प्रधान आयुक्त का कार्यालय, सीमाशुल्क, अहमदाबाद

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F.No. VIII/ 26-14/AIU/Cus/ 2025-26 Date:25.08.2026

PREAMBLE

A	फाइल संख्या / File No.	VIII/26-14/AIU/Cus/2025-26
B	कारण बताओ नोटिस संख्या–तारीख / Show Cause Notice No. and Date	VIII/26-14/AIU/Cus/2025-26 dated 14.05.2026
C	मूल आदेश संख्या / Order-In-Original No.	**70/ADC/SR/O&A/2026-27**
D	आदेश तिथि / Date of Order-In-Original	**25.08.2026**
E	जारी करने की तारीख / Date of Issue	**25.08.2026**
F	द्वारा पारित / Passed By	Shravan Ram, Additional Commissioner, Customs, Ahmedabad.
G	यात्री का नाम और पता / Name and Address of Passenger/Noticee	Shri Sagar Jaysukhbhai Khunt, M2-103, Opera Pam Kholwad, Ta-Kamrej Surat, Surat Rural, Pin: 394190, Gujarat, India.

1	यह प्रति उन व्यक्तियों के उपयोग के लिए नि:शुल्क प्रदान की जाती है जिन्हें 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 टिकट 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 टिकट 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 इयूटी 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:-

Shri Sagar Jaysukhbhai Khunt, aged 32 years (D.O.B. 10.08.1993) residing at M2-103, Opera Pam Kholwad Ta-Kamrej Surat, Surat Rural Pin: 394190, Gujarat India holding passport bearing No. X8951565 (hereinafter referred to as "Passenger/Noticee") was departing to Bangkok vide Air India Flight No. IX 264 scheduled on 06.08.2025 from Surat International Airport.

2. Whereas, in the course of CISF security checking of said passenger namely, Sagar Jaysukhbhai Khunt, at the security check located in the International Departure Terminal of Surat Airport, the CISF unit, ASG Surat, suspected something in his bag, so they asked him to open his bag and remove all the items from the bag, there CISF officers found foreign currency (USD) from his bag. Accordingly, the CISF officers informed the Customs officers regarding the detection of foreign currencies and requested them to come to the CISF security check area located in the International Departure Terminal of Surat Airport. As per the seizure lists submitted by the CISF, the total foreign currencies detected by the CISF and Customs officers from the above passenger, was as under:

Table-1

Sr No.	Name of the passenger	Details of foreign Currency recovered by CISF
1.	Shri Sagar Jaysukhbhai Khunt	13450 USD

3. Whereas, the CISF unit ASG Surat handed over the passenger alongwith his baggage, above mentioned recovered foreign currencies as well as Seizure List drawn by them (CISF) to the Customs, Surat International Airport on 06.08.2025. The said passenger was then prevented from boarding the Bangkok bound flight and taken to the Customs office located at the Arrival Area of Surat International Airport. The Customs officers asked the passenger whether he had declared about the detained foreign currencies to the Customs, to which the passenger denied. The Customs officer, further asked the passenger if he had anything else to declare, in reply to which the passengers denied. Thereafter, all the remaining baggages, belonging to the said passenger, were scanned, however nothing else suspicious was found. Thereafter, the Customs officers asked the passenger whether he had any legal documents showing the purchase/ownership of 13450 USD recovered from him, the pax informed that at present he has no receipt of these 13450 USD.

4. A summary of currency recovered from Sagar Jaysukhbhai Khunt was as under:-

TABLE-2

Type of currency	**Denomination**	**No. of Notes**	**Total**
US DOLLAR	100	133	13300

	50	2	100
	20	2	40
	10	1	10
Total			13450/-(equivalent to INR 11,44,595/- as per Exchange Rate Notification No 34/2024-Customs (NT) dated 04.08.2025)

5. The following documents were submitted by the passenger, Sagar Jaysukhbhai Khunt:

i. Copy of Ticket PNR No. S2PRVV, Flight No. IX264 dated 06.08.2025 from Surat to Bangkok
ii. Passport No. X8951565 issued at Ahmedabad and valid upto 25.05.2033.

6. Whereas, the foreign currencies i.e. 13450 US Dollars (US Dollar Thirteen Thousand Four Hundred Fifty only) and totally equivalent to Rs.11,44,595/- recovered from the passenger Sagar Jaysukhbhai Khunt, were placed under detention vide Detention Receipt No 126 dated 06.08.2025, on the specific request of the passenger for grant of time to produce documentary evidence in support of lawful possession/export of the said foreign currency.

7. Thereafter, Sagar Jaysukhbhai Khunt has submitted an email dated 20.08.2025 vide where he had asked more time to submit documents related to the foreign currencies i.e. 13450 US Dollars (US Dollar Thirteen Thousand Four Hundred Fifty only) detained under detention vide Detention Receipt No 126 dated 06.08.2025. However, despite availing repeated opportunities, he failed to produce any documentary evidence or valid explanation in support of lawful possession/export of the said foreign currency in material time.

Further, in order to afford adequate and reasonable opportunity to Shri Sagar Jaysukhbhai Khunt, in consonance with the principles of natural justice, for substantiating the lawful possession/export of the detained foreign currency, issued a letter dated 30.12.2025 bearing DIN No. 20251265VC000000C987, requesting him to produce valid documents/evidence in respect of the foreign currency amounting to USD 13,450/- detained vide Detention Receipt No. 126 dated 06.08.2025.

8. Thereafter, vide email dated 07.01.2026 received through his email sagar_khunt10@yahoo.com, Shri Sagar Jaysukhbhai Khunt has submitted copy of various TAX INVOICE-CASH MEMO of foreign exchanges under the name of various individuals citing as “Notice reply”. The details of the same is as under:

Sr No	Inv No	Inv Date	Party name	FE amount	Paid through	Name of the issuer
1	PASHMCGR4202799	16/08/2024	Nileshbhai Batukbhai Gondaliya	3000	SBI Bank	Nium Forex
2	PASHMCGR4202798	16/08/2024	Pankaj Gopalbhai Paladiya	3000	KMBL Bank	Nium Forex
3	PASHMCGR4204003	25/10/2024	Nileshbhai Batukbhai Gondaliya	3000	SBI Bank	Nium Forex
4	PASHMCGR4204004	25/10/2024	Prashant Bharatbhai Sangani	3000	SBI Bank	Nium Forex
5	SP/2526/1030/188	11/04/2025	Ashav Rajeshbhai Lunagariya	2200	AXIS BANK	Zenith Leisure
6	SP/2526/1030/190	11/04/2025	Gaurangkumar Chaturbhai Gorasiya	2200	AXIS BANK	Zenith Leisure
7	SP/2526/1030/1212	26/05/2025	Gaurangkumar Chaturbhai Gorasiya	2500	HDFC BANK	Zenith Leisure
8	SP/2425/29589	29/10/2024	Sagar Jaysukhbhai Khunt	3000	AXIS BANK	Zenith Leisure
9	SP/2324/298281	23/12/2023	Sagar Jaysukhbhai Khunt	1000	AXIS BANK	Zenith Leisure
10	SP/2324/295752	13/10/2023	Sagar Jaysukhbhai Khunt	1200	AXIS BANK	Zenith Leisure
11	2074	02/05/2025	Paghdhar Harshal Vrajlal	1700	-	Xcellent Money Changer
12	2075	02/05/2025	Suhagiya Kiritkumar Rameshbhai	1100	-	Xcellent Money Changer
13	2071	02/05/2025	Devani Kaushal Ghanshyambhai	2300	-	Xcellent Money Changer
14	2072	02/05/2025	Alagiya Kartik Bharatbhai	1700	-	Xcellent Money Changer
				30900		

At the outset, the submission of such invoices in the names of multiple unrelated persons, without furnishing any supporting authorization, consent, source documents or legal explanation regarding the relation between Shri Sagar Jaysukhbhai Khunt and the said individuals, appeared suspicious and raised serious doubts regarding the genuineness and

authenticity of the claim put forth by him. Such conduct prima facie indicated an attempt to create a questionable documentary trail with a view to justify or regularize the possession/export of the detained foreign currency before the Customs authorities.

Accordingly, in order to ascertain the truthfulness of the claim and to verify the authenticity and legitimacy of the aforesaid invoices/memos, a Summons dated 21.01.2026 was issued to Shri Sagar Jaysukhbhai Khunt directing him to appear before the Customs authorities on 28.01.2026 and to provide complete lawful details/contact particulars of the persons in whose names the said foreign exchange invoices had been produced.

However, during the course of his statement dated 28.01.2026, Shri Sagar Jaysukhbhai Khunt retracted and withdrew his earlier submissions made vide email dated 07.01.2026. He admitted that the aforesaid invoices/cash memos submitted by him were not relevant to the detained foreign currency and stated that he had been misguided by certain persons into submitting those documents. He further categorically admitted that the foreign currency amounting to USD 13,450/- recovered from him actually belonged to him alone and that he was carrying the same to Bangkok for his personal expenses without declaring the said foreign currency before the Customs authorities as required under the law.

The above facts clearly establish that Shri Sagar Jaysukhbhai Khunt had initially attempted to mislead the Customs authorities by producing unrelated and unverifiable foreign exchange invoices in the names of various individuals, with an apparent intention to create a false defence and to delay the inquiry proceedings. His subsequent withdrawal of the said claim and categorical admission during statement proceedings further render his earlier submissions unreliable, devoid of evidentiary value and indicative of conscious concealment and deliberate suppression of material facts before the Customs authorities.

STATEMENT OF SHRI SAGAR JAYSUKHBHAI KHUNT:

9. Whereas, a statement of Sagar Jaysukhbhai Khunt was recorded on 28.01.2026 under provisions of Section 108 of the Customs Act, 1962, wherein he inter alia stated:-

- *that he resided at M2-103, Opera Pam Kholwad Ta-Kamrej Surat, Surat Rural Pin: 394190, Gujarat India; that he is holding Indian Passport No. X8951565 and Aadhar No.939578932547; he is unmarried person staying at above mentioned address with his family; he is in the business of importing/trading of miscellaneous items i.e. home and kitchen items, stationary items etc from China; he has done graduation in Commerce and can read, write and understand English, Hindi, and Gujarati language very well.*

- *that he does the trading from his firm M/s Shreeji Enterprise having GSTIN: 24CHNPK9821R1ZG registered at Ground Floor, T.P.68, F.P.51, Block No.251, Godown No.16, Radhe Campus, Near Setubandh Hills, Canal Road, Near Setubandh Hills, Yogi Chowk, Surat, Surat, Gujarat, 395010; he is the sole proprietor of the firm M/s Shreeji Enterprise. The IEC number of M/s Shreeji Enterprise is 2416503588.*
- *That he has done total 07 foreign trips and mostly to China and Thailand.*
- *that he was going to Bangkok on 06.08.2025 by Air India Express Flight No.IX-264 from Surat International Airport; that he was stopped by the CISF unit ASG Surat after clearing security check of Airlines, in departure hall of Surat International Airport, Surat; that During the security check by the CISF officers, they have found foreign currency amounting to USD 13450/- from his cabin baggage (Shoulder bag); that he had not declared the same before Customs that he was carrying US Dollars with him to Bangkok.*

Type of currency	*Denomination*	*No. of Notes*	*Total*
US DOLLAR	*100*	*133*	*13300*
	50	*2*	*100*
	20	*2*	*40*
	10	*1*	*10*
Total			*13450/-*

- *that the officer had asked him if he was having any legal documentary proof/evidence of acquisition of the said foreign currency, which he was carrying to Bangkok, he stated that at that time he don't have any purchase vouchers/ legal documents of said foreign currency recovered from his possession and he assured to submit the documents in some time; the foreign currency was placed under detention vide detention receipt No 126 dated 06.08.2025 by the Customs officer on his request.*
- *that he was in hurry to catch the flight, so he had not declared the said foreign currency USD 13450/- and so was smuggling the same out of India; he further state that he was aware that carrying forex without declaring the same is an offence under the Customs Act; he admits that he is aware that he has committed an offence by not declaring the same to Customs for which he has to face the consequences as prescribed under the Customs Law.*
- *that the said foreign currency belongs to him and he has bought the same in cash in small parts so he does not have any legal documentary proof/evidence of acquisition of the said foreign currency; he was carrying the said foreign currency to Bangkok for his own expenses.*
- *that as already stated, he has purchased the said foreign currency in cash in small parts from time to time, so do not exactly remember all the*

places from where he has purchased the said foreign currency; he was carrying the said foreign currency to Bangkok for his own expenses.

- *that he is withdrawing his earlier submissions made through mail, wherein he has provided various foreign exchange tax invoices/cash memo under name of various individuals; he was misguided by some persons, so he submitted various foreign exchange tax invoices/cash memo under name of various individuals; that the said foreign currency of USD 13,450/- belongs to him which he was carrying to Bangkok without declaring to Customs Authority for my own expenses.*

10. The sequence of events and the conduct of Shri Sagar Jaysukhbhai Khunt, from the very inception of the proceedings, clearly establish a deliberate, calculated and malafide attempt to evade lawful scrutiny by the Customs authorities and to derail and delay the investigation under the false pretext of producing documentary evidence in support of lawful possession/export of the detained foreign currency.

Therefore, the foreign currency amounting to USD 13,450/- (US Dollars Thirteen Thousand Four Hundred Fifty only), equivalent to INR 11,44,595/-, recovered from Shri Sagar Jaysukhbhai Khunt on 06.08.2025, which was initially placed under detention vide Detention Receipt No. 126 dated 06.08.2025 solely on the basis of his specific request seeking reasonable time for production of valid documentary evidence regarding lawful acquisition, possession and export of the said foreign currency. Thus, sufficient opportunity were extended to him by the Customs authorities with a legitimate expectation and in consonance of natural justice that he would substantiate his claim through genuine and legally admissible documents.

However, the subsequent conduct of Shri Sagar Jaysukhbhai Khunt reveals that such request for time was not made bona fide, but was merely a calculated tactic adopted by him to avoid immediate legal action and to buy time so as to create an artificial defence after detention of foreign currency. Despite having been granted sufficient and reasonable opportunity by this office, he failed to produce any authentic or verifiable document evidencing lawful possession/export of the detained foreign currency. Instead, vide email dated 20.08.2025, he sought further extension of time on the pretext of arranging supporting legal documents.

Further, after passage of sufficient time, this office again granted adequate and sufficient opportunity vide letter dated 30.12.2025 bearing DIN No. 20251265VC000000C987, specifically directing him to produce valid documentary evidence in support of the detained foreign currency. However, even after repeated opportunities spread over several months, Shri Sagar Jaysukhbhai Khunt failed to furnish any legally tenable document demonstrating lawful acquisition or lawful possession/export of the said foreign currency. The prolonged and unexplained failure on his part to

produce genuine documents clearly indicates that, at the relevant point of time, he was not in possession of any lawful documentary evidence substantiating the source and legality of the detained foreign currency.

Thereafter, only after considerable lapse of time and after repeated follow-up by the Customs authorities, Shri Sagar Jaysukhbhai Khunt, vide email dated 07.01.2026, attempted to justify the detained foreign currency by submitting copies of various foreign exchange tax invoices/cash memos aggregating to USD 30,900/-, purportedly issued in the names of several unrelated individuals. Significantly, most of the said invoices were not in his own name and no authorization, declaration, relationship, consent, supporting correspondence or any legally acceptable documentary correlation was furnished to explain as to how foreign exchange allegedly purchased by different persons could lawfully be possessed, aggregated and carried by him.

Hence, the timing, manner and nature of such belated submissions clearly establish that the said documents were produced merely as an afterthought with a view to create a colourable and fabricated defence after interception by the Customs authorities. The submission of foreign exchange invoices in the names of unrelated third parties, without any corroborative evidence whatsoever, prima facie indicated deliberate fabrication and conscious attempt to mislead the Customs authorities regarding the true ownership and source of the detained foreign currency. The same further demonstrates that Shri Sagar Jaysukhbhai Khunt was intentionally attempting to obstruct, delay and derail the investigation proceedings by introducing unverifiable and illegitimate documents so as to frustrate proper inquiry under the Customs law.

Accordingly, in order to ascertain the genuineness of the claim and to verify the authenticity of the said invoices/cash memos, a Summons dated 21.01.2026 was issued directing Shri Sagar Jaysukhbhai Khunt to appear on 28.01.2026 and furnish complete details/contact particulars of the concerned individuals as well as supporting evidence in relation to the said invoices. However, during the course of statement proceedings dated 28.01.2026, Shri Sagar Jaysukhbhai Khunt himself withdrew and disowned his earlier submissions made vide email dated 07.01.2026 and admitted that he had submitted the aforesaid invoices after being misguided by certain persons. He further categorically admitted that the foreign currency amounting to USD 13,450/- recovered from him actually belonged to him alone and that he was carrying the same to Bangkok for his personal expenses without declaring the same before the Customs authorities.

The aforesaid retraction and categorical admission on his part conclusively establish that the invoices/cash memos earlier produced by him were neither genuine supporting evidence for the detained currency, but were

knowingly relied upon only to misdirect the investigation. His own admission has rendered the said documents unreliable, devoid of evidentiary value and legally unacceptable.

Thus, the entire chronology of events clearly establishes a continuous pattern of deliberate non cooperation, conscious concealment of material facts, suppression of true ownership/source of the foreign currency and furnishing of false and misleading information before the Customs authorities. The conduct of Shri Sagar Jaysukhbhai Khunt clearly reflects malafide intent and a calculated attempt to misuse the opportunities granted by the Customs authorities solely for the purpose of buying time, frustrating lawful inquiry and evading the legal consequences arising out of possession and attempted export of undeclared foreign currency in contravention of the provisions of the Customs Act, 1962. Therefore, the said foreign currency i.e. 13450 US Dollars detained vide Detention Receipt No 126 dated 06.08.2025 has been placed under seizure vide Seizure Order dated 28.01.2026 on a reasonable belief that the said foreign currencies were attempted to be smuggled outside India without declaring to Customs Authority by way of concealment and were liable for confiscation under provisions of the Customs Act, 1962.

11. LEGAL PROVISIONS RELEVANT TO THE CASE

The relevant legal provisions related to the case is reproduced hereunder:

(A) The Customs Act, 1962

a) As per Section 2(3) — "baggage" includes unaccompanied baggage but does not include motor vehicles.

b) 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;

c) 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.

d) 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.

e) As per Section 11(3) of the Customs Act, 1962- "Any prohibition or

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

f) As per Section 11H (a) of the Customs Act 1962- "illegal export" means the export of any goods in contravention of the provisions of this Act or any other law for the time being in force;

g) As per Section 77 of the Customs Act 1962, the owner of any baggage shall, for the purpose of clearing it, make a declaration of its contents to the proper officer.

h) 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, he may seize such goods."

i) As per Section 113 of the Customs Act 1962, the following export goods shall be liable to confiscation: -

(d) any goods attempted to be exported or brought within the limits of any customs area for the purpose of being exported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;

(e) any goods found concealed in a package which brought within the limits of a Customs area for the purpose of exportation;

(h) any 1 [***] 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;

j) As per Section 114 of the Customs Act 1962, any person 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 113, or abets the doing or omission of such an act, shall be liable, -

(i*) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty not exceeding three times the value of the goods as declared by the exporter or the value as determined under this Act, whichever is the greater;*

k) As per Section 117 of the Customs Act, 1962, any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or

failure, shall be liable to a penalty not exceeding 1[four lakh rupees].

(B) Foreign Trade (Development and Regulation) Act, 1992

a) 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."

b) 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."

c) 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."

(C) FOREIGN TRADE POLICY 2023:

As per Para 2.45- Export of Passenger Baggage

(a) Bona-fide personal baggage may be exported either along with passenger or, if unaccompanied, within one year before or after passenger's departure from India. However, items mentioned as restricted in ITC (HS) shall require an Authorisation. Government of India officials proceeding abroad on official postings shall, however, be permitted to carry along with their personal baggage, food items (free, restricted or prohibited) strictly for their personal consumption. The Provisions of the Para shall be subject to Baggage Rules issued under Customs Act, 1962.

(D) THE FOREIGN EXCHANGE MANAGEMENT ACT, 1999:

SECTION 2. Definitions.- In this Act, unless the context otherwise requires,-(m) "foreign currency" means any currency other than Indian currency;

SECTION 3. Dealing in foreign exchange, etc.- Save as otherwise provided in this Act, rules or regulations made thereunder, or with the general or special permission of the Reserve Bank, no person shall (a) deal in or transfer any foreign exchange or foreign security to any person not being an authorised person;

SECTION 4. Holding of foreign exchange, etc.—Save as otherwise

provided in this Act, no person resident in India shall acquire, hold, own, possess or transfer any foreign exchange, foreign security or any immovable property situated outside India.

(E) THE BAGGAGE RULES, 2016 (EARLIER BAGGAGE RULES, 1998 AS AMENDED FROM TIME TO TIME):

Rule 7. Currency. - The import and export of currency under these rules shall be governed in accordance with the provisions of the Foreign Exchange Management (Export and Import of Currency) Regulations, 2000, and the notifications issued thereunder.

(F) NOTIFICATION NO. FEMA – 6 (R)/RB-2015 DATED 29/12/2015 {FOREIGN EXCHANGE MANAGEMENT (EXPORT AND IMPORT OF CURRENCY) REGULATIONS, 2015} [EARLIER NOTIFICATION NO. FEMA 6 /RB-2000 DATED 3RD MAY 2000 {FOREIGN EXCHANGE MANAGEMENT (EXPORT AND IMPORT OF CURRENCY) REGULATIONS, 2000}] :-

REGULATION 5: Prohibition on export and import of foreign currency: -

Except as otherwise provided in these regulations, no person shall, without the general or special permission of the Reserve Bank, export or send out of India, or import or bring into India, any foreign currency.

Import of foreign exchange into India: -

REGULATION 6: Import of foreign exchange into India:-

A person may –

a. sends into India without limit foreign exchange in any form other than currency notes, bank notes and travellers' cheques;
b. brings into India from any place outside India without limit foreign exchange (other than unissued notes),

provided that bringing of foreign exchange into India under clause (b) shall be subject to the condition that such person makes, on arrival in India, a declaration to the Custom authorities in Currency Declaration Form (CDF) annexed to these Regulations;

provided further that it shall not be necessary to make such declaration where the aggregate value of the foreign exchange in the form of currency notes, bank notes or traveller's cheques brought in by such person at any one time does not exceed US $ 10,000 (US Dollars ten thousand) or its equivalent and/or the aggregate value of foreign currency notes brought in by such person at any one time does not exceed US $ 5,000 (US Dollars five thousand) or its equivalent.

REGULATION 7: Export of foreign exchange and currency notes:-

(1) An authorised person may send out of India foreign currency acquired in normal course of business,

(2) Any person may take or send out of India, -

a. Cheques drawn on foreign currency account maintained in accordance with Foreign Exchange Management (Foreign Currency Accounts by a person resident in India) Regulations, 2000;
b. foreign exchange obtained by him by drawable from an authorised person in accordance with the provisions of the Act or the rules or regulations or directions made or issued thereunder;
c. currency in the safes of vessels or aircrafts which has been brought into India or which has been taken on board a vessel or aircraft with the permission of the Reserve Bank;

(3) Any person may take out of India, -

a. foreign exchange possessed by him in accordance with the Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulations, 2015;
b. unspent foreign exchange brought back by him to India while returning from travel abroad and retained in accordance with the Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulations, 2015;

(4) Any person resident outside India may take out of India unspent foreign exchange not exceeding the amount brought in by him and declared in accordance with the proviso to clause (b) of Regulation 6, on his arrival in India.

(G) NOTIFICATION NO. FEMA 11(R)/2015-RB DATED 29.12.2015: FOREIGN EXCHANGE MANAGEMENT (POSSESSION AND RETENTION OF FOREIGN CURRENCY) REGULATIONS, 2015.

REGULATION 3: Limits for possession and retention of foreign currency or foreign coins:-

For the purpose of clause (a) and clause (e) of Section 9 of the Act, the Reserve Bank specifies the following limits for possession or retention of foreign currency or foreign coins, namely :-

i) Possession without limit of foreign currency and coins by an authorised person within the scope of his authority;
ii) Possession without limit of foreign coins by any person;
iii) Retention by a person resident in India of foreign currency notes, bank notes and foreign currency travellers' cheques not exceeding US$ 2000 or its equivalent in aggregate, provided that such foreign exchange in the form of currency notes, bank notes and travellers cheques;

a. was acquired by him while on a visit to any place outside India by way of payment for services not arising from any business in or anything done in India; or
b. was acquired by him, from any person not resident in India and who is on a visit to India, as honorarium or gift or for services rendered or in settlement of any lawful obligation; or
c. was acquired by him by way of honorarium or gift while on a visit to any place outside India; or
d. represents unspent amount of foreign exchange acquired by him from an authorised person for travel abroad.

CONTRAVENTION AND VIOLATION OF LAWS

12. Whereas, it therefore appears that:

a. The passenger, Sagar Jaysukhbhai Khunt attempted to improperly export/smuggle the seized foreign currency (US Dollar 13450) by concealing the same in his cabin baggage (Shoulder bag). The passenger had not declared the same before the Customs. He was unable to produce any document evidencing legitimate procurement of the said seized foreign currency in terms of Regulation 7(2) & 7(3) of the Foreign Exchange Management (Export and import of currency) Regulations, 2015. He also failed to produce any declaration, if any made in compliance to the provisions of the Section 77 of Customs Act, 1962. He has violated Regulation 5 and 7 of the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015 by attempting to illegally export the foreign currency seized from his possession. The passenger has illegally dealt with, acquired, held and possessed the seized foreign currency and attempted to improperly export or physically transfer the same at a place outside India. He has thus contravened Section 3 and Section 4 of the Foreign Exchange Management Act, 1999. The amount of foreign currency found in his possession was not as per the prescribed regulations for a resident in India under the Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulations, 2015. The passenger has thus violated Regulations of the Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulations, 2015. It appears that by virtue of restrictions on the export of foreign currency, and non-compliance of the statutory requirements, the seized foreign currencies appears to be “prohibited goods” in terms of Section 2(33) of the Customs Act, 1962. Therefore, it appears that the passenger indulged in smuggling as defined under Section 2(39) of the Customs Act, 1962 and the attempted export constitutes an act of “illegal export” as defined under Section 11H(a) of the Customs Act, 1962. The passenger has thus violated Para 2.45 of the Foreign Trade Policy 2023 read with Section 3(2), 3(3) and 11(1) of the Foreign Trade

(Development and Regulation) Act, 1992 further read in conjunction with Section 11(3) of the Customs Act, 1962.

b. The seized foreign currencies (US Dollar 13450) equivalent, in total, to Indian Rs. 11,44,595/- (Rupees Eleven Lakhs Forty Four Thousand Five Hundred Ninety Five only) as per Notification No. 34/2024-Customs (NT) dated 04.08.2025, which was attempted to be improperly and illegally exported by the passenger by concealing it in his cabin baggage (Shoulder bag) in violation of the Customs Act, 1962, Baggage Rules, 2016 and other laws in force appears liable for confiscation under Section 113(d), 113(e) and 113(h) of the Customs Act, 1962. The said act of the passenger appears to be an act of "smuggling" as defined under Section 2(39) of the Customs Act, 1962. The passenger by his above-described acts of omission and commission has rendered the seized foreign currency were liable for confiscation under Section 113 of the Customs Act, 1962 and therefore he appears liable for penalty under Section 114(i) of the Customs Act, 1962.

c. It is observed that on the date of travel i.e. 06.08.2025, Shri Sagar Jaysukhbhai Khunt, from whose possession foreign currency amounting to USD 13,450/- (US Dollars Thirteen Thousand Four Hundred Fifty only), equivalent to INR 11,44,595/-, was recovered, requested the Customs authorities to grant him reasonable time for production/submission of documents in support of lawful acquisition, possession and intended carriage/export of the said foreign currency. Considering his request and in adherence to the principles of natural justice, the said foreign currency was initially placed under detention vide Detention Receipt No. 126 dated 06.08.2025 so as to afford him adequate opportunity to substantiate his claim through valid documentary evidence.

d. However, instead of furnishing authentic documents within a reasonable period, Shri Sagar Jaysukhbhai Khunt, vide email dated 20.08.2025, again sought further extension of time on the pretext of arranging supporting documents relating to the detained foreign currency. Despite availing sufficient opportunity and lapse of considerable time, he failed to produce any valid or legally acceptable document evidencing lawful possession, acquisition or intended export of the said foreign currency. Thereafter, this office, giving another opportunity vide letter dated 30.12.2025 specifically called upon Shri Sagar Jaysukhbhai Khunt to furnish valid documentary evidence in respect of the aforesaid detained foreign currency.

e. Subsequently, vide submission dated 07.01.2026 through his email ID i.e. sagar_khunt10@yahoo.com, Shri Sagar Jaysukhbhai Khunt

submitted copies of various foreign exchange Tax Invoices/Cash Memos purportedly issued in the names of different unknown individuals. On scrutiny, it was noticed that several of the said invoices/cash memos were not even in his own name and no supporting authorization, declaration, consent or documentary nexus was furnished to establish as to how the foreign exchange allegedly purchased by unrelated third parties could lawfully be possessed and carried by him. The belated submission of such documents, after repeated extensions of time and prolonged delay, appeared to be a clear afterthought intended to create an artificial defence and to give an apparent colour of legitimacy to the detained foreign currency.

f. Accordingly, in order to verify the genuineness and authenticity of the said documents and to ascertain the true facts, Shri Sagar Jaysukhbhai Khunt was summoned for inquiry. However, during the course of his statement dated 28.01.2026, Shri Sagar Jaysukhbhai Khunt himself withdrew and disowned his earlier submissions made vide email dated 07.01.2026 and admitted that he had submitted the aforesaid invoices/cash memos after being misguided by certain persons. Thus, by his own admission, the documents earlier submitted by him stood discredited and rendered devoid of evidentiary value. He further categorically admitted that the foreign currency amounting to USD 13,450/- recovered from him belonged to him and that he was carrying the same to Bangkok for his personal expenses without declaring the same before the Customs authorities, as required under the law.

g. From the aforesaid facts and chronological sequence of events, it clearly appears that Shri Sagar Jaysukhbhai Khunt was never in possession of any genuine, lawful or legally sustainable documentary evidence in support of lawful acquisition, possession or intended export of the detained foreign currency. On the contrary, his conduct demonstrates a deliberate and conscious attempt to evade lawful scrutiny by the Customs authorities by repeatedly seeking time on false pretexts, withholding material facts and subsequently furnishing false, misleading and unverifiable documents in the names of unrelated persons, only with a view to derail, obstruct and prolong the investigation proceedings initiated against him.

h. The repeated requests for extension of time, coupled with the eventual submission of admittedly false documents and subsequent retraction thereof, clearly establish absence of bona fide explanation and reflect malafide intent on the part of Shri Sagar Jaysukhbhai Khunt. His acts of furnishing misleading material particulars and attempting to create a fabricated documentary trail after interception amount to deliberate interference with lawful inquiry proceedings conducted by the

Customs authorities under the Customs Act, 1962. Further, his ultimate admission during statement proceedings dated 28.01.2026 that the said foreign currency belonged to him and was being carried by him to Bangkok without declaration before Customs Authorities conclusively establishes conscious contravention of the statutory provisions governing export and declaration of foreign currency.

i. Therefore, the aforesaid acts and omissions on the part of Shri Sagar Jaysukhbhai Khunt appear to constitute deliberate violation of the provisions of the Customs Act, 1962. By knowingly suppressing material facts, furnishing false and misleading documents during inquiry proceedings and attempting to export undeclared foreign currency without lawful declaration before the Customs authorities, Shri Sagar Jaysukhbhai Khunt has rendered himself liable for penal action under Section 117 of the Customs Act, 1962, besides rendering the said foreign currency liable for confiscation under the relevant provisions of the Customs Act, 1962.

13. Hon'ble Supreme Court in the case of Om Prakash Bhatia reported at 2003 (155) ELT 423 (SC) has held that if importation and exportation of goods are subject to certain prescribed conditions, which are to be fulfilled before or after clearance of goods, goods would fall within the ambit of 'prohibited goods' if such conditions are not fulfilled. In the instant case, the foreign currencies were kept undeclared, concealed and were being carried by the passenger, are to be treated as "goods" prohibited in nature.

14. Accordingly, a show cause notice bearing F. No. VIII/26-14/AIU/Cus/2025-26 dated 14.05.2026 was issued to Shri Sagar Jaysukhbhai Khunt, M2-103, Opera Pam Kholwad Ta-Kamrej Surat, Surat Rural Pin: 394190, Gujrat India to show cause as to why:

(i) The foreign currencies US Dollar 13450/- in total, equivalent to Indian Rs.11,44,595/- (Rupees Eleven Lakhs Forty-Four Thousand Five Hundred Ninety-Five only) seized from him vide seizure order dated 28.01.2026 should not be confiscated under Section 113 (d), 113(e) and 113 (h) of the Customs Act, 1962;

(ii) Penalty should not be imposed upon him under Section 114(i) of the Customs Act, 1962.

(iii) Penalty should not be imposed upon him under Section 117 of the Customs Act, 1962.

DEFENCE REPLY AND RECORS OF PERSONAL HEARING:

15. The Noticee, Shri Sagar Jaysukhbhai Khunt, filed a written reply to the Show Cause Notice on 29.07.2026, denying all the allegations and submitted:-

- That the seized amount is the Noticee's own foreign currency, carried for his personal expenses on a bona fide overseas visit. There is no allegation that the currency represented sale proceeds of contraband, proceeds of crime, or an illicit remittance for a third party/hawala. Under the Liberalised Remittance Scheme read with the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015, a resident individual is permitted to acquire and carry foreign exchange for a private visit abroad up to USD 2,50,000/- per financial year, of which currency notes may be carried up to USD 3,000/- per visit, the balance being carriable in the form of forex cards/travellers' cheques. The Noticee's overall entitlement was USD 2,50,000/-, of which the sum carried was only a small fraction; the alleged contravention is confined to the form/medium of carriage (cash notes rather than a forex card) and is thus, a venial and technical breach.

- that Section 113(e) is not attracted, as the currency was carried in the Noticee's ordinary cabin/shoulder bag and was detected on routine CISF screening, and was not "found concealed in a package" within the meaning of that clause.

- that Section 113(h) is not attracted, as it operates only where goods are "not included in, or are in excess of, those included in" a declaration made under Section 77; no declaration under Section 77 had arisen or was made in the present case, since the currency was detected at the CISF security check itself, prior to any stage of clearance before Customs at which a Section 77 declaration would fall due. In any case, the import/export of currency is governed by the self-contained FEMA (Export and Import of Currency) Regulations and the CDF mechanism, and not by Section 77, as recognised by Rule 7 of the Baggage Rules, 2016 itself. Reliance is placed on Mohammed Mustafa v. Principal Commissioner of Customs, Hyderabad, Final Order No. A/30240 of 2024 dated 8.4.2024, wherein it was held that where a passenger is intercepted by CISF and has not entered the customs area/presented for clearance, Sections 113(e) and (h) are not attracted, though the currency

remains liable to confiscation under Section 113(d) alone, with redemption under Section 125 being allowed.

- that Even under Section 113(d), absolute confiscation does not follow automatically; a mere intention/attempt to export must be distinguished from an actual improper export, and the discretion under Section 125 must be exercised to allow redemption. The decision in Om Prakash Bhatia v. Commissioner of Customs, Delhi, 2003 (155) ELT 423 (SC), relied upon in the SCN, is factually distinguishable, being a case of gross over-invoicing of export goods to fraudulently claim duty drawback; further, even in that very decision, the goods were not absolutely confiscated but were allowed to be redeemed on payment of a redemption fine under Section 125, which supports the Noticee's plea rather than the Department's case.

- that Foreign currency is not "prohibited goods" in the absolute sense (unlike narcotics or arms), and Section 125 vests the Adjudicating Authority with discretion to release goods on redemption fine even where they are prohibited goods, the noticee placed reliance on below mentioned case laws:-

    - Commissioner of Customs v. Rajinder Nirula, Customs Appeal No. 60 of 2006 (Del., 27.10.2016);
    - Rayavarapu Sri Devi v. Pr. Commissioner of Customs, 2025 (392) ELT 72 (Mad.);
    - Peringatil Hamza v. Commissioner of Customs (Airport), Mumbai, 2014 (306) ELT 332 (Tri.-LB); and
    - Oguljeren Hajyyeva v. Commissioner of Customs, W.P.(C) No. 11354 of 2023 (Del., 15.1.2024).

  Absolute confiscation of the Noticee's own currency is thus said to be contrary to settled law.

- Penalty under Section 114(i) is unwarranted, or at the highest ought to be reduced to a nominal/token amount, since "three times the value" is a statutory ceiling and not a norm, and on the admitted facts there is no mens rea to smuggle for illicit gain, the currency being the Noticee's own money for personal use.

- Penalty under Section 117 cannot be imposed in addition to Section 114(i) for one and the same act, Section 117 being a residuary

provision applicable only "where no express penalty is elsewhere provided"; since Section 114(i) already covers the very same conduct, the simultaneous imposition of penalty under both provisions is said to amount to an impermissible double penalty.

- The invoices furnished vide e-mail dated 07.01.2026 were submitted by the Noticee, a layman, under anxiety following detention and on being misguided by others; he himself voluntarily withdrew the same at the earliest opportunity, during his statement dated 28.01.2026, and stated the true position. This voluntary retraction, it is submitted, reflects candour and cooperation and cannot be treated as an aggravating circumstance; further, Detention Receipt No. 126 dated 06.08.2025 itself records that the goods were detained at the Noticee's own request for production of documents, and that he remained traceable and responsive throughout, reflecting bona fide conduct from inception.

- The Noticee has prayed that the proceedings be dropped and the currency released; or, in the alternative, that the currency be held not liable to absolute confiscation and an option to redeem be granted on payment of a nominal redemption fine under Section 125; that the proposals for confiscation under Sections 113(e) and 113(h) and penalty under Section 117 be dropped; and that penalty under Section 114(i) be dropped or drastically reduced.

16. Personal Hearing in this case was fixed on 28.07.2026. However, it was re-scheduled for 30.07.2026 on request made by the noticee. Shri Anish Goyal, Authorised Representative of the Noticee, appeared for personal hearing on 30.07.2026 and reiterated the written submissions filed on behalf of the Noticee, stating that he had nothing further to add.

DISCUSSION & FINDINGS

17. I have carefully gone through the facts of the case, the Show Cause Notice, the written defence submissions filed by the Noticee, the case laws relied upon by him, and the record of the personal hearing.

18. The issues for determination are:

(i) whether the seized foreign currency of USD 13,450/- (Rs. 11,44,595/) is liable for confiscation under Sections 113(d), 113(e) and 113(h) of the Customs Act, 1962; and

(ii) whether the Noticee is liable for penalty under Sections 114(i) and 117 of the Customs Act, 1962.

19. It is an admitted and undisputed position, borne out by the Noticee's own statement dated 28.01.2026 recorded under Section 108 of the Customs Act, 1962, that:

(a) the entire seized foreign currency of USD 13,450/- belonged to the Noticee;

(b) he was carrying the same to Bangkok for his own personal expenses;

(c) he did not declare the same before Customs;

(d) he possessed no documentary evidence of its lawful acquisition; and

(e) the invoices/cash memos earlier furnished by him in the names of ten different individuals were false and were furnished only to mislead the investigation.

I also find that a statement recorded under Section 108 of the Customs Act, 1962 has evidentiary value and, having been made voluntarily and never having been retracted, squarely binds the Noticee.

20. I find that the Noticee, being an international passenger travelling out of India, was bound by the Baggage Rules, 2016 framed under the Customs Act, 1962. Rule 7 of the Baggage Rules, 2016 stipulates that the import and export of currency shall be governed by the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015. Regulation 5 of the said Regulations imposes a blanket prohibition on the export of foreign currency "without the general or special permission of the Reserve Bank", subject only to the limited exceptions in Regulation 7.

I find that the Noticee has neither claimed, nor produced any document to show, that he held any general or special permission of the RBI, or that he falls within any of the exceptions under Regulation 7(1) to 7(4) ibid. His own admitted case is that the currency was purchased by him in cash, in small amounts, over time, for which he holds no purchase vouchers whatsoever — a case that squarely falls outside Regulation 7 and Regulation 3 of the Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulations, 2015 (which permits retention of, at most, USD 2,000/- and that too only were acquired in specific enumerated circumstances, none of which is even claimed by the Noticee). The export of the seized currency was, therefore, in violation of Regulation 5 read with

Regulation 7 of the FEMA (Export and Import of Currency) Regulations, 2015 and Sections 3 & 4 of FEMA, 1999.

21. The noticee, in his written submission made on 29.07.2026, has submitted that the carriage of foreign exchange for private travel is not prohibited. In this regard, I find that Section 2(22)(d) of the Customs Act, 1962 expressly includes "currency and negotiable instruments" within the definition of "goods". Further, Section 2(33) defines "prohibited goods" to mean goods the import or export of which is subject to prohibition, but excludes goods in respect of which the conditions for import/export have been complied with — meaning, conversely, that goods in respect of which such conditions are not complied with, are prohibited goods. The Hon'ble Supreme Court in Om Prakash Bhatia v. Commissioner of Customs, New Delhi, 2003 (155) ELT 423 (SC), has authoritatively laid down this very principle- that if the conditions prescribed for import or export of goods are not complied with, the goods would be prohibited goods within Section 2(33). I find that this is a statement of general legal principle and is not confined to cases of valuation/over-invoicing as claimed by the noticee in their reply, the Noticee's attempt to distinguish Om Prakash Bhatia (supra) on facts therefore does not detract from the ratio, which applies with equal, if not greater, force to currency exported in violation of the FEMA Regulations.

Indeed, it is this very ratio which the Larger Bench of the Tribunal has applied to foreign currency in Peringatil Hamza v. Commissioner of Customs (Airport), Mumbai, 2014 (306) ELT 332 (Tri.-LB) — a decision relied upon by the Noticee himself — wherein it was held that currency sought to be taken outside India in contravention of the RBI Regulations is "prohibited goods".

I therefore hold that the seized foreign currency, having been exported/attempted to be exported in violation of Regulation 5 of the FEMA (Export and Import of Currency) Regulations, 2015, is "prohibited goods" within the meaning of Section 2(33) of the Customs Act, 1962, and is liable to confiscation under Section 113(d) ibid.

22. I further find that the noticee, in his defence reply, has submitted that Section 113 (e) and 113 (h) are not attracted in their case. In this regard, I have considered the Noticee's reliance on Mohammed Mustafa v. Principal Commissioner of Customs, Hyderabad (supra) for the proposition that Sections 113(e) and 113(h) are not attracted. On careful perusal of the above case law relied upon by the noticee, I find that the above decision is clearly distinguishable on facts. In Mohammed Mustafa, the Tribunal's finding that Sections 113(e) and (h) were not attracted rested squarely on the fact that

the appellant had never entered the customs area at all — he had not even approached the airline counter, and this was independently corroborated by the "no-show" status of his ticket. In such circumstances, no obligation to make a declaration under Section 77 could conceivably have arisen, since the passenger had not even reached the stage of presenting himself, or his baggage, for clearance.

22.1 In the instant case, on careful perusal of the show cause notice and the documents relied upon therein, I find that the facts of the present case are materially different. The Noticee, Shri Sagar Jaysukhbhai Khunt, held a confirmed ticket, had cleared airline check-in/security formalities, had deposited/handed over his check-in luggage to the Airline Counter and had even cleared the immigration process. Thereafter, he was well within the International Departure Terminal — the secured, sterile zone reserved for outbound international passengers who have committed themselves to departure — when the currency was detected in his cabin baggage. I also find that the noticee, in his statement recorded under section 108 of the Customs Act, 1962 on 28.01.2026, has himself stated that he had not declared the foreign currency to the customs authorities and he was smuggling the same to out of India.

I find that it is a clear failure to make a true and complete declaration under Section 77 of the Customs Act, 1962, unlike the situation in Mohammed Mustafa where the obligation to declare had simply not yet arisen. The plea that no Section 77 declaration had fallen due is accordingly rejected on facts.

22.2 Further, as regards Section 113(e), I find that the currency was not lying loose or visible in the Noticee's bag; it had to be detected only after CISF officers, having suspected something amiss, specifically directed the Noticee to open the bag and remove all items therefrom. The very fact that the currency could not be detected without such active intervention — *opening the bag and removing every item* — itself establishes that it was kept in a manner designed to escape ordinary notice, which is concealment for the purposes of Section 113(e); concealment need not take the form of a specially designed cavity or wrapped package to attract the clause, so long as the goods are kept in a package/bag in a manner that they are not readily apparent. I therefore hold that the currency was "found concealed in a package" (the bag) brought within the limits of the customs area for the purpose of exportation, and Section 113(e) is squarely attracted.

23. I further find that the noticee, in his defence reply has submitted that even under Section 113 (d), absolute confiscation cannot follow, a mere intention/attempt must be distinguished from an actual proscribed export and redemption under section 125 must be granted. The Noticee has relied upon below mentioned case laws-

- Commissioner of Customs v. Rajinder Nirula, Customs Appeal No. 60 of 2006 (Del., 27.10.2016);
- Rayavarapu Sri Devi v. Pr. Commissioner of Customs, 2025 (392) ELT 72 (Mad.);
- Peringatil Hamza v. Commissioner of Customs (Airport), Mumbai, 2014 (306) ELT 332 (Tri.-LB); and
- Oguljeren Hajyyeva v. Commissioner of Customs, W.P.(C) No. 11354 of 2023 (Del., 15.1.2024).

for the proposition that redemption under Section 125 of the Customs Act, 1962 ought ordinarily to be allowed even in respect of seized foreign currency.

23.1 I have carefully gone through the case laws relied upon by the noticee and I find that none of the cited decisions holds that redemption is a matter of right or that the discretion under Section 125 must invariably be exercised in favour of a Noticee, regardless of the facts of the case. On the contrary, each of these decisions, including Peringatil Hamza v. Commissioner of Customs (Airport), MUMBAI 2014 (306) E.L.T. 332 (TRI. - LB), expressly recognises that the grant of redemption is a matter of discretion "in the facts and circumstances of the case", to be exercised judicially having regard to the conduct of the party concerned. The Hon'ble Supreme Court has, in Garg Wollen Mills (P) Ltd. v. Additional Collector, Customs, New Delhi, 1998 (104) ELT 306 (SC), held that the option to release prohibited goods on redemption fine is itself discretionary and not obligatory.

23.2 In the present case, the conduct of the Noticee goes considerably beyond a bare, one-time failure to declare currency. Having been afforded detention of the goods at his own request and repeated opportunities and extensions of time over several months, the Noticee chose to actively obstruct the investigation by fabricating and submitting fourteen tax invoices/cash memos in the names of different individuals, most of whom appear to have no connection whatsoever with him, in a calculated attempt to legitimise an amount (USD 30,900/-) even larger than, and different in composition from, the currency actually seized from him (USD 13,450/-). It was only upon being summoned and confronted that he chose to withdraw this fabricated

material and admit the true, and far simpler, position — that the money was entirely his own, undeclared, and meant for personal use. This is not "candour and cooperation" volunteered at the first opportunity, as sought to be characterised in the defence reply; it is retraction compelled by detection, after a sustained and deliberate attempt over several months to mislead the Department using the names and apparent credentials of unconnected third parties, a course of conduct materially more serious than the simple non-declaration considered in the decisions relied upon by the Noticee, in none of which any question of fabrication of third-party documents arose. Discretion under Section 125 cannot be exercised in favour of a party whose conduct demonstrates deliberate suppression and fabrication of evidence before the Department; to do so would be to place a person who fabricates evidence on the same footing as one who does not, thereby diluting the very deterrent purpose of the confiscation provisions.

23.3 I also find that the very decision relied upon by the Department in the Show Cause Notice, Om Prakash Bhatia (supra), while indeed permitting redemption on its own facts, does not lay down any absolute rule that redemption must be granted irrespective of the gravity of the contravention or the conduct of the party; that question, as recognised in Garg Wollen Mills (supra), is squarely one for the discretion of the Adjudicating Authority on the facts of each case. Having regard to the totality of facts discussed above — undeclared and concealed currency, false denial on interception, and sustained fabrication of third-party documents over several months to derail the investigation — I am not inclined to exercise discretion in favour of granting an option of redemption under Section 125 of the Customs Act, 1962, and hold that the seized foreign currency is liable to absolute confiscation.

24 Further, the noticee in his defence reply, has submitted that penalty under Section 114(i) is unwarranted in their case and at the very higher, it ought to be reduced at a nominal/token amount. The noticee has submitted that "*the currency being the Noticee's own money intended for personal use, the absence of any illicit remittance or third-party benefit, the Noticee's cooperation and voluntary correction of the record, and this being the first proceeding of its kind against him – no mens rea to smuggle for illicit gain is made out.*"

In this regard, as discussed in the above paras, I find that the seized foreign currency is liable to confiscation under Sections 113(d), 113(e) and 113(h) of the Customs Act, 1962 as "prohibited goods", and it being an admitted position that the Noticee was himself carrying, concealing and attempting to export the said currency without declaration.

Further, as discussed in the above para, the noticee instead of cooperating, has actively obstructed the investigation by fabricating and submitting

misleading tax invoices/cash memos in the names of different individuals. Accordingly, I find that the Noticee has, by his own acts of omission and commission, rendered the said goods liable to confiscation under Section 113 ibid, and is accordingly liable to penalty under Section 114(i) of the Customs Act, 1962, which prescribes a penalty not exceeding three times the value of the goods, i.e. up to Rs. 34,33,785/- (3 x Rs. 11,44,595/-) in the present case. The plea that no penalty, or only a token penalty, ought to be imposed is not accepted, having regard to the deliberate concealment, false denial and, more particularly, the sustained attempt over several months to obstruct the investigation through fabricated documents. Furthermore, in the present case, there is no allegation that the noticee is a habitual offender or has been involved in similar offences previously; therefore, I am taking a lenient view while imposing the penalty under Section 114(i) of the Customs Act, 1962.

25. The noticee in his reply has submitted that penalty under section 117 cannot be imposed in addition to Section 114 (i) for one and the same act. In this regard, on careful perusal of the facts of the case in hand, the discussion made in above paras and the statutory provision, I do not find merit in the Noticee's contention. In the instant case, penalty under Section 114(i) is attracted for the substantive act/omission — the attempted illegal export of the concealed, undeclared foreign currency — that rendered the goods liable to confiscation under Section 113. Penalty under Section 117, on the other hand, is attracted for a wholly distinct and independent default: the Noticee's conduct, over the period from August 2025 to January 2026, of repeatedly seeking time on the pretext of arranging documents and thereafter knowingly submitting fabricated tax invoices/cash memos, aggregating an amount even higher than the currency actually seized, in the names of some unconnected individuals — a continuous pattern of deliberate non-cooperation, conscious concealment and suppression of the true ownership of the currency, calculated to buy time and to obstruct and delay the investigation. Such act is squarely covered by the residuary provision of Section 117, which applies to any contravention of, or failure to comply with, the provisions of the Act for which no express penalty is otherwise provided. These are two distinct contraventions arising from two distinct sets of facts (the act of smuggling, and the subsequent deliberate and calculated obstruction of the investigation by fabricated evidence), and the imposition of penalty under both provisions does not amount to penalising the "same act" twice. I accordingly hold that the Noticee is also liable to penalty under Section 117 of the Customs Act, 1962, the maximum quantum whereof is Rs. 4,00,000/-.

26. In view of the foregoing discussion, I find that the Department has, through the panchnama/seizure proceedings and the voluntary statement of the Noticee recorded under Section 108 of the Customs Act, 1962, discharged the burden cast upon it under Section 123 of the Customs Act,

1962 of establishing a reasonable belief that the seized currency was smuggled/liable to confiscation; the burden thereupon shifted to the Noticee to establish the contrary, which burden he has failed to discharge, having produced no document whatsoever evidencing lawful possession of the currency, and having instead attempted to derail the investigation through fabricated third-party documents. I accordingly confirm the proposals made in the Show Cause Notice in their entirety, as detailed in the Order below.

27. Accordingly, I pass the following order:-

ORDER

I. I order Absolute Confiscation of the seized foreign currency, comprising USD 13,450/- (133 notes of USD 100, 2 notes of USD 50, 2 notes of USD 20 and 1 note of USD 10), having a re-determined value of Indian Rs. 11,44,595/- (Rupees Eleven Lakh Forty-Four Thousand Five Hundred Ninety-Five only) as per Exchange Rate Notification No. 34/2024-Customs (N.T.) dated 04.08.2025, which was attempted to be smuggled out of India by Shri Sagar Jaysukhbhai Khunt by way of non-declaration and concealment in his cabin/shoulder bag, and which was seized vide Seizure Order dated 28.01.2026, under Sections 113(d), 113(e) and 113(h) of the Customs Act, 1962, read with the Foreign Exchange Management (Export and Import of Currency) Regulations, 2015 and Rule 7 of the Baggage Rules, 2016.

II. I impose a penalty of Rs. 1,00,000/- (Rupees One Lakh Only) upon the Noticee, Shri Sagar Jaysukhbhai Khunt, under Section 114(i) of the Customs Act, 1962.

III. I impose a further penalty of Rs. 10,000/- (Rupees Ten Thousand Only) upon the Noticee, Shri Sagar Jaysukhbhai Khunt, under Section 117 of the Customs Act, 1962.

28. Accordingly, the Show Cause Notice F. No. VIII/26-14/AIU/Cus/2025-26 dated 14.05.2026 stands disposed of.

Digitally signed by Shravan Ram
Date: 25-08-2026 15:39:24

(Shravan Ram)
Additional Commissioner
Customs, Ahmedabad

F. No: VIII/26-14/AIU/Cus/2025-26 **Date:25.08.2026**

DIN NO. 20260871MN00004026FE

BY SPEED POST A.D. / ANY OTHER PERMISSIBLE MODE OF COMMUNICATION

To,

Shri Sagar Jaysukhbhai Khunt,
M2-103, Opera Pam Kholwad, Ta-Kamrej Surat,
Surat Rural, Pin: 394190, Gujarat, India.

Copy to:

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

(ii) The Deputy/Assistant Commissioner of Customs, Surat International Airport, Surat.

(iii) The Deputy/Assistant Commissioner of Customs (TRC), Ahmedabad.

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

(v) Guard File.