATTESTED

अधीक्षक/SUPERINTENDENT
सीमा शुल्क (अपील), अहमदाबाद.
CUSTOMS (APPEALS), AHMEDABAD.

(Amit Gupta)

Commissioner (Appeals),
Customs, Ahmedabad

F. No. S/49-283/CUS/AHD/2025-26
S/49-284/CUS/AHD/2025-26
S/49-285/CUS/AHD/2025-26

Date: 10.07.2025

2390

By Registered Post A.D

To,

1. Shri Mahendrabhai Shambhubhai]
(Employee of M/s. Patel Madhavlal Maganlal & Company)
Jain Dharamshala Building,
Marchipole, Ratanpole,
Ahmedabad
2. Shri Ramanbhai Kacharabhai Patel
(Employee of M/s. Patel Madhavlal Maganlal & Company)
Jain Dharamshala Building,
Marchipole, Ratanpole,
Ahmedabad
3. M/s. Patel Madhavlal Maganlal & Company]
(through Shri Hasmukhbhai H. Patel, Partner)
Jain Dharamshala Building,
Marchipole, Ratanpole,
Ahmedabad

Copy to:

1. ✓ The Chief Commissioner of Customs Gujarat, Custom House, Ahmedabad.
2. The Principal Commissioner of Customs, Custom House, Ahmedabad.
3. The Additional Commissioner, Customs, Ahmedabad.
4. Guard File.

