



Office of the Deputy Commissioner of Customs
Air Intelligence Unit, T-2 Terminal, Sardar Vallabhbhai Patel International Airport,
Ahmedabad - 380 003

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Show Cause Notice

(Issued under Section 124 of the Customs Act, 1962)

Shri Hitesh Lohar, aged 37 years (DoB : 02.05.1982), residing at VPO, Dewal Khas, Panchayat Samity, Bichhiwara, Dungarpur, Rajasthan (hereinafter referred to as the 'passenger'), holding an Indian Passport No. K7042888, had arrived at Sardar Vallabhbhai Patel International Airport, Ahmedabad from Kuwait by Indigo Flight No. 6E-1754 on 05.05.2019. The passenger was carrying one light green colored bag and one dark green colored bag as check-in baggages and one small black colored bag as hand baggage. The said passenger had opted for green channel. As the actions were looking suspicious, the passenger was intercepted by the Customs Air Intelligence Unit officer(s) at the exit of the green channel for personal search and examination of his baggage.

2. Whereas, the passenger was asked as to whether he was carrying any contraband or any dutiable goods in person or in the baggages. The passenger replied that he had nothing to declare. Further, the passenger was asked to check the check-in bags as well as hand bag at the Baggage Scanning Machine installed at Green Channel near Exit gate. The AIU officers thoroughly scanned/searched his hand baggage and the light green coloured check-in baggage but nothing objectionable was found. However, when the dark green check-in baggage was scanned, rings in dark image appear on the screen. The passenger was asked as to whether any metallic substance in the bag, but the passenger had denied about the concealment of any type of metal in the bag. Thereafter, one sealed plastic packet was removed from the check-in bag and after opening the plastic cover a ladies purse, which was black in colour, was recovered. On placing the ladies purse in the Baggage scanning Machine, the rings in the handle of the purse appeared on the screen which was dark black in colour. On being further asked, the passenger had accepted that the six pieces of rings at the handle of the purse were actually raw Gold and further admitted that on arrival, he did not want to declare the same to Customs so that he could clear it illicitly.

3. Whereas, the passenger was further asked to walk through the Door Frame Metal Detector (hereinafter referred to as the "DFMD") installed near Customs AIU counter in the Arrival Hall. Prior to pass through the said DFMD, the

passenger was asked to remove all the metallic objects wearing on the body. The passenger readily removed all the metallic substances from the body such as *wallet, Mobile Phone, rings, chains etc.* and kept in the plastic tray. After that the passenger was asked to walk through the DFMD and whereupon a loud beep sound was generated, which indicated that there was presence of metallic substance in the body. As the DFMD was giving alert sound, the AIU officer once again, politely asked to the passenger as to whether he was carrying any metallic substance on his body, thereafter, the passenger had removed one gold kada which is worn on the left hand and concealed in the sleeved of the shirt. Thereafter, the AIU officer once again requested to the said passenger to walk through the DFMD and upon passing through the DFMD, the beep sound did not come from the DFMD which confirmed that no more metallic items were within the body of the passenger. On being asked, the passenger had accepted that the said gold kada was actually raw Gold and further admitted that on arrival, he did not want to declare the same to Customs so that he could clear it illicitly.

4. Based on the primary inference, the Government Approved Valuer Shri Nachiket S. Mavlankar, was called upon for examining the authenticity and purity of the said one Gold Kada and six pieces of rings in purse handle joint. The Government Approved Valuer has submitted the following valuation report on 05.05.2019 :

Sr. No.	Description	Net Weight (in Grams)	Local Market Value (in Rs.)
1	24 Kt Gold kada Piece - 1 (Purity 999.0)	50.000	1,62,550/-
2	24 Kt Gold Black Rhodium Coated Rings Piece - 6 of purse Handle Joint (Purity 999.0)	203.230	6,60,701/-
Total		253.230	8,23,251/-

In the above said report, it is stated that one piece of gold kada is 24 kt gold of .999 purity, weighing 50.000 grams, and six pieces of Rhodium coated rings in purse Handle Joint are 24 kt gold of .999 purity, weighing 203.230 grams, totally weighing 253.230 grams, having tariff value of Rs. 7,35,010/- (Rupees Seven Lakh Thirty Five Thousand Ten Only) and the Local market value of Rs. 8,23,251/- (Rupees Eight Lakh Twenty Three Thousand Two Hundred Fifty One Only). The valuation is done for the tariff value taken on the basis of Notification No. 34/2019-Customs (N.T.) dated 30.04.2019 and Notification No. 35/2019-Customs (N.T.) dated 02.05.2019.

5. Whereas, one gold kada and six pieces of Rhodium coated rings in purse handle joint, totally weighing 253.230 grams having a tariff value of Rs. 7,35,010/- and local market value of Rs. 8,23,251/-, were placed under seizure vide panchnama drawn on 05.05.2019. The seizure was made under the provisions

of Customs Act, 1962, on the reasonable belief that the said goods were smuggled into India and was liable for confiscation.

6. Whereas, Shri Hitesh Lohar produced the following travelling documents :

i) *BOARDING PASS, from Kuwait to Ahmedabad of Indigo Flight No. 6E 1754 dated 05.05.2019, Seat No. 26C;*

ii) *Photocopy of Passport No. K7042888 issued at Kuwait on 20.08.2012 (valid upto 19.08.2022)*

7. Whereas, statement of Shri Hitesh Lohar was recorded on 05.05.2019, under Section 108 of the Customs Act, 1962, wherein he *interalia* stated that he is residing at VPO, Dewal Khas, Panchayat Samity, Bichhiwara, Dungarpur, Rajasthan; he has travelled by Indigo Flight No. 6E-1754 from Kuwait to Ahmedabad on 12.03.2019 and holding Indian passport no. K7042888; he was intercepted by the Customs Officials and on being asked by the Customs Officials in presence of independent Panchas, he denied regarding the possession of any declarable / restricted / prohibited / dutiable items. During checking of his baggages and his walk through the DFMD, one gold kada and six pieces of Rhodium coated rings in purse handle joint were recovered from him and the same was seized under Panchnama dated 05.05.2019; He has been shown and explained the panchnama and after understanding the same, he put his dated signature on panchnama drawn on 05.05.2019, under which one piece of gold kada is 24 kt gold of .999 purity, weighing 50.000 grams, and six pieces of Rhodium coated rings in purse Handle Joint are 24 kt gold of .999 purity, weighing 203.230 grams, totally weighing 253.230 grams, having tariff value of Rs. 7,35,010/- (Rupees Seven Lakh Thirty Five Thousand Ten Only) and the Local market value of Rs. 8,23,251/- (Rupees Eight Lakh Twenty Three Thousand Two Hundred Fifty One Only) was recovered and seized from him; the facts narrated in the panchnama drawn on 05.05.2019 are true and correct; the said one gold kada concealed in the sleeve of the left hand and six pieces of Rhodium coated rings concealed in purse handle joint, which are carried by him, belongs to him. The passenger has purchased the same with his personal savings from Kuwait and with an intention to clear illicitly and to evade payment of Customs duty by not declaring to Customs. The passenger has admitted that one gold kada from his hand and six pieces of Rhodium coated rings in purse handle joint have been detected by the Customs Officers and thus he has tried to smuggle the gold bars into India. The passenger has not declared the said gold before the Customs Authorities on his arrival at SVP International Airport Ahmedabad, voluntarily/*sue motto* as he wanted to clear it illicitly.

8. Whereas, from the foregoing paras, it appears that the passenger has brought the one gold kada and six pieces of Rhodium coated rings in purse handle joint having total weighing 253.230 grams. It appears that the passenger, by not declaring the same, has an intention to evade payment of Customs duty and

thereby violated the provisions contained in the Customs Act, 1962, the Foreign Trade (Development & Regulations) Act, 1992, the Foreign Trade (Regulations) Rules, 1993 and the Foreign Trade Policy 2015-2020.

9. Whereas, in the light of the above of the facts and circumstances, it appears that the passenger has attempted to smuggle gold in the form of one gold kada and six pieces of Rhodium coated rings in purse handle joint into India with an intention to evade payment of customs duty. The said one gold kada and six pieces of Rhodium coated rings in purse handle joint totally weighing 253.230 grams are brought into India by the passenger for commercial purpose and cannot be construed as 'bonafide baggage' within the meaning of Section 79 of the Customs Act, 1962, read with Para 2.26 of the Foreign Trade Policy, 2015-2020. As per Para 2.26 of the Foreign Trade Policy, the passenger is allowed to import bonafide household and personal effect only, as his bonafide baggage. It appears that the import of goods in commercial quantity is with intent to evade customs duty & earn profit and not covered within the ambit of 'bonafide baggage'. Therefore, the imports of such goods are not permitted through the baggage mode. It also appears that the passenger attempted to smuggle the goods without filing the Customs declaration form, which appears to be in contravention of Section 77 of the Customs Act, 1962 read with the Baggage Rules, 2016 ('Baggage Rules') and Regulation 3 of the Customs Baggage Declaration Regulations, 2013 ('Baggage Regulations'). The above said act on the part of the passenger appears to be amounting to smuggling within the meaning of Section 2(39) of the Customs Act, 1962.

10. Whereas, it appears that the passenger has contravened the following provisions of :

- Section 77 of the Customs Act, 1962 as he has failed to make a declaration of the imported one gold kada and six pieces of Rhodium coated rings in purse handle joint totally weighing 253.230 grams made of gold which was recovered from his possession;
- Section 79 of the Customs Act, 1962 as he has imported one gold kada and six pieces of Rhodium coated rings in purse handle joint for commercial purpose which were not for his bonafide use;
- Section 7 of the Foreign Trade (Development & Regulations) Act, 1992 as he imported one gold kada and six pieces of Rhodium coated rings in purse handle joint for commercial purpose.
- Rule 11 of the Foreign Trade (Regulation) Rules, 1993 as he failed to declare the value, quantity and description of one gold kada and six pieces of Rhodium coated rings in purse handle joint imported by him;
- Para 2.26 of the Foreign Trade Policy 2015-2020, as he acted contrary to the restrictions imposed and imported *non-bonafide* baggage.

10. Whereas, it appears that the passenger has not filed the baggage declaration form and has not declared that one gold kada and six pieces of Rhodium coated rings in purse handle joint are in possession, as envisaged under Section 77 of the Customs Act, 1962, read with the Baggage Rules and Baggage Regulations. It also appears that the import is for *non-bonafide* purpose. Moreover, gold or silver, in any form, other than ornaments is not allowed free of duty. Further, one kg of gold can also be imported by an eligible passenger as envisaged under Notification No. 12/2012-Cus dated 17.03.2012 (Sr. No. 321) wherein an '*eligible passenger*' means a passenger of Indian origin or a passenger holding a valid passport, issued under the Passports Act, 1967, who is coming to India after a period of not less than six months of stay abroad; and short visits, if any, made by the eligible passenger during the aforesaid period of six months shall be ignored if the total duration of stay on such visits does not exceed thirty days and such passenger has not availed of the exemption under this notification or under the notification being superseded at any time of such short visits. It, therefore, appears that all the above acts of contravention on the part of the passenger has rendered the seizure of one gold kada and six pieces of Rhodium coated rings in purse handle joint liable to confiscation, under the provisions of Sections 111(d), 111(i), 111(l) and 111(m) of the Customs Act, 1962. It further appears that one gold kada and six pieces of Rhodium coated rings in purse handle joint imported by the passenger are to be construed as '*smuggling*' within the meaning of Section 2(39) of the Customs Act, 1962. By using the modus of concealing one gold kada in the sleeve of the left hand and six pieces of Rhodium coated rings in purse handle joint tied, it appears that the passenger is fully aware that the goods would be offending in nature on its import. It appears that the passenger has involved herself in carrying, keeping, concealing and has dealt with the offending goods in a manner which he knew or has reasons to believe were liable to confiscation under the Customs Act, 1962. It, therefore, appears that the passenger has rendered himself liable for penal action under the provisions of Section 112(a) and 112(b) of the Customs Act, 1962.

11. Whereas, the passenger did not produce any valid declaration for possession of Gold in form of one gold kada and six pieces of Rhodium coated rings in purse handle joint of pure 24 kt gold of .999 purity total weighing 253.230 grams having a tariff value of Rs 7,35,010/- and local market value of Rs 8,23,251/-, as required in terms 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. The passenger, therefore, appears to have rendered himself liable for penalty under Customs Act, 1962.

12. In view of the above, now, Shri Hitesh Lohar, is hereby called upon to show cause in writing to the Deputy/Assistant Commissioner of Customs, Airport, having its office located at Terminal 2, Arrival Hall of Sardar Vallhbhai Patel International Airport, Sardar Nagar, Ahmedabad 382475 as to why :


- i) The said one gold kada and six pieces of Rhodium coated rings in purse handle joint, totally weighing 253.230 grams having tariff value of Rs. 7,35,010/- (Rupees Seven Lakh Thirty Five Thousand Ten Only) and market value of Rs. 8,23,251/- (Rupees Eight Lakh Twenty Three Thousand Two Hundred Fifty One Only), placed under seizure vide panchnama drawn on 05.05.2019, should not be confiscated under the provisions of Sections 111(d), 111(i), 111(l) and 111(m) of the Customs Act, 1962;
- ii) Penalty should not be imposed upon the passenger under Sections 112(a) and 112(b) of the Customs Act, 1962;

13. Shri Hitesh Lohar, residing at VPO, Dewal Khas, Panchayat Samity, Bichhiwara, Dungarpur, Rajasthan, is requested to file the written submission and produce evidences which he intends to rely at the time of showing cause.

The passenger is requested to inform if he desires to be heard in person before the case is adjudicated. If no mention is made in his submission, it would be presumed that he does not desire a personal hearing. If no cause is shown by the passenger against the action proposed against him within 30 days of the receipt of this notice or if he does not appear before the adjudicating authority, when the case is posted for hearing, the case would be decided *ex-parte* on merits.

14. This notice is issued without prejudice to any other action that may be taken under any other provision of Customs Act, 1962 and/or rules made there under and/or under the provisions of any other law for the time being in force.

15. The documents relied on in the notice are listed at Annexure 'A' and are enclosed with this notice.


22/10/2019
(Dr. O. P. Bishnoi)

Deputy Commissioner of Customs
Air Intelligence Unit
SVP International Airport
Ahmedabad

Date : .10.2019.

F. No. : VIII/10-12/AIU/A/2019-20
By Registered Post AD

- 1) Shri Hitesh Lohar,
VPO, Dewal Khas,
Panchayat Samity, Bichhiwara,
Dungarpur, Rajasthan

Copy to :

- 1) The Deputy/Assistant Commissioner of Customs, SVPIA, Ahmedabad
- 2) The System In-Charge, Customs, HQ., Ahmedabad for uploading on the official web-site i.e. <http://www.ahmedabadcustoms.gov.in>
- 3) Guard File

Annexure 'A'

Documents relied upon the notice to show cause numbered VIII/10-12/AIU/A/2019-20, against Shri Hitesh Lohar, residing at VPO, Dewal Khas, Panchayat Samity, Bichhiwara, Dungarpur, Rajasthan :

Sr. No	Document	Remarks
1	Panchnama drawn on 05.05.2019 at SVP International Airport, Ahmedabad	Copy enclosed
2	Statement dated 05.05.2019 of Shri Hitesh Lohar	Copy enclosed
3	Valuation certificate dated 05.05.2019 issued by Shri Nachiket S. Mavlankar, Government Approved Valuer	Copy enclosed
4	Seizure memo Order dated 05.05.2019 issued under Section 110(1) of the Customs Act, 1962.	Copy enclosed