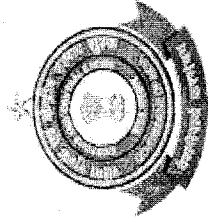


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**OFFICE OF THE ASSISTANT COMMISSIONER OF CUSTOMS
AIR INTELLIGENCE UNIT (AIU), AT SVP INTERNATIONAL AIRPORT,
AHMEDABAD**

PHONE NO. 079-22860033 E-mail - Supairport-custahd@nic.in

SHOW CAUSE NOTICE

Mr. Prince Pachori, aged 27, residing at 46, Shahi Complex, Sector 11, Udaipur, Rajasthan Pin - 313 001 (As per Passport No.M4615957) (hereinafter referred to as "the passenger") holding Indian Passport No.M4615957 had arrived by Indigo Airlines Flight No. 6E 1754 from Kuwait to Ahmedabad on 08.09.2019 at Terminal 2 of SVPI Airport, Ahmedabad. On suspicion, the passenger was intercepted after he was about to exit from the green channel as he alongwith his baggage was required to be frisked and checking was to be carried out. On being asked, the passenger replied that he doesn't have to declare anything and was not carrying anything. The passenger was found carrying one check-in baggage and one hand baggage.

02. The passenger had opted for green channel but as his actions were looking suspicious, his personal search and examination of the baggage were required. The passenger was asked if he was having anything declarable to Customs, in reply the passenger denied. Not being satisfied with the reply of the said passenger, the officer asked the Passenger to pass through the Door Frame Metal Detector (DFMD) Machine installed near the green channel in the Arrival hall of Terminal 2 building, after removing all metallic objects from his body/clothes. The passenger readily removed all the metallic objects such as belt, purse, mobile etc. and passed through the DFMD, however no beep sound was heard indicating there was nothing objectionable/dutiabale on his body/clothes. Thereafter, all the baggages of the Passenger were one by one scanned in the X-ray bag scanning machine (XBIS) located near the green channel counter at terminal 2 of SVPI Ahmedabad. On scanning of the black coloured back pack with marking "B" carried as hand baggage of the passenger, one dark image appeared on the computer of X-ray baggage inspection system (XBIS), which suggested that there might be some heavy metal like gold. The other baggages i.e checked-in black bag with marking "POLOKING" of the passenger was also

scanned, however no such objectionable images appeared on the X-Ray Scanning Machine.

On opening and detailed examination of the said bag, one gold bar without any marking kept inside transparent small ziplock polythene bag was recovered in the said bag. Thereafter, a bill of M/s Diamond International Jewellery Co. No.0238 dated 07.09.2019 in the name of Prince Pachori Pradeep Pachori of 136.740 gms pure gold of 995 purity for 2016 Kuwaiti Dinar was also recovered from the said bag.

03. Thereafter Shri Kartikey Vasantrai Soni, Government Approved Valuer was called for ascertaining the purity and value of the said gold bar recovered from the passanger. The Government Approved Valuer then tests the substance and after testing the said gold bar, he confirmed that it was Refine Gold Cut Bar of 24Kt. Gold with **purity 995.0** totally weighing **136.700 Grams** having market value of **5,41,059/- (Rupees Five lakhs Forty One thousand and Fifty Nine only)** and Tariff Value **Rs. 4,93,610/- (Rupees Four lakhs Ninety Three thousand Six hundred and Ten only)** which had been calculated as per the Notification No.62/2019-Customs(N.T.) dated 30.08.2019 (Gold) and Notification No.63/2019-Customs(N.T.) dated 05.09.2019 (Exchange Rate).

04. On being asked, the passenger produced the following documents as under :

- i) Boarding Pass, from Kuwait to Ahmedabad of Indigo Flight No. 6E 1754 dated 08.09.2019, Seat No. 23F.
- ii) Baggage Claim Card bearing No 6E 0312109571.
- iii) Copy of Passport No. M4615957 issued at Jaipur on 24/12/2014 valid up to 23/12/2024.
- iv) Flight itinerary bearing PNR No.UB3BNR
- v) State of Kuwait Civil ID card No.292070505781

05. Thereafter, the said Refine Gold Cut Bar of 24Kt. Gold with **purity 995.0** totally weighing **136.700 Grams** valued at **5,41,059/- [Market Value]** and **Rs. 4,93,610/- [Tariff Value]** was placed under seizure by the officers of Customs under the reasonable belief that the subject Gold which was attempted to be smuggled into India was liable for confiscation under the Customs Act, 1962.

06. A statement of the Passanger was recorded on 08.09.2019 under the provision of Section 108 of the Customs Act, 1962, wherein he stated that

he is residing with his family at 46, Shahi Complex, Sector 11, Udaipur, Rajasthan, Pin - 313001. He has studied up to B.Com from Mohanlal Sukhadia University in Udaipur. The passenger also informed that after his graduation, he went to Kuwait in 2016 and started working as Salesman of his Uncle's shop Shri Vinodkumar Jain. He got 250 Kuwaiti Dinar as monthly salary. He had purchased one gold bar of 136.740 gram from the showroom of M/s Diamond International Jewellery Co. on 07.09.2019 and had kept the 136.740 grams gold bar in his hand baggage when he came back to India on 08.09.2019. The passenger admitted that he had intentionally not declared the seized items before the Customs Authorities on his arrival at SVP International Airport Ahmedabad, as he wanted to clear it illicitly and evade payment of duty. He was fully aware that clearing gold without declaring before Customs, with an intent to evade payment of customs duty, is an offence, under the provisions of Customs Act, 1962 and Regulations.

07. As per provisions of Baggage Rules, 2016 notified vide Notification No. 30/2016-Cus (N.T) dated 01.03.2016 as amended by Notification No. 43/2016-Customs (N.T) dated 31.03.2016 read with corrigendum dated 01.04.2016, the Passenger arriving in India from a foreign country is allowed to bring used personal effects and travel souvenirs and articles other than those mentioned in annexure appended to the notifications referred above for a value upto a certain prescribed limit. Rule 3 of Baggage Rules, 2016 reads as under;

3. Passenger arriving from countries other than Nepal,

Bhutan or Myanmar.-An Indian resident or a foreigner residing

in India or a tourist of Indian origin, not being an infant

arriving from any country other than Nepal, Bhutan or

Myanmar, shall be allowed clearance free of duty articles

in his bona fide baggage, that is to say, -

(a) used personal effects and travel souvenirs; and

(b) articles other than those mentioned in Annexure-I, upto the value of fifty thousand rupees if these are carried on the person or in the accompanied baggage of the passenger:

Provided that a tourist of foreign origin, not being an infant, shall be allowed clearance free of duty articles in his bona fide baggage, that is to say,

(a) used personal effects and travel souvenirs; and

(b) articles other than those mentioned in Annexure- I, upto the value of fifteen thousand rupees if these are carried on the person or in the accompanied baggage of the passenger:

Provided further that where the passenger is an infant, only used personal effects shall be allowed duty free.

Explanation.- The free allowance of a passenger under this rule shall not be allowed to pool with the free allowance of any other passenger.

08. Further, Rule 5 of the Baggage Rules, 2016 reads as under ;

5. Jewellery.- A passenger residing abroad for more than one year, on return to India, shall be allowed clearance free of duty in his bona fide baggage of jewellery upto a weight, of twenty grams with a value cap of fifty thousand rupees if brought by a gentleman passenger, or forty grams with a value cap of one lakh rupees if brought by a lady passenger

8.1 Now, Annexure-I to the Baggage Rules, 2016 reads as under

ANNEXURE-I

(See rule 3, 4 and 6)

1. Fire arms.
 2. Cartridges of fire arms exceeding 50.
 3. Cigarettes exceeding 100 sticks or cigars exceeding 25 or tobacco exceeding 125 gms.
 4. Alcoholic liquor or wines in excess of two litres.
 5. **Gold or silver in any form other than ornaments.**
 6. Flat Panel (Liquid Crystal Display/Light-Emitting Diode/ Plasma) television.
- 8.2** The Entry No. 5 of the above referred Annexure-I to the Baggage Rules, 2016 clearly makes provision to the effect that Gold or Silver in any form other than ornaments is not covered under the free allowance of a passenger travelling by Air and accordingly gold or silver in any form other than ornaments (that too upto a certain monetary limit) cannot be considered as bonafide baggage.

8.3 It is seen that the Passenger came from Kuwait to Ahmedabad by Indigo Airline Flight No: 6E 1754 on 08.09.2019. The baggage carried by

the Passenger who is an Indian Resident holding Passport No. M4615957 apart from other items for personal use contained one Refine Gold Cut Bar of 24Kt. Gold with **purity 995.0** totally weighing **136.700 Grams** valued at **Rs. 5,41,059/- [Market Value]** and **Rs. 4,93,610/- [Tariff Value]** attempted to be smuggled into India without payment of Customs duty cannot be termed as his bonafide baggage in as much as the same cannot be termed as used personal effects or travel souvenir. Moreover, as per Baggage Rules, 2016, the same is prohibited/restricted to be brought in as baggage. The gold was attempted to be smuggled in by the Passenger with an intention to evade payment of Customs duty as the Passenger himself has admitted in the statement recorded under Section 108 of the Customs Act, 1962.

9. Foreign Trade Policy 2015-20(FTP for short) announced by the Government of India outlines what can be imported as Passenger Baggage. Para 2.23 of the FTP reads as under:

2.23 Passenger Baggage

(a) Durable household goods and personal effects may be imported as part of passenger baggage as per limits, terms and conditions thereof in Baggage Rules notified by Ministry of Finance.

(b) Samples of such items that are otherwise freely importable under FTP may also be imported as part of passenger baggage without an Authorisation.

(c) Exporters coming from abroad are also allowed to import dressings, patterns, labels, price tags, buttons, belts, trimming and embellishments required for export, as part of their passenger baggage without an Authorisation.

10. It appears that the 136.700 grams of pure raw gold having 995.0 purity in the form of one Refine Gold Cut Bar and hidden in his baggage which were totally valued at **Rs. 4,93,610/- [Tariff Value]** [**Rs.5,41,059/- (Market Value)**] is not his bonafide baggage under the Customs Baggage Rules, 2016 as amended. According to Section 77 of the Customs Act, 1962 read with Section 81 of the Customs Act, 1962 and Customs Baggage Declaration Regulation, 2013 notified vide Ministry of Finance (Department of Revenue) Notification No. 90/2013-Cus.(N.T) dated 29.08.2013 as amended by Notification No. 31/2016-Cus (NT) dated 01.03.2016, owner of the baggage containing dutiable goods or prohibited goods is required to make declaration of its contents to the Customs

authority at airport at the time of arrival. In the instant case, the said Passenger did not declare that he was carrying 136.700 grams of pure raw gold having 995.0 purity in form of one Refine Gold Cut Bar, totally valued at Rs.4,93,610/- [Tariff Value] [Rs.5,41,059/- (Market Value)]. The Passenger by doing so appears to have contravened the provisions of Section 77 of the Customs Act, 1962. Consequently, 136.700 grams of Refine Gold Cut Bar having 995.0 purity totally valued at Rs.4,93,610/- [Tariff Value] [Rs.5,41,059/- (Market Value)] seized vide panchnama dated 08.09.2019 appears to have become liable for confiscation.

11. From the facts and circumstances discussed herein above, it appears that the passenger Mr. Prince Pachori, smuggled the gold i.e. one Refine Gold Cut Bar, hidden in his baggage with intent to evade customs duty. It also appears that the said Refine Gold Cut Bar having 995.0 purity totally weighing 136.700 grams which cannot be construed as "bonafide baggage" within the meaning of section 79 of the Customs Act, 1962 read with para 2.26 of Foreign Trade Policy 2015-20. Import of goods in commercial quantity with intent to earn profit is not covered under the ambit of bonafide baggage and hence the import of such goods is not permitted through baggage mode. Thus, it appears that said passenger attempted to smuggle the above said goods i.e. one Refine Gold Cut Bar, **pure raw gold having purity of 995.0** totally weighing at 136.700, grams in contravention of the provisions of Baggage Rules 2016 as amended.

12. In the above facts and circumstances, it appears that the act of importing one Refine Gold Cut Bar totally weighing 136.300 grams totally valued at Rs.4,93,610/- [Tariff Value] [Rs.5,41,059/- (Market Value)] having purity of 995.0; the said passenger has contravened the provisions of Section 77 and 79 of the Customs Act, 1962 and such an act on his part amounts to "smuggling" within the meaning of Section 2(39) of the Customs Act, 1962. The above acts and omissions on the part of the said passenger appears to have rendered the said goods liable for confiscation under section 111(i), 111(i), 111(i) and 111(m) of the Customs Act, 1962. Further, his action of importing Gold in commercial quantity is contrary to the prohibition imposed by Section 7 of The Foreign Trade (Development and Regulation) Act, 1992. Further, by not declaring the value, quantity and description of the goods imported by him, the said Passenger violated the provisions of Baggage Rules, 2016 read with Section 77 of the Customs Act, 1962. The said passenger has also acted contrary to the prohibition imposed by para 2.26 of the Foreign Trade Policy 2015-20, by importing non-bonafide baggage which rendered the aforesaid goods liable for

confiscation under section 111(d), 111(i), 111(l) and 111(m) of the Customs Act, 1962.

13. From the above, it appears that the said passenger attempted smuggling of the said goods in such a manner that it won't be visible to escape duty liability which resulted in contravention of the provisions of Customs Act, 1962 and rendered the said goods liable for confiscation under Section 111(d), 111(i), 111(l) and 111(m) of the Customs Act, 1962 and such an act on the part of the said passenger liable for penalty under section 112(a) and 112(b) of the Customs Act, 1962.

14. Further, the Passenger did not make declaration of the 136.700 grams of Gold Bar having purity 995.0 by him as per provision of Regulation No. 3 of the Customs Baggage Declaration Regulations, 2013 framed under Section 81 of the Customs Act, 1962, with an intention to evade payment of Customs duty.

15. Now, therefore, Mr. Prince Pachori, resident of 46, Shahi Complex, Sector 11, Jaipur, Rajasthan, Pin - 313 001 is hereby called upon to show cause in writing to the Dy./ Assistant Commissioner, Customs, SVPI Airport, Ahmedabad within thirty days from the receipt of this notice as to why:-

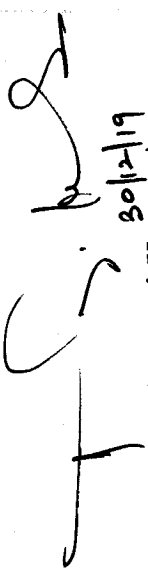
(i) one Gold Out Bar, **pure raw gold having purity 995.0** totally weighing at 136.700, grams totally valued at **Rs.4,93,610/-** [Tariff Value], [Rs.5,41,559/- (Market Value)] seized under panchnama dated 08.09.2019 should not be confiscated under Section 111(d), 111(i), 111(l) and 111(m) of the Customs Act, 1962;

(ii) Penalty should not be imposed under Section 112(a) & Section 112(b) of the Customs Act, 1962 for the omissions and commissions mentioned herein above.

16. The said Noticee must state in his written reply to this notice as to whether he desires to be heard in person, if no reply to this notice is received within 30 (thirty) days from the date of receipt of this notice or if he fail to appear for the personal hearing on the date and time intimated to him, the case is liable to be decided on the basis of merits and evidences available, without any further reference to him.

17. This notice is issued without prejudice to any other action that may be taken against the Noticee, under the provisions of the Customs Act, 1962 and the Rules and Regulations made there-under or any other law for the time being in force.

18. The notice is issued relying on the documents as listed in the Annexure "A" to this show cause notice.



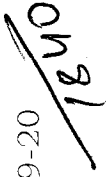
30/12/19
(Neeraj Kumar)

Assistant Commissioner(AIU),
Customs, Ahmedabad.

Dated: .12.2019

BY REG. POST A.D./HAND DELIVERY

F.No. VII/10-47/AIU/C/2019-20



To:

Mr. Pradeep Pachori, S/o Pradeep Pachori
46, Shahi Complex,
Sector 11, Sakinaka,
Rajasthan PIN-313 001.

Copy to:

- (1) The Assistant / Deputy Commissioner of Customs, SVPI Airport,
Ahmedabad.
- (2) Guard File.

ANNEXURE "A" TO SHOW CAUSE NOTICE

LIST OF RELIED UPON DOCUMENTS IN THE CASE OF
Mr. Prince Pachori, S/o Pradeep Pachori, 46, Shahi Complex,
Sector 11, Udaipur, Rajasthan PIN-313 001.

Sr. No.	Description of documents	Remarks
1	PANCHANAMA DATED 08.09.2019 DRAWN AT SVVI AIR PORT, AHMEDABAD.	COPY ALREADY PROVIDED
2	STATEMENT DT. 08.09.2019 OF MR. PRINCE PACHORI, S/O PRADEEP PACHORI, 46, SHAHI COMPLEX, SECTOR 11, UDAIPUR, RAJASTHAN PIN-313 001 RECORDED U/S 108 OF THE CUSTOMS ACT, 1962.	COPY ENCLOSED
3	VALUATION REPORT DATED 08.09.2019 OF SHRI KARTIKEY VASANTRAI SONI, GOVERNMENT APPROVED VALUER.	COPY ALREADY PROVIDED