OIO No:67 /ADC/SR/O&A/2026-27

प्रधान आयुक्त का कार्यालय, सीमा शुल्क, अहमदाबाद

"सीमाशुल्कभवन", पहलीमंजिल, पुरानेहाईकोर्टकेसामने, नवरंगपुरा, अहमदाबाद – 380 009.
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DIN No. 20260871MN00007E35F8

PREAMBLE

A	फ़ाइलसंख्या/ File No.	:	CUS/SIIB/SZRE/431/2025-AIU-AIRPT-SRT-CUS-COMMRTEAHMEDABAD (VIII/26-09/AIU/CUS/2025-2026)
B	कारणबताओनोटिससंख्या–तारीख / Show Cause Notice No. and Date	:	CUS/SIIB/SZRE/431/2025-AIU-AIRPT-SRT-CUS-COMMRTEAHMEDABAD dated 14.05.2026
C	मूलआदेशसंख्या/ Order-In-Original No.	:	**67/ADC/SR/O&A/2026-27**
D	आदेशतिथि/ Date of Order-In-Original	:	**21.08.2026**
E	जारीकरनेकीतारीख/ Date of Issue	:	**21.08.2026**
F	द्वारापारित/ Passed By	:	**Shravan Ram**, Additional Commissioner, Customs, Ahmedabad.
G	आयातककानामऔरपता / Name and Address of Importer / Passenger	:	**Shri Ahsan Amanullah Khan**, S/o. Shri Amanullah Azizulla Khan, Raza Palace, 3rd Floor, Room No. 7/8 217/219, Sheriff Devji Street, Mumbai, Maharashtra, India, Pin-400003
(1)	यह प्रति उन व्यक्तियों के उपयोग के लिए निःशुल्क प्रदान की जाती है जिन्हे यह जारी की गयी है।		
(2)	कोई भी व्यक्ति इस आदेश से स्वयं को असंतुष्ट पाता है तो वह इस आदेश के विरुद्ध अपील इस आदेश की प्राप्ति की तारीख के 60 दिनों के भीतर आयुक्त कार्यालय, सीमा शुल्क अपील)चौथी मंज़िल, हुडको भवन, ईश्वर भुवन मार्ग, नवरंगपुरा, अहमदाबाद में कर सकता है।		

(3)	अपील के साथ केवल पांच (5.00) रुपये का न्यायालय शुल्क टिकिट लगा होना चाहिए और इसके साथ होना चाहिए:
(i)	अपील की एक प्रति और;
(ii)	इस प्रति या इस आदेश की कोई प्रति के साथ केवल पांच (5.00) रुपये का न्यायालय शुल्क टिकिट लगा होना चाहिए।
(4)	इस आदेश के विरुद्ध अपील करने इच्छुक व्यक्ति को 7.5 % (अधिकतम 10 करोड़) शुल्क अदा करना होगा जहां शुल्क या ड्यूटी और जुर्माना विवाद में है या जुर्माना जहां इस तरह की दंड विवाद में है और अपील के साथ इस तरह के भुगतान का प्रमाण पेश करने में असफल रहने पर सीमा शुल्क अधिनियम, 1962 की धारा 129 के प्रावधानों का अनुपालन नहीं करने के लिए अपील को खारिज कर दिया जायेगा।

Brief Facts of the case:

On the basis of passenger profiling and suspicion of passenger, the Air Intelligence Unit (AIU) officers, Surat International Airport, Customs, Surat, intercepted one passenger namely Mr. Ahsan Amanullah Khan holding Indian Passport No. U4656561, (DOB: 06-03-1983) S/o. Shri Amanullah Azizulla Khan, residing at Raza Palace, 3rd Floor, Room No. 7/8 217/219, Sheriff Devji Street, Mumbai, Maharashtra, India, Pin-400003 arrived in Air India Flight No. IX-274 on 20.11.2025 from Dubai to Surat, while he was attempting to exit through green channel without making any declaration to the Customs. The said passenger was intercepted and asked by the Officers of AIU, Customs, Surat international airport whether he had made any declarations to Customs authorities for dutiable goods/items or wanted to declare any dutiable goods/items before Customs authorities to which the said passenger replied in negative and informed that he was not carrying any dutiable items with him. The said passenger's personal search and examination of his baggage was conducted in presence of two independent witnesses and the proceedings were recorded under the Panchnama dated 20/21.11.2025.

2.1 Thereafter, the officers asked /informed the passenger that a search of his baggage as well as his personal search was to be carried out and gave him an option to carry out the search in presence of a Executive Magistrate or Superintendent of Customs to which the passenger gave his consent to be searched in presence of Superintendent of Customs. Before commencing the search, the

officers offered themselves to the said passenger for conducting their personal search, which was politely denied by the said passenger.

2.2 The personal search of the said passenger was carried out by the officer of the AIU in presence of a Superintendent of Customs and upon frisking and physical search, the passenger was found to be carrying a Rolex watch in his pant pocket. The watch was of Steel and Rose Gold colour and in the dial of watch description mentioned as "The ROLEX OYSTER PERPETUAL DATEJUST SUPERLATIVE CHRONOMETER".

2.3 Thereafter, the AIU officers conducted the search of the baggage of the said passenger through the XBIS Scanner machine and also thoroughly checked it after withdrawing their contents. However, on scanning and thoroughly checking the luggage, no objectionable/prohibited goods were found.

2.4 Thereafter, the AIU officer requested Mr. Ahsan Amanullah Khan to produce the box, bill/invoice and other document of the watch, however Mr. Ahsan Amanullah Khan denied of having the same and he produced one guarantee card of "ROLEX International". The AIU officers observed that the said guarantee card carried the details of the Model Number, Serial Number and the date of purchase of the watch as detailed under:

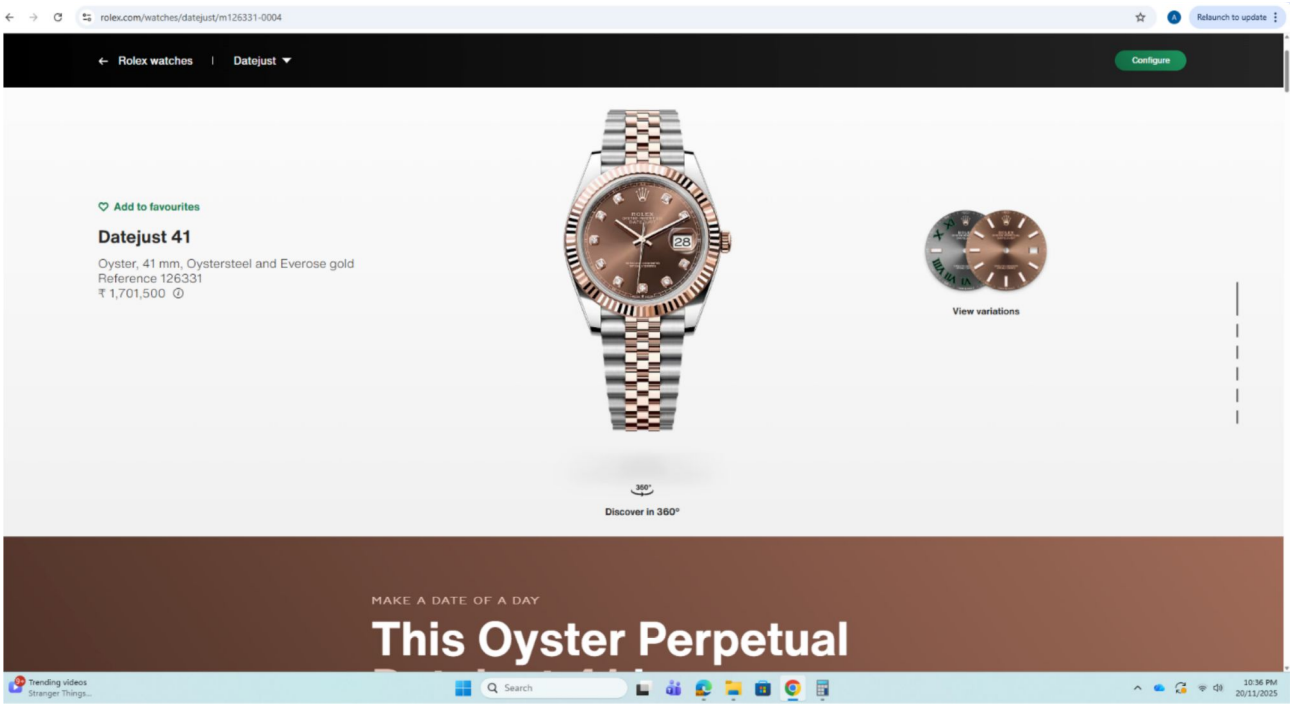
Model Number	126331
Serial Number	781U08S8
Date of purchase	05.11.2025

The images of the watch and the guarantee card is as under:

2.5 The officer asked Mr. Ahsan Amanullah Khan the purpose of carrying the watch, to which Mr. AHSAN stated that he used to carry precious items such as watches, clothes, phone etc. from Foreign on regular basis for which he received Rs.20,000/- to Rs.30,000/- per trip. He further informed that the said watch had been handed over to him by one person namely Mr. Harun in Dubai to deliver to a person in Heera Panna Market of Mumbai, whose details were to be provided by Mr. Harun after exit from the Airport.

2.6 Mr. Ahsan Amanullah Khan further informed that he was not aware of the actual value of the watch but he was aware that the watch was of a reputed international brand namely Rolex & as per best of his knowledge, the watch was of original Rolex brand and value of the watch would be in lakhs of Rupees. On being further asked about the name and address of Mr. Harun who had given him the said watch, Mr. Ahsan Amanullah Khan informed that he did not have the contact details of Mr. Harun. Thereafter, the officers checked from the online sources (Rolex website) and found that as

per online market place sources, the model 126331 of watch Rolex watch was priced at Rs. 17,01,500/- on the Rolex website. The screenshot of the said watch and its price was as under:



2.7 Further the Customs Officers informed the passenger that the above-mentioned item recovered from the passenger was brought into India in violation of the provisions of Customs Act, 1962. Thus, the Custom Officer informed that they had reasonable belief that the above-mentioned item, recovered from the said passenger, was attempted to be smuggled, was liable for confiscation as per the provisions of Customs Act, 1962, and hence, being placed under seizure.

3. उपर्युक्त घड़ी की जब्ती /Seizure of the aforesaid watch

3.1 The Custom officers, then, in the presence of the Panchas and the said passenger, placed the said watch and the guarantee card in one plastic box along with the packing list on which both the Panchas, the AIU officer as well as the said passenger had put their dated signature and the said packing list was placed inside the box,

as a token of having packed and sealed in their presence and in the presence of the said passenger. The AIU officers then wrapped the plastic box with the white cotton thread and sealed with lac seal having mark "DC CUSTOMS AIRPORT SURAT" in such a way that it could not be opened without breaking the seal. Thereafter, a seizure order dated 21.11.2025 under section 110 (1) of the Customs Act, 1962 had been prepared and in presence of the Panchas, the said sealed Package containing Rolex watch was handed over to the Customs Warehouse In-charge, Surat International Airport, Surat. The relevant Warehouse Entry No. was 466 dated 20.11.2025.

4. श्री अहसान अमानुल्लाह खान का बयान**/Statement of Mr. Ahsan Amanullah Khan:** The Statement of Mr. Ahsan Amanullah Khan was recorded under Section 108 of the Customs Act, 1962 on 21.11.2025, wherein he inter-alia stated as under:

4.1 that he stated his personal details like name, age, address, education, profession and family details and informed that he had studied upto Class IX and currently he had no formal work and he used to carry precious items such as watches, clothes, phone etc. on regular basis from foreign countries. He has been living in Mumbai.

4.2 that he had been shown Panchnama dated 20/21.11.2025 drawn at Arrival Hall A2 of Surat International Airport, Surat and after perusing and understanding it, he stated that facts narrated in the Panchnama were true and correct and in token of the same, he put his dated signature on it.

4.3 that on being asked, he stated that he was coming from Dubai on 20.11.2025 by Air India Express Flight No. IX-274 to Surat International Airport. He further stated that he was stopped by the Officers of Customs Surat after crossing the green channel, in arrival hall of Surat International Airport, Surat. During his personal check, the officers had found a Rolex watch from his pant pocket which was of Steel and Rose Gold Colour and in the dial of watch description mentioned as "The ROLEX OYSTER PERPETUAL DATEJUST SUPERLATIVE CHRONOMETER". Further, on being asked whether he had declared anything to Customs authorities, he stated that he

had not declared before Customs that he was carrying Rolex watch with him from Dubai.

4.4 that on being asked about frequent travels to Dubai, he stated that he used to carry precious items such as Watches, Clothes, Phone etc. from foreign on regular basis for which he received Rs.20,000/- to Rs.30,000/- per trip.

4.5 that on being asked about the watch, he stated that the watch had been handed over to him by one namely Mr. Harun in Dubai to deliver to a person in Heera Panna Market of Mumbai, whose details were to be provided by Mr. Harun after exiting from the Airport.

4.6 On being asked, he stated that he was not aware about the actual value of the watch but he was aware that the watch was of a reputed international brand namely Rolex & as per best of my knowledge, the watch was of original Rolex brand and value of the watch would be in lakhs of rupees.

4.7 On being further asked about the name and address of Mr. Harun who had given him the said watch, he stated that he did not have the contact details of Mr. Harun. The details of Rolex watch so recovered from his possession were as under:

Model Number	126331
Serial Number	781U08S8
Date of purchase	05.11.2025

4.8 On being asked whether he was having any legal documentary proof/evidence of acquisition of the said watch, which he was carrying from Dubai, he stated that since the watch did not belong to him, he did not have any bill/invoice and other document of the

watch recovered from his possession and subsequently placed under seizure under Panchnama dated 20/21.11.2025.

4.9 On being further asked he stated that he had carried the Rolex watch without declaring the same to Customs Authorities and therefore smuggled the same to India. He further stated (admitted) that he was aware that carrying Rolex watch without declaring the same was an offence under the Customs Act. He further admitted that he was aware that he had committed an offence by not declaring the same to Customs for which he had to face the consequences as prescribed under the Customs Law.

5. Mr. Ahsan Amanullah Khan had been issued Summon dated 11-12-2025, 01-01-2026 & 19-03-2026 for appearance on 31-12-2025, 11-01-2026 and 28-03-2026 to submit (a) invoice/bill of Rolex Watch, Income Tax Returns (ITR) for the last three years and Bank Statement for the last 12 months and details of foreign trips undertaken by him and (b) for recording his further statement. However, Mr. Ahsan Amanullah Khan had neither appeared on the dates given nor submitted any documentary evidence as asked by this office, therefore, it appeared that he had nothing to submit/say in this regard.

6. सारांश **/Summation:**

6.1 From the investigation conducted in the case, it appeared that the aforesaid 01 luxury watch of brand Rolex (Model-126331) having watch Serial Number 781U08S8 dated of purchase 05.11.2025 valued at Rs. 17,01,500/- as the Rolex website was attempted to be smuggled by Mr. Ahsan Amanullah Khan through the Customs Green channel without declaring the same before Customs authorities with an intent to illicitly clear the same and to evade customs duty. Therefore, the same amounts to smuggling of expensive watch and that watch is liable for confiscation under the provisions of Section 111 of the Customs Act, 1962. The same appeared to be clearly meant for commercial purpose and hence do not constitute Bonafide baggage within the meaning of Section 79 of the Customs Act, 1962. Accordingly, the aforesaid 01 luxury watch valued at Rs. 17,01,500/- is seized under the provisions of Section 110 of the Customs Act, 1962 on the reasonable belief that the same is liable to be confiscated in terms the provisions of Section 111 of the Customs Act, 1962.

7. <u>मामले से संबंधित कानूनी प्रावधान / **Legal provisions relevant to the case:**</u>

Foreign Trade Policy 2023 and Foreign Trade (Development and Regulation) Act, 1992

7.1 In terms of Para 2.27 (a) of the Foreign Trade Policy 2023, only bona-fide household goods and personal effects are allowed to be imported as part of passenger baggage as per limits, terms and conditions thereof in Baggage Rules notified by the Ministry of Finance.

7.2 As per Section 3(2) of the Foreign Trade (Development and Regulation) Act, 1992 the Central Government may by Order make provision for prohibiting, restricting or otherwise regulating, in all cases or in specified classes of cases and subject to such exceptions, if any, as may be made by or under the Order, the import or export of goods or services or technology.

7.3 As per Section 3(3) of the Foreign Trade (Development and Regulation) Act, 1992 all goods to which any Order under sub-section (2) applies shall be deemed to be goods the import or export of which has been prohibited under section 11 of the Customs Act, 1962 (52 of 1962) and all the provisions of that Act shall have effect accordingly.

7.4 As per Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 no export or import shall be made by any person except in accordance with the provisions of this Act, the rules and orders made thereunder and the foreign trade policy for the time being in force.

The Customs Act, 1962:

7.5 As per Section 2(3) – “baggage includes unaccompanied baggage but does not include motor vehicles.

7.6 As per Section 2(22), of Customs Act, 1962 definition of 'goods'

includes-

(a) vessels, aircrafts and vehicles;
(b) stores;
(c) baggage;
(d) currency and negotiable instruments; and
(e) any other kind of movable property;

7.7 As per Section 2(33) of Customs Act 1962, prohibited goods means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force.

7.8 As per Section 2(39) of the Customs Act 1962 'smuggling' in relation to any goods, means any act or omission, which will render such goods liable to confiscation under Section 111 or Section 113 of the Customs Act 1962.

7.9 As per Section 11(3) of the Customs Act, 1962 any prohibition or restriction or obligation relating to import or export of any goods or class of goods or clearance thereof provided in any other law for the time being in force, or any rule or regulation made or any order or notification issued thereunder, shall be executed under the provisions of that Act only if such prohibition or restriction or obligation is notified under the provisions of this Act, subject to such exceptions, modifications or adaptations as the Central Government deems fit.

7.10 As per 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.

7.11 As per Section 110 of Customs Act, 1962 if the proper officer has reason to believe that any goods are liable to confiscation under this Act, she may seize such goods.

7.12 Section 111. Confiscation of improperly imported goods, etc.:

The following goods brought from a place outside India shall be liable to confiscation:-

(a) any goods imported by sea or air which are unloaded or

attempted to be unloaded at any place other than a customs port or customs airport appointed under clause (a) of section 7 for the unloading of such goods;

(b) any goods imported by land or inland water through any route other than a route specified in a notification issued under clause (c) of section 7 for the import of such goods;

(c) any dutiable or prohibited goods brought into any bay, gulf, creek or tidal river for the purpose of being landed at a place other than a customs port;

(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;

(e) any dutiable or prohibited goods found concealed in any manner in any conveyance;

(f)any dutiable or prohibited goods required to be mentioned under the regulations in an import manifest or import report which are not so mentioned;

(g) any dutiable or prohibited goods which are unloaded from a conveyance in contravention of the provisions of section 32, other than goods inadvertently unloaded but included in the record kept under sub-section (2) of section 45;

(h) any dutiable or prohibited goods unloaded or attempted to be unloaded in contravention of the provisions of section 33 or section 34;

(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;

(k) any dutiable or prohibited goods imported by land in respect of which the order permitting clearance of the goods required to be produced under section 109 is not produced or which do not correspond in any material particular with the specification contained therein;

(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 transhipment, with the declaration for transhipment referred to in the proviso to sub-section (1) of section 54];

(n) any dutiable or prohibited goods transitted with or without transhipment or attempted to be so transitted in contravention of the provisions of Chapter VIII;

(o) any goods exempted, subject to any condition, from duty or any prohibition in respect of the import thereof under this Act or any other law for the time being in force, in respect of which the condition is not observed unless the non-observance of the condition was sanctioned by the proper officer;

(p) any notified goods in relation to which any provisions of Chapter IV-A or of any rule made under this Act for carrying out the purposes of that Chapter have been contravened.

7.13 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, or

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

7.14 As per Section 123 of Customs Act 1962,

(1) where any goods to which this section applies are seized under this Act in the reasonable belief that he are smuggled goods, the burden of proving that he 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.

7.15 All dutiable goods imported into India by a passenger in her baggage are classified under CTH 9803.

Customs Baggage Rules and Regulations:

7.16 As per Customs Baggage Declaration (Amendment) Regulations, 2016 issued vide Notification no. 31/2016 (NT) dated 01.03.2016, 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 under Section 77 of the Customs Act, 1962.

7.17 As per Rule 5 of the Baggage Rules, 2016, a passenger residing abroad for more than one year, on return to India, shall be allowed clearance free of duty in her bon-fide baggage of jewellery upto weight, of twenty grams with a value cap of Rs. 50,000/- if brought by a gentlemen passenger and forty grams with a value cap of one lakh rupees, if brought by a lady

passenger.

8. From the above paras, it appeared that during the period relevant to this case, import of watches was subject to the stringent provisions of Section 123 of the Customs Act, 1962. Further, the accused passenger failed to declare before the Customs authorities that he was bringing expensive watch with him and thereby rendered that watch liable for confiscation under the provisions of Section 111 of the Customs Act, 1962.

9. कानूनों का उल्लंघन / **Contravention and violation of laws:** It therefore appeared that:

(i) Mr. Ahsan Amanullah Khan had attempted to smuggle/improperly import 01 luxury watch of brand Rolex (Model-126331) having watch SL No. 781U08S8 valued at Rs. 17,01,500/- (as per Rolex website) with a deliberate intention to evade the payment of customs duty and fraudulently circumventing the restrictions and prohibitions imposed under the Customs Act 1962 and other allied Acts, Rules and Regulations. The said passenger viz. Mr. Ahsan Amanullah Khan had knowingly and intentionally smuggled the said watch on his arrival from Dubai to Surat on 20.11.2025 with an intent to clear that illicitly to evade payment of the Customs duty. Therefore, the aforesaid smuggled watch by Mr. Ahsan Amanullah Khan, cannot be treated as bonafide household goods or personal effects. Mr. Ahsan Amanullah Khan has, thus contravened the Foreign Trade Policy 2023 and Section 11(1) of the Foreign Trade (Development and

Regulation) Act, 1992.

(j) Mr. Ahsan Amanullah Khan, by not declaring the said watch before the Proper Officer of the Customs has contravened the provisions of Section 77 of the Customs Act, 1962 read with Regulation 3 of Customs Baggage Declaration Regulations, 2013.

(k) The said watch smuggled by Mr. Ahsan Amanullah Khan, without declaring it to the Customs is liable for confiscation under Section 111(l) read with Section 2(22), (39) of the Customs Act, 1962.

(l) Mr. Ahsan Amanullah Khan, by the above-described acts of omission/commission and/or abetment has/have rendered himself liable to penalty under Section 112 of Customs Act, 1962.

(m) As per Section 123 of Customs Act 1962, the burden of proving that the said 01 luxury watch of brand Rolex (Model-126331) having watch SL No. 781U08S8 valued at Rs. 17,01,500/- (as per Rolex website) is not smuggled goods, is upon Mr. Ahsan Amanullah Khan, who is the Noticee in this case.

9.1. Accordingly, a Show Cause Notice bearing No. CUS/SIIB/SZRE/431/2025-AIU-AIRPT-SRT-CUS- COMMRTE AHMEDABAD dated 14.05.2026 was issued to Shri Ahsan Amanullah Khan holding Indian Passport No. U4656561, (DOB: 06-03-1983) S/o. Shri Amanullah Azizulla Khan, residing at Raza Palace, 3rd Floor, Room No. 7/8 217/219, Sheriff Devji Street, Mumbai, Maharashtra, India, Pin-400003 as to why :-

(i) One (01) luxury watch of brand Rolex (Model-126331) having watch SL No. 781U08S8 valued at Rs. 17,01,500/- (as per Rolex website) (Rupees Seventeen Lakhs One Thousand Five Hundred only) found illegally smuggled by the passenger, Mr. Ahsan Amanullah Khan, who arrived from Dubai to Surat on 20.11.2025 by Air India Flight no. IX-274 placed under seizure under panchnama proceedings dated 20/21.11.2025 and Seizure Memo Order dated 21.11.2025, should not be confiscated under the provision of Section 111(l) of the Customs Act, 1962;

(ii) Penalty should not be imposed upon Mr. Ahsan Amanullah Khan, Penalty under Sections 112 of the Customs Act, 1962, for the omissions and commissions mentioned hereinabove.

10. DEFENCE REPLY:

i. The Noticee vide written reply dtd. 05.06.2026, through his Advocate, denied the allegations in the SCN in entirety while admitting that he had brought the watch and that it was placed under seizure. It was contended that the watch was purchased by him in Dubai for his personal use from his personal savings supplemented by money borrowed from a friend, that he is engaged in the business of cloth, cosmetics and electronics sourced from Dubai, and that a bill/invoice for

the watch was in fact produced at the time of the Panchnama but was not taken on record or incorporated therein.

ii. It was contended that the statement recorded under Section 108 of the Customs Act, 1962 was extracted under duress and fear of arrest; that the Noticee was not permitted to read the statement or to write it in Hindi, a language he understands; and that the statement would have been retracted immediately had the opportunity arisen. Reliance was placed on Section 138B of the Customs Act, 1962 and on the judgment of the Hon'ble Supreme Court in Noor Aga v. State of Punjab, as also on Article 20(3) of the Constitution of India (privilege against self-incrimination), to submit that the statement is not a reliable piece of evidence.

iii. It was further contended that the Noticee, being a first-time carrier of such an item, was ignorant of customs procedure; that he made an oral declaration which the authorities disregarded; that no customs declaration form was furnished to him by the airline or Customs staff; and that the instructions contained in Circular No. 9/2001-Cus dated 22.02.2001 regarding facilitation of passengers were not followed.

iv. On valuation, it was submitted that the value of Rs. 17,01,500/- adopted from the Rolex website is the retail price inclusive of duties and taxes and cannot be treated as the assessable value. Reliance was placed on: (i) *Aggarwal Distributors (P) Ltd. v. Commissioner of Customs, New Delhi [1999 (1) TMI 259 – CEGAT, New Delhi*; 2000 (117) E.L.T. 49 (Tribunal)]; (ii) *Commissioner of Customs, New Delhi v. Aggarwal Distributors (P) Ltd. [1999 (7) TMI 669 – Supreme Court; 2000 (122) E.L.T. (S.C.), Civil Appeal No. 3626 of 1999 dated 13.07.1999*]; and (iii) *Naresh Lokumal Serai v.*

Commissioner of Customs (Export), Raigad [2006 (7) TMI 52 – CESTAT, Mumbai; 2006 (203) E.L.T. 580, Appeal No. C/181/2004-Mum.], for the proposition that duties and taxes must be excluded from a cum-duty price before it can be adopted as assessable value.

v. It was submitted that the watch is neither a prohibited nor a restricted item and is therefore not liable to confiscation, and reliance in this behalf was placed on *Copier Company v. Commissioner of Customs, Chennai [2007 (218) E.L.T. 142* (Tribunal)] (distinguishing "prohibited" from "restricted" goods and recognising the Adjudicating Authority's discretion to permit redemption) and on Union of India v. Dhanak M. Ramji [2011 (252) E.L.T. A102 (S.C.)] (goods may be released to the passenger from whose possession they were seized on redemption).

vi. Reliance was also placed on five Orders-in-Original of the Ahmedabad Customs Commissionerate in which luxury watches were released on payment of redemption fine/penalty (RF/PP) or permitted re-export: (1*) OIO No. 22/ADC/SRV/O&A/HQ/2025-26 dated 07.05.2025 (Kosar & Rashida Kolapurwala*); (2) *OIO No. 01/ADC/SRV/O&A/HQ/2026-27 dated 02.04.2026 (Rajesh Kumar Madnani*); (3) *OIO No. 230/ADC/SRV/O&A/HQ/2025-26 dated 25.03.2026 (Akashkumar Jayeshbhai – re-export*); (4) *OIO No. ADC/MKS/ADJN/464/2024-25 dated 25.11.2024 (Zahir Khusroo Dhunjibhoy & Ors. – re-export*); and (5) *OIO No. ADCP/TK/ADJN/02/2024-25/R&I dated 16.07.2024 (Mohammed Fuzail Mohammed Kasim Merchant & Ors.*), for the plea that adjudicating authorities ought to maintain consistency in similar cases.

vii. It was contended that no penalty is imposable under Section 112 as the Department has not established that the Noticee did any act rendering the goods liable to confiscation, that he is a first-time offender with no prior adverse history and no other offending goods, currency or documents were recovered from him, and that he be shown leniency. He prayed for provisional or final release of the watch on payment of duty, fine and penalty, or in the alternative for permission to re-export the same, and requested an opportunity of personal hearing.

11. PERSONAL HEARING:

To follow the principle of natural justice, personal hearing in the matter was granted on 17.07.2026. The Noticee was represented by Shri Rishikesh J. Mehra, Advocate, at the personal hearing held on 17.07.2026 before the undersigned. It was submitted that the watch is not a prohibited item and was purchased for personal use, and that the assessable value ought to be re-determined after excluding the element of duties and taxes embedded in the Rolex website price. He submitted the following case law in his support.

(1) 1999 (1) TMI 259- CEGAT, NEW DELHI other Citation: 2000 (117) E.L.T 49 (Tribunal) 295/98-A Order No. 58/99-A Dated 28.01.1999 AGGARWAL DISTRIBUTORS (P)LTD. V/s. Commissioner of customs, New Delhi.

(2) 1999 (7) TMI 669- SC Order Other Citation: 2000 (122) E.L.T (SC) Civil Appeal No. 3626 of 1999 Dated 13.07.1999 Commissioner of customs, New Delhi. V/s. AGGARWAL DISTRIBUTORS (P)LTD.

(3) 2006 (7) TMI 52- CESTAT, Mumbai Other Citation: 2006 (203) E.L.T 580 (Tri. Mumbai) 2006 (77) RLT 560 (CESTAT-

Mum.) Appeal No. C/181/2004-Mum. Naresh Lokumal Serai V/s. Commissioner of customs (Export), Raigad.

Relying on the above judgments, he requested that the Value be recalculated after allowing deduction of duties and taxes from the value adopted by the Investigating Officer relying on **(1)** OIO No. 145/ADC/SRV/O&A/2025-26 Dtd. 16.10.2025 (Sachin Santosh Chandoskar). **(02)** OIO No. 254/ADC/VM/O&A/2023-24 Dtd. 21.03.2024 (Balu Singh Rathore).

He submitted some identical cases in which Luxury Watches were released on RF/PP and Re-Exported are as follow-

1. OIO No. 22/ADC/SRV/O&A/HQ/2025-26 Dated 07.05.2025 in 1. Shri Kosar Kolapurwala & 2. Smt. Rashida Kolapurwala V/s. Additional Commissioner of Customs Ahmedabad (Luxury Watch Release on RF, PP)

2. OIO No. 01/ADC/SRV/O&A/HQ/2026-27 Dated 02.04.2026 in Shri Rajesh Kumar Madnani V/s. Additional Commissioner of Customs Ahmedabad (Luxury Watch Release on RF, PP)

3. OIO No. 230/ADC/SRV/O&A/HQ/2025-26 Dated 25.03.2026 in Shri Akashkumar Jayeshbhai V/s. Additional Commissioner of Customs Ahmedabad (Luxury Watch Re-Export Release on RF, PP)

4. OIO No. ADC/MKS/ADJN/464/2024-25/ Dated 25.11.2024 in Mr. Zahir Khusroo Dhunjibhoy & or. V/s. Additional Commissioner of Customs (Luxury Watch Re-Export Release on RF, PP)

5. OIO No. ADCP/TK/ADJN/02/2024-25/R&I Dated 16.07.2024 in Shri Mohammed Fuzail Mohammed Kasim Merchant & oth. V/s. Additional Commissioner of Customs (Preventive) (Luxury Watch Release on RF, PP)

He requested to release the Goods on Duty, RF/PP and take the lenient view in above case.

DISCUSSION & FINDINGS:

12. I have carefully gone through the facts of this case and the written submissions made by the Advocate of the noticee as well as submission made during the personal hearing and documents available on record.

13. In the instant case, I find that the main issue that is to be decided as :-

1) Whether the ascertained value of Rs. 17,01,500/- as per the Rolex Site under Customs Valuation (Determination of Value of Imported goods) Rules, 2007 is correct or otherwise
2) Whether, the seized watch of brand Rolex (Model-126331) having watch Serial Number 781U08S8 carried by Shri Ahsan Amanullah Khan, is liable for confiscation under the provisions of Section 111 of Customs Act, 1962 or not;
3) Whether penalty can be imposed on Shri Ahsan Amanullah Khan under Section 112 of the Customs Act, 1962 or otherwise;

14. I find that the Panchnama clearly drawn out the fact that the passenger was intercepted by the officers of Air Intelligence Unit, Surat International Airport, Surat who arrived in Air India Flight No. IX-274 on 20.11.2025 from Dubai and attempted to exit through the Green Channel without declaring any goods and was subsequently

stopped and questioned by the AIU officers as to whether he was carrying any contraband/ dutiable goods in person or in his baggage to which he denied. In the presence of independent witnesses, a personal search and baggage examination were conducted under a Panchnama. Although he initially denied carrying any contraband, officers found a Rolex watch in the pocket of his pant. The watch was of Steel and Rose Gold colour and in the dial of watch description mentioned as "The ROLEX OYSTER PERPETUAL DATEJUST SUPERLATIVE CHRONOMETER". I find that no purchase invoices or ownership documents were produced, apart from guarantee card at the time of interception by the noticee. Accordingly, the said Rolex Watch placed under Seizure under Panchnama Proceedings dated 20/21.11.2025 and Seizure Memo Order dated 21.11.2025, in the presence of the passenger and Panchas on reasonable belief that the said rolex watch was attempted to be smuggled into India without declaring to Customs Authority by way of concealment and was liable for confiscation under the provisions of the Customs Act, 1962.

14.2 I find that the noticee in his submission denied all the allegation levelled against him and also alleged that the statement was given under duress and fear of arrest. He further alleged that he was not permitted to read the statement or to write it in Hindi, a language he understands and placed reliance on Section 138B of the Customs Act, 1962 and on the judgment of the Hon'ble Supreme Court in Noor Aga v. State of Punjab. He further submitted that he retracted the statement at the earliest opportunity. In this regard, I find that the passenger had neither questioned the manner of the Panchnama proceedings at the material time nor controverted the facts detailed in the Panchnama during the course of recording his statement. Every procedure

conducted during the Panchnama by the Officers was well documented and made in the presence of the panchas as well as the passenger. I find from the statement dated 21.11.2025, that the statement was given voluntarily and without any inducement, threat, coercion or by any improper means and he signed them after verifying the correctness of the facts, in full presence of mind. The offence committed was admitted by the noticee in his statement recorded on 21.11.2025 under Section 108 of the Customs Act, 1962. The law presumes that a statement made under Section 108 is voluntary, and the person giving it is not obligated to endorse any typed statement if it was indeed obtained under coercion, as now alleged. Furthermore, there is a considerable gap of around more than six months between the recorded statement and written submission wherein he claimed that the statement was recorded under duress and threat. I find that Shri Ahsan Amanullah Khan has not submitted any documentary evidence to substantiate his claim that the statements were obtained under duress or coercion. A retraction of a statement recorded under Section 108 of the Customs Act, 1962, on the grounds of coercion or pressure, must be supported by credible evidence, which is completely absent in the instant case. Therefore, the contention that the statement was given under duress and threat of arrest is clear an afterthought and a strategic move to derail or misguide the adjudication process. Therefore, I don’t find any force in the contention of the noticee in this regard and an afterthought, as I also not find any retraction filed by the noticee. It is on the record that the statement was recorded as per his say and put his signature on the Statement after understanding the same as explained by the officers to him. Further, I find from the content of statement that the statement was tendered by him

voluntarily and willingly without any threat, coercion or duress and same was explained to him. He clearly admitted that he did not make any declaration as he wanted to clearly the same without payment of Customs Duty. I find that in his statement, he mentioned about himself, his family details and education background. I find that the statement of Shri Ahsan Amanullah Khan contain specific and intricate details, his profession, which could only have been furnished based on his personal knowledge and could not have been invented by the officers who recorded the said statement. Even otherwise there is nothing on record that might cast slightest doubt on the voluntary statement in question. The offence committed is admitted by the noticee in his statement recorded on 21.11.2025 under Section 108 of the Customs Act, 1962. Any Statement recorded under Section 108 of Customs Act, 1962 has evidentiary value under the provision of law. In support of my view, I relied on the following judgements:-

- Hon'ble Supreme Court in case of Surjeet Singh Chhabra Vs. U.O.I [reported in 1997 (89) E.L.T 646 (S.C)] held that ***evidence-confession statement made before Customs officer, though retracted within six days, in admission and binding, since Customs Officers are not police officers under Section 108 of the Customs Act and FERA***.
- Assistant Collector of Central Excise, Rajamundry Vs. Duncan Agro India Ltd reported in 2000 (120) E.L.T 280 (SC) wherein it was held that ***"Statement recorded by a Customs Officer under Section 108 is a valid evidence"***
- In 1996 (83) E.L.T 258 (SC) in case of Shri Naresh J Sukhwani V. Union of India wherein it was held that ***"It must be remembered that the statement before the Customs official is not a statement recorded under Section 161 of the Criminal Procedure Code 1973. Therefore, it is material piece of***

evidence collected by Customs Official under Section 108 of the Customs Act,1962"

- ***There is no law which forbids acceptance of voluntary and true admissible statement if the same is later retracted on bald assertion of threat and coercion*** as held by Hon'ble Supreme Court in case of K.I Pavunny Vs. Assistant Collector (HQ), Central Excise Cochin (1997) 3 SSC 721.
- Hon'ble High Court of Mumbai in FERA Appeal No. 44 of 2007 in case of Kantilal M Jhala Vs. Union of India, held that ***"Confessional Statement corroborated by the Seized documents admissible even if retracted."***
- In the case of Rajesh Kumar Vs CESTAT reported at 2016 (333) ELT 256 (Del), the Hon'ble High Court of Delhi has observed as under:

> ***Learned counsel for the appellant strenuously argued that a substantial question of law regarding the admissibility of the confessions allegedly made by the Sh. Kishori Lal and Sh. Rajesh Kumar arises for our consideration. We regret our inability to accept that submission. The statements made before the Customs Officers constitute a piece of evidence available to the adjudicating authority for passing an appropriate order of confiscation and for levy of penalty. Any such confessional statement even if retracted or diluted by any subsequent statement had to be appreciated in the light of other circumstances and evidence available to the adjudicating authority while arriving at a conclusion whether the goods had been cleared without payment of duty, misdeclared or undervalued.***

- The Hon'ble Apex Court in the case of Badaku Joti Svant Vs. State of Mysore reported at 1978 (2) ELT J 323(SC) held as "ln this view of the matter the statement made by the appellant to the Deputy Superintendent of Customs and Excise would not be hit by Section 25 of the Evidence Act and would be admissible in evidence unless the appellant can take advantage of Section 24 of the Evidence Act. As to that it was urged on behalf of the appellant in the High Court that the confessional statement was obtained by threats. This was

not accepted by the High Court and therefore, Section 24 of the Evidence Act has no application in the present case. it is not disputed that if this statement is admissible, the conviction of the appellant is correct. As we have held that a Central Excise Officer is not a Police officer within the meaning of those words in Section 25 of the Evidence Act, the appellant's statement is admissible. It is not ruled out by anything in Section 24 of the Evidence Act and so the appellant's conviction is correct and the appeal must be dismissed. "

- In the case of **K. P. Abdul Majeed reported at 2017 (51) STR 507 (Ker)**, the Hon'ble High Court of Kerala has observed as under:

  Having regard to the legal implications evolved from the aforesaid factual situation, it is clear that confession statement of co-accused can be treated as evidence, provided sufficient materials are available to corroborate such evidence. ***As far as retraction statement is concerned, it is for the person who claims that retraction has been made genuinely to prove that the statements were obtained under force, duress, coercion, etc., otherwise, the materials indicate that statements were given voluntarily.*** *When the statute permits such statements to be the basis of finding of guilt even as far as co-accused is concerned, there is no reason to depart from the said view.*

- The Hon'ble Supreme Court in the case of K.T.M.S. Mohd. v. Union of India - (1992) 3 SCC 178 held as under:

  "34. We think it is not necessary to recapitulate and recite all the decisions on this legal aspect. But suffice to say that the core of all the decisions of this Court is to the effect that the voluntary nature of any statement made either before the Custom Authorities or the officers of Enforcement under the relevant provisions of the respective Acts is a sine qua non to act on it for any purpose and if the statement appears to have been obtained by any inducement, threat, coercion or by any improper means that statement must be rejected brevi manu. At the same time, it

is to be noted that merely because a statement is retracted, it cannot be recorded as involuntary or unlawfully obtained. It is only for the maker of the statement who alleges inducement, threat, promise etc. to establish that such improper means has been adopted. However, even if the maker of the statement fails to establish his allegations of inducement, threat etc. against the officer who recorded the statement, the authority while acting on the inculpatory statement of the maker is not completely relieved of his obligations in at least subjectively applying its mind to the subsequent retraction to hold that the inculpatory statement was not extorted. It thus boils down that the authority or any Court intending to act upon the inculpatory statement as a voluntary one should apply its mind to the retraction and reject the same in writing. It is only on this principle of law, this Court in several decisions has ruled that even in passing a detention order on the basis of an inculpatory statement of a detenu who has violated the provisions of the FERA or the Customs Act etc. the detaining authority should consider the subsequent retraction and record its opinion before accepting the inculpatory statement lest the order will be vitiated..."

(emphasis supplied)

- Further, burden is on the accused to prove that the statement was obtained by threat, duress or promise like any other person as was held in **Bhagwan Singh v. State of Punjab - AIR 1952 SC 214, Para 30**.

The reliance placed by the Noticee on Noor Aga v. State of Punjab is misplaced on facts. That judgment arose in the context of a prosecution under the Narcotic Drugs and Psychotropic Substances Act, 1985, examining the reverse burden of proof and fair-trial safeguards in a criminal prosecution, and its observations on Section 138B of the Customs Act, 1962 were made in that distinguishable context of a criminal trial before a court, not a quasi-judicial

adjudication under Section 122/124 of the Customs Act. Section 138B itself, by its own terms, governs the relevancy of a Section 108 statement "for the purpose of proving… the truth of the facts which it contains… in any prosecution for an offence under this Act" before a court — it does not control the appreciation of evidence by an Adjudicating Authority in confiscation and penalty proceedings, where the ordinary rules of preponderance of probability, and not the criminal standard, apply. Article 20(3) of the Constitution protects against testimonial compulsion in a prosecution; it has no independent application to displace an admission voluntarily made before a Gazetted Customs Officer in adjudication proceedings, absent proof of compulsion. The precedent is, accordingly, distinguished and does not assist the Noticee in the present proceeding.

15. The noticee in his submission also contended that the watch was purchased by him in Dubai for his personal use from his personal savings supplemented by money borrowed from a friend and the copy of bill/invoice for the watch was in fact produced at the time of the Panchnama but was not taken on record or incorporated therein. He also claimed that he is engaged in the business of cloth, cosmetics and electronics sourced from Dubai. From the records available in file, I find that in his statement he categorically mentioned that the watch was given by a person named Shri Harun at Dubai to carry the same in India and instructed to hand over to a person at Heera Panna Market of Mumbai whose details were to be provided by Mr. Harun after exiting from the Airport. A review of the statement reveals his clear admission that he currently has no formal employment. He stated that he regularly brings precious items, including watches, clothes, and phones, from foreign countries, for which he receives Rs. 20,000 to Rs. 30,000 per trip.

Upon reviewing the Panchnama and the noticee's voluntary statement recorded at the material time, I find that the noticee explicitly confessed to carrying the said Rolex watch at the behest of Shri Harun. He admitted that the watch was meant to be handed over to an individual whose details were to be shared by Shri Harun after his exit from the airport. Furthermore, the noticee categorically admitted in his statement that he failed to declare the said watch to the Customs authorities upon arrival, with the clear intent to clear it clandestinely and evade the payment of applicable Customs Duty. Consequently, the contention raised in the subsequent submissions that the noticee possessed the relevant bill/invoice but it was deliberately omitted from the record is entirely untenable and constitutes a mere afterthought.

Even if, for the sake of argument, it is assumed that the noticee possessed the invoice at the time of interception and same was not taken on the record, the noticee had ample subsequent opportunities to produce the same. Specifically, the noticee could have brought this fact to light and submitted the invoice alongside the written submissions or during the personal hearing, while insisting that it be taken on record. On the contrary, the noticee completely failed to substantiate his claim by producing a copy of the invoice/bill during either of these key instances. A mere claim of ownership over the high-end watch, without the submission of an invoice, bill, or other documentary evidence such as bank transaction histories or loan details establishing a legitimate purchase for bona fide personal use is insufficient to establish ownership. Therefore, the noticee's ownership claim lacks any factual basis and should be rejected.

16. Further, the noticee in his submission claimed being a first time carrier of such goods he was unable to declare the said watch

due to ignorance of law and stated that he made an oral declaration before authority in terms of Circular 09/2001-Cus dated 22.02.2001. *The explanation given by the noticee cannot be held to be genuine and creditworthy. In any case ignorance of law is no excuse not to follow something which is required to be done by the law in a particular manner. This principle has been recognized and followed by the Apex Court in a catena of its judgments. Hon'ble High Court of Calcutta in case of Provash Kumar Dey Vs. Inspector of Central Excise and others has held that ignorance of law is no excuse and accordingly the petitioner was rightly found guilty for contravention of Rule 32(2) [1993(64) ELT 23(Del.)]* Therefore, the plea that due to ignorance of law, he was unable to declare the same is appears false and not creditworthy. Furthermore, the noticee relied upon Circular No. 09/2001-Cus dated 22.02.2001 to support his claim of making an oral declaration regarding the watch before the Customs Authority. Upon reviewing the said circular, I find that it pertains to changing the practice of accepting a mere oral declaration without filling in the relevant entries on the Disembarkation Card. The circular explicitly clarifies that every passenger reporting at the Red Channel must fill out a Disembarkation Card, clearly stating the quantity and value of the goods brought by them, and hand over the Customs portion of the card to the officer on duty. In the instant case, the noticee was intercepted while attempting to exit through the Green Channel without making any declaration before the Customs Authority. Therefore, the noticee's reliance on the said circular is misplaced, and his plea of having made an oral declaration regarding the watch is baseless and devoid of merit.

16.1 Further, the noticee contended that the price of said Rolex Watch was taken from the website and same was inclusive of duties and taxes and cannot be treated as the assessable value. In this regard, I find that the basis for customs valuation is governed by

Section 14 of the Customs Act, 1962, and the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. The transaction value, defined as the price actually paid or payable for the goods, in terms of Rule 3 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 should be the basis for valuation and in such cases, the noticee ought to have been in the possession of the Invoice when he was intercepted and the goods were seized. However, it is evident from records that the noticee was failed to submit any purchase Invoice at the time of seizure. A review of his statement reveals a clear admission that the watch was handed to him by Shri Harun. It was intended for onward delivery to an individual whose details Shri Harun would provide upon exiting the airport and he had no purchase details with him. Further, the noticee has failed to submit any details of payment particulars which ought to be made through banking channel which has not been done in the present case. I find that the noticee was unable to produce any relevant documents viz. purchase invoice at the time of interception. Consequently, the transaction value cannot be determined under Rule 3 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. Furthermore, due to the non-availability of contemporaneous import data for identical or similar goods, valuation under Rules 4, 5, 7, and 8 of the said Rules is also ruled out. Accordingly, recourse must be taken to Rule 9 of the Customs Valuation Rules, 2007 (Residual Method), which provides for the determination of value using reasonable means consistent with general valuation principles and accordingly, the value of the said Rolex watch was obtained on the basis of preliminary market enquiry, price, make, model etc. and obtained from the website of the Rolex Company and on the basis of the that price was ascertained as Rs. 17,01,500/-. The noticee in his submission contended that the website price is inclusive of tax and duties and relied upon previous

adjudication orders passed by the competent authority. A review of the official Rolex website indicates that the prices listed for the watches are inclusive of Goods and Services Tax (GST). I find that Internet prices, especially from private websites, are often non-contemporaneous and do
not reflect the specific terms of the actual sale. Additionally, the noticee has not challenged the valuation methodology used by the officers; their contention is limited to the argument that the mentioned price includes all applicable taxes and duties. Moreover, the noticee failed to provide any purchase invoice in respect of said watch. Therefore, in view of the above, I find that the assessable value derived from the website is inclusive of GST, and the same must be accepted as the cum-duty price. I, therefore, reject the assessable value of ₹17,01,500 originally determined for the said watch, to the limited extent that the same must be treated as a cum-duty price inclusive of GST at 18%. Accordingly, the Customs duty shall be calculated on the basis of this revised assessable value.

17. I thus find that the recovery of said high end luxury watch from the possession of the noticee which was found concealed in the pocket of his pant worn by him and not declared to the Customs with an intention to illicitly clear it from the Airport to evade the payment of Customs duty is an act of smuggling and the same is conclusively proved. By the above act of commission, it is proved beyond doubt that the noticee has violated Section 77 of the Customs Act, 1962 read with Regulation 3 of Customs Baggage Declaration Regulations, 2013. I also find that the watch found in possession of the noticee was not purchased by him and same was handed over to him by Shri Harun to further handover the same to someone in India. Further, the said watch has not been declared before the Customs to evade payment of tax. Therefore, the said

Rolex Watch of Model 126331, Serial No. 781U08S8 imported by Shri Ahsan Amanullah Khan and deliberately not declared before the Customs on his arrival in India cannot be treated as a bonafide household goods and thus the passenger has contravened the Para 2.26 of the Foreign Trade Policy 2015-20 and thereby Section 11(1) of the Foreign Trade (Development and Regulation) Act,1992 read with Section 3(2) and 3(3) of the Foreign Trade (Development and Regulation) Act, 1992 read in conjunction with Section 11(3) of the Customs Act, 1962 and the relevant provisions of Baggage Rules, 2016, Customs Baggage Declaration Regulations, 2013 as amended.

18. I note that as per Section 77 of Customs Act 1962, a passenger coming from abroad to India for the purpose of clearing his baggage, is required to make a declaration of its contents to the Customs Officer in accordance with the Regulation 3 of Customs Baggage Declaration Regulation 2013 which says that: -

> *[All passengers who come to India and having anything to declare or are carrying dutiable or prohibited goods], shall declare their accompanied baggage in Form I appended to this regulation.*

I find that the provisions of Regulation 3 of Customs Baggage Declaration Regulation 2013 read with Section 77 of Customs Act 1962 were not complied with an intention to evade payment of Customs duty.

19. As per the provision of section 123 of the Customs Act, 1962, the burden of proving that the goods are not smuggled goods, in case of goods which have been seized under this Act under the reasonable belief that they are smuggled goods, lies on the person from whose possession such seizure has been made. This section applies to

watches also. I find that in the instant case, the seized good which was brought into India without declaring the same to Customs authorities have lost its status as bonafide imported goods and have assumed the status of smuggled goods, thereby rendering 'the watch' liable for confiscation under Section 111 of the Customs Act, 1962 read with Section 3(3) of the Foreign Trade (Development & Regulation) Act, 1992. As per the section 2(39) of the Customs Act, 1962 non-declaration of goods is an act of smuggling. As per section 2(33) of Customs Act 1962 non fulfilment of any conditions would bring the goods under prohibition. My above finding is aptly supported by the case law of **Om Prakash Bhatia reported at 2003 (155) ELT 423 (SC)** wherein it has been held by the Hon'ble Supreme Court as under:

> *From the aforesaid definition, it can be stated that (a) if there is any prohibition of import or export of goods under the Act or any other law for the time being in force, it would be considered to be prohibited goods; and (b) this would not include any such goods in respect of which the conditions, subject to which the goods are imported or exported, have been complied with.* ***This would mean that if the conditions prescribed for import or export of goods are not complied with, it would be considered to be prohibited goods.*** *This would also be clear from Section 11 which empowers the Central Government to prohibit either 'absolutely' or 'subject to such conditions' to be fulfilled before or after clearance, as may be specified in the notification, the import or export of the goods of any specified description. The notification can be issued for the purposes specified in sub-section (2).* ***Hence, prohibition of importation or exportation could be subject to certain prescribed conditions to be fulfilled before or after clearance of goods. If conditions are not fulfilled, it may amount to prohibited goods.*** *This is also made clear by this Court in Shekih Mohd. Omer v. Collector of Customs, Calcutta and Others [(1970) 2 SCC 728] wherein it was contended that the expression 'prohibition' used in Section 111(d) must be considered as a total prohibition and that the expression does not bring within its fold the restrictions imposed by clause (3) of the Import Control Order, 1955. The Court negatived the said contention and held thus:-*
>
> *'…What clause (d) of Section 111 says is that any goods which are imported or attempted to be imported contrary to "any prohibition imposed by any law for the time being in force in this country" is liable*

to be confiscated. "Any prohibition" referred to in that section applies to every type of "prohibition". That prohibition may be complete or partial. ***Any restriction on import or export is to an extent a prohibition.*** *The expression "any prohibition" in Section 111(d) of the Customs Act, 1962 includes restrictions. Merely because Section 3 of the Imports and Exports (Control) Act, 1947, uses three different expressions "prohibiting", "restricting" or "otherwise controlling", we cannot cut down the amplitude of the word "any prohibition" in Section 111(d) of the Act. "Any prohibition" means every prohibition. In other words all types of prohibitions. Restrictions is one type of prohibition. From item (I) of Schedule I, Part IV to Import Control Order, 1955, it is clear that import of living animals of all sorts is prohibited. But certain exceptions are provided for. But nonetheless the prohibition continues."*

I find that the act of the noticee, is in clear violation of the provisions of the Customs Act, 1962 as the goods have been imported in contravention of the conditions prescribed in the said Act and Notifications issued there under, and also in violation of the provisions of the Foreign Trade Policy 2023. Accordingly, the watch is liable for confiscation under Section 111(d) of the Customs Act, 1962 read with Section 3(3) of the Foreign Trade (Development & Regulation) Act, 1992.

I find that the noticees have attempted to smuggle 'the said watch' without giving a declaration to Customs under Section 77 of the Customs Act, 1962 and without following the conditions prescribed in the said Act and in violation of the provisions of the Foreign Trade Policy 2023, with an intent to evade payment of customs duty, thus making it liable for confiscation under 111(l) and 111(m) of the Customs Act, 1962 read with Section 3(3) of the Foreign Trade (Development & Regulation) Act, 1992.

20. In view of the above findings, I find that 'the watch' of brand Rolex (Model No. 126331) is liable for confiscation under section 111 (d), 111 (l) & 111 (m) of the Customs Act, 1962 read with Para 2.26/2.27 of the Foreign Trade Policy, 2015-20/2023 and section 3(2), 3(3) and 11(1) of the Foreign Trade (Development and

Regulation) Act, 1992 as the said seized good is not a bonafide personal baggage and was attempted to be brought into India without declaring to the Customs Authorities.

21. I find that Para 2.26 of Foreign Trade Policy 2015-20 prescribes the provisions related with Passenger Baggage. As per sub para (a) of the said para 2.26 of the FTP 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". This apparently mean import of the impugned seized goods through baggage is allowed but as per limits, terms and conditions prescribed in Baggage Rules, 2016. *In case of import of watch in passenger baggage, declaration of watch before Customs, constitute a condition for import as per Regulation 3 of Baggage Regulation 2013 and non-declaration of the same is construed as non-compliance of the condition for import in baggage.*

22. Further, I find that there is no such specific absolute prohibition on import of watch but it is regulated with various conditions and import of the same without complying with those conditions entails the imported watch fall under Prohibited category within the definition of "Prohibited Goods" given under Section 2(33) of Customs Act, 1962 which says that

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

23. In the instant case, I find that the impugned goods "watch" is brought by the noticee without complying with the laid down

conditions for import as per the findings above. I further find that since declaration of the subject goods before Customs Red Channel as required under Section 77 of Customs Act 1962 was not made by the noticee, any possible argument that the seized goods do not fall within the ambit of section 111(l) & 111(m) of Customs Act, 1962, is nullified from the outset. I, therefore find that there is no need of extensive discussion and it is amply clear that the subject seized watch is offending goods as per the provisions of Section 111(l) & 111(m) warranting confiscation on such goods which are not included or are in excess or do not correspond in respect of any particulars with the declaration made under Section 77 of Customs Act 1962. Accordingly, I hold that the impugned good is liable for confiscation under section 111(l) & 111(m) of Customs Act 1962.

24. Once the seized goods are held to be liable for confiscation, the next question before me to decide is whether to allow the release of the impugned goods on Redemption Fine or order for absolute confiscation of the same. The provisions related to redemption of confiscated goods are stipulated in Section 125 of the Customs Act, 1962; sub-section (1) of the said section 125 says that

> *"Option to pay fine in lieu of confiscation. - (1) whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods or, where such owner is not known, the person from whose possession, or custody such goods have been seized, an option to pay in lieu of confiscation such fine as the said officer thinks fit. It is, amply clear from the said Section that, where the confiscated goods are not prohibited for import or export, the Adjudicating Authority is*

under obligation to release the same. However, in those cases where the confiscated goods are prohibited for import or export, discretion has been vested in the Adjudicating Authority to decide the issue on the basis of the facts and circumstances involved.

25. A plain reading of the section 125 shows that the Adjudicating Authority is bound to give an option of redemption when goods are not subjected to any prohibition. There is no bar on the Adjudicating Authority allowing redemption of prohibited goods on merit. This exercise of discretion will depend on the nature of the goods and the nature of the prohibition. For instance, spurious drugs, arms, ammunition, hazardous goods, contaminated flora or fauna, food which does not meet the food safety standards, etc. are harmful to the society if allowed to find their way into the domestic market. On the other hand, release of certain goods on redemption fine, even though the same becomes prohibited as conditions of import have not been satisfied, may not be harmful to the society at large. 'Watches' are not prohibited items and there are no restrictions/conditions on the import of watches; from the above cited legal provisions, it is construed that section 125 of Customs Act, 1962 provides that in case of goods other than prohibited goods, the adjudicating authority has to give an option of redemption of the goods on fine in lieu of confiscation and in this way the adjudicating authority shall allow redemption of the confiscated goods. Accordingly, 'Rolex Watch (Model No. 126331)' in instant case may be considered for redemption.

26. I find that during the personal hearing the authorized representative mentioned that they are ready to pay the applicable duty, fine and penalty in lieu of release of watch and submitted the

case laws in their support wherein redemption fine is allowed in lieu of release of watch. I find that this issue of re-demption of goods has travelled through various appellate fora and there is a catena of judgements, over a period of time, of the Hon'ble Courts and other fora which have been categorical in the view that grant of the option of redemption under Section 125 of the Customs Act, 1962 can be exercised in the interest of justice. I find that in the following cases, Hon'ble Supreme Courts, High Courts, the appellate fora allowed redemption of seized goods;

i *Sapna Sanjeev Kohli vs. Commissioner – 2010(253) E.L.T.A52(S.C.).*

ii *Union of India vs. Dhanak M Ramji – 2010(252) E. L. T. A102(S.C.)*

iii *Shaikh Jamal Basha Vs. G.O.I. – 1997(91) E. L. T. 277(A. P.)*

iv *Commissioner of Cust. & C. Ex. Nagpir-I Vs. Mohd. Ashraf Armar – 2019(369) E. L. T. 1654 (Tri. Mumbai)*

v *Shri R. P. Sharma, Additional Secretary in RE Ashok Kumar Verma – 2019(369) E. L. T. 1677 (G. O. I.)*

vi *Suresh Bhosle Vs. Commissioner of Customs (Rev.) Kolkatta – 2009(246)E. L. T. 77(Cal.)*

vii *T. Elavarasan Versus Commissioner Of Customs (Airport), Chennai reported at 2011 (266) E.L.T. 167 (Mad.)*

viii The Hon'ble High Court of Judicature at Madras, in the judgment in the case of Shaik Mastani Bi vs. Principal Commissioner of Customs, Chennai- 1 [2017(345) E.L.T. 201 (Mad)) upheld the order of the Appellate Authority allowing re-export of gold on payment of redemption fine.

ix *The Hon'ble High Court of Kerala at Ernakulam in the case of R. Mohandas vs. Commissioner of Cochin [2016(336) E.L.T, 399 (Ker.)) has, observed at Para 8 that "The intention of Section 125 is that, after adjudication, the Customs Authority is bound to release the goods to any such person from whom such custody has been seized.."*

x. *Also, in the case of Union of India vs Dhanak M Ramji [2010(252)E.L.T. A102(S.C)], the Hon'ble Apex Court vide its judgement dated 08.03.2010 upheld the decision of the Hon'ble High Court of Judicature at Bombay [2009(248) E.L.T. 127 (Bom)], and approved redemption of absolutely confiscated goods to the passenger.*

xi. *The High Court of Delhi at New Delhi in a judgement passed in the matter of NIDHI KAPOOR v/s PRINCIPAL COMMISSIONER AND ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA & ORS, in W.P.(C) 8902/2021 dated 21.08.2023 where in it was observed that "The Court holds that an infraction of a condition for import of goods would also fall within the ambit of Section 2(33) of the Act and thus their redemption and release would become subject to the discretionary power of the Adjudging Officer. For reasons afore-noted, the Court finds no illegality in the individual orders passed by the Adjudging Officer and which were impugned in these writ petitions".*

26.1 I find that when there are judgements favouring redemption, there are contra judgement which provide for absolute confiscation of seized gold attempted to be smuggled into India as follows;

i. *Abdul Razak Vs., U. O. I. – 2012(275)E. L. T. 300 (Ker.) maintained by Hon'ble Supreme Court – 2017(350) E. L. T. A173(SC)*

27. I find that, the option to redemption has been granted and absolute confiscation is set-a-side vide order No. 12/2021-CUS(WZ)/ASAR dated 18.01.2021 by the Revision authority, GOI issued under F. No: 371/44/B/2015-RA/785 dated 29.01.2021. Similar view was taken by Revision Authority vide Order No. 287/2022-CUS(WZ)/ASAR/Mumbai dated 10.10.2022; Order No. 245/2021- CUS(WZ)/ASAR dated 29.09.2021 issued under F. No:

371/44/B/15-RA/2020 dated 06.10.2021 and Order No: 314/2022-Cus(WZ)/ASAR/Mumbai dated 31.10.2022 issued from F. No: 371/273/B/WZ/2018 dated 03.11.2022. *Further, the above mentioned 3 orders of RA has been accepted by the department*.

28. In the instant case, the noticee failed to declare the watch, as mandated under Section 77 of the Customs Act, 1962, hence, the goods are liable for confiscation. I find that ingenious concealment is one of the important aspects of deciding on redemption/ non-redemption of the goods. In the instant case, I find that the said watch was recovered from the pocket of his pant and there was no ingenious concealment on the part of 'noticee'. Further, only one watch was recovered from noticee and thus the quantity is not of commercial quantity. Hence, in terms of section 125 of Customs Act, 1962, I hold that the option of paying fine in lieu of confiscation cannot be denied to 'the noticee Shri Ahsan Amanullah Khan.' In view of the above discussions and findings, I use my discretion to give an option to redeem the impugned seized watch on payment of a redemption fine, as provided under Section 125 of the Act. Absolute confiscation in this case, would be harsh and against the spirit of the extant provisions.

29. I also find that in Order No. 345/2022-CUS(WZ)/ASRA/ MUMBAI dated 25.11.2022, in the case of Mrs. Manju Tahelani Vs. Principal Commissioner of Customs, Ahmedabad, passed by the Revision Authority, Government of India, Mumbai in which it was held in para 13 that –

> *"In the instant case, the quantum of gold under import is small and is not of commercial quantity. The impugned gold jewellery had been worn by the applicant on her person and Government observes that sometimes passengers resort to such methods to keep their valuables/ precious possessions safe. There are no*

allegations that the applicant is habitual offender and was involved in similar offence earlier. The fact of the case indicate that it is a case of non-declaration of gold, rather than a case of smuggling of commercial consideration."

30. I also find that in Order No. 245/2021-CUS(WZ)/ASAR/MUMBAI dated 29.09.2021 in case of Shri Memon Anjum, the Revisionary Authority set aside the order of absolute confiscation. The Revisionary Authority in Para 14 observed as under:

"Government notes that there is no past history of such offence/violation by the applicant. The part of impugned gold jewellery was concealed but this at times is resorted to by travellers with a view to keep the precious goods secure and safe. The quantity/type of gold being in form of gold chain and 3 rings is jewellery and is not commercial in nature. Under the circumstance, the Government opines that the order of absolute confiscation in the impugned case is in excess and unjustified. The order of the Appellate authority is therefore liable to be set aside and the goods are liable to be allows redemption on suitable redemption fine and penalty."

31. I further find that the Hon'ble High Court of Delhi in a recent judgement dated 21.08.2023 in the case of Nidhi Kapoor and others, in para 156 of its order observed that –

"The Court holds that an infraction of a condition for import of goods would also fall within the ambit of Section 2(33) of the Act and thus their redemption and release would become subject to the discretionary power of the Adjudicating Officer. For reasons aforenoted, the Court finds no illegality in the individual orders passed by the Adjudicating Officer and which were impugned in these writ petitions."

32. Further, Circular 69/2001-Cus dated 22-02-2001 states that redemption fines and personal penalties should be such that it not only wipes out profit margin but also act as a strong deterrent

against repeat offences. The exact profit margin cannot be calculated in the instant case, however the price of luxury watch of brands Rolex was ascertained after considering the best possible options available at Online portal and market price of watch is considered as Rs. 17,01,500/- (inclusive of GST @18%). Therefore, keeping the general trend of prices in the market as well as available online, the penalty along with redemption fine would be appropriate. Thereby, in the exercise of the powers conferred upon me as the Adjudicating Authority, I hereby allow redemption of the seized item to the noticee on payment of the applicable redemption fine, penalty and applicable duty.

33. I find that the noticee have walked through the Customs Green Channel without giving a proper declaration with regard to the quantity and value of watch possessed by him to Customs as mandated under Section 77 of Customs Act. 1962 and without following the conditions prescribed in the said Act and in violation of the provisions of the Foreign Trade Policy 2015-20, with an intent to escape detention by Customs authority and thereby evade Customs duty. The noticee in his statement dated 21.11.2025 stated that he did not declare the impugned good as he wanted to clear the same illicitly and evade the payment of Customs Duty. Thus, it is clear that the noticee has actively involved himself in carrying, removing, keeping and dealing with the restricted seized goods i.e watch of brand Rolex which he knows very well and has reason to believe that the same is liable for confiscation under Section 111 of the Customs Act, 1962. In view of his cited acts of commission and omission, the noticee has rendered himself liable for penalty under section 112 (b) (i) of the Customs Act, 1962. I hold it accordingly.

34. In view of the above discussion & findings, I proceed to pass the following order: -

O R D E R

i. I hereby reject the ascertained value of Rs. 17,01,500 for the Rolex watch (Model No. 126331, Serial No. 781U08S8) under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. Consequently, I order the redetermination of its value at Rs. 17,01,500 inclusive of GST @ 18%, in terms of provisions of Customs Valuation (Determination of Value of imported Goods) Rules, 2007;

ii. I order confiscation of seized luxury watch named Rolex (Model Model No. 126331, Serial No. 781U08S8), revalued at Rs. 17,01,500 inclusive of GST @ 18% found in possession of Shri Ahsan Amanullah Khan, who arrived from Dubai to Surat on 20.11.2025 by Air India Flight no. IX- 274 placed under seizure under panchnama proceedings dated 20/21.11.2025 and Seizure Memo Order dated 21.11.2025 under Section 111(l) of Customs Act, 1962. However, I give an option to redeem the same on payment of fine of **Rs. 4,50,000/- (Rupees Four Lakh Fifty Thousand Only)** in terms of Section 125(1) of Customs Act, 1962.

iii. In addition to redemption fine, the noticees would be liable for payment of applicable duties and other levies/ charges in terms of Section 125(2) of the Customs Act, 1962. Accordingly, I hereby order to recover the applicable customs duty alongwith the applicable penalty and other levies/ charges as per the provisions of Customs Act, 1962 on the revalued

amount of the watch named Rolex (Model Model No. 126331, Serial No. 781U08S8).

iv. I impose a penalty of **Rs. 10,00,000/- (Rupees Ten Lakh only)** on Shri Ahsan Amanullah Khan under Section 112(b)(i) of customs Act, 1962;

35. This order is issued without prejudice to any other action that may be taken against the passenger/ Noticee or any other person(s) concerned with said goods under the Customs Act, 1962, or any other law for the time being in force in India.

36. The Show Cause Notice CUS/SIIB/SZRE/431/2025-AIU-AIRPT-SRT-CUS-COMMRTEAHMEDABAD dated 14.05.2026 is disposed of in above terms.

Digitally signed by
Shravan Ram
Date: 21-08-2026
18:05:35

(Shravan Ram)
Additional Commissioner
Customs, Ahmedabad

F. No. CUS/SIIB/SZRE/431/2025-AIU-AIRPT-SRT-CUS-COMMRTEAHMEDABAD (VIII/26-09/AIU/CUS/2025-2026) Dated 21.08.2026
DIN: **20260871MN00007E35F8**

BY SPEED POST A.D.

To,
Mr. Ahsan Amanullah Khan,
S/o Shri Amanullah Azizulla Khan,
Raza Palace, 3rd Floor, Room No. 7/8, 217/219,
Sheriff Devji Street, Mumbai, Maharashtra- 400003.

Copy to:

(i) The Principal Commissioner of Customs, Ahmedabad. (Kind Attn: RRA Section).

(ii) The Dy./Asstt. Commissioner of Customs (AIU), Surat International Airport, Surat.

(iii) The Dy./Asstt. Commissioner of Customs (TRC), Ahmedabad.

(iv) The System In charge, Customs HQ, Ahmedabad for uploading on official web-site i.e. http://www.ahmedabadcustoms.gov.in.

(v) Guard File.