



GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(DEPARTMENT OF REVENUE)

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Mumbai-400 005

F.No. 371/122, 123 & 124/B/WZ/2022-RA/7665 Date of Issue : 26.10.2023

ORDER NO. 782-784/2023-CUS (WZ) /ASRA/MUMBAI DATED 25.10.2023 OF  
THE GOVERNMENT OF INDIA PASSED BY SHRI SHRAWAN KUMAR, PRINCIPAL  
COMMISSIONER & EX-OFFICIO ADDITIONAL SECRETARY TO THE GOVERNMENT  
OF INDIA, UNDER SECTION 129DD OF THE CUSTOMS ACT, 1962.

Applicant No. 1 (A1) : Shri. Rakesh Rameshlal Tharwani  
Applicant No. 2 (A2) : Shri. Sanjay Aswani,  
Applicant No. 3 (A3) : Shri. Veeru Roha.

.....APPLICANTS.

Respondent : Commissioner of Customs, Pune - 411 001.

Subject : Revision Application filed, under Section 129DD of the Customs Act,  
1962 against the undermentioned three Orders-in-Appeal Nos., all  
issued by the Commissioner of Customs (Appeals - II), Central Tax,  
Pune, against common Order-in-Original No. PUNE-CUSTOMS-000-  
JC-04/2020-21 date 24.07.2020 by Jt. Commissioner (Customs),  
Pune.

- (i). PUN-CT-APPII-(VNT)-000-048-2021-22 dated 25.10.2021 issued on  
25.10.2021 from F.No. GAPPL/COM/CUSP/30/2021, in r/o. A1.
- (ii). PUN-CT-APPII-(VNT)-000-049-2021-22 dated 25.10.2021 issued on  
25.10.2021 from F.No. GAPPL/COM/CUSP/31/2021, in r/o. A2. .
- (iii). PUN-CT-APPII-(VNT)-000-050-2021-22 dated 25.10.2021 issued  
on 25.10.2021 from F.No. GAPPL/COM/CUSP/32/2021, in r/o. A1.

ORDER

These three revision applications have been filed by (i). Shri. Rakesh Rameshlal Tharwani, (ii). Shri. Sanjay Aswani and (iii). Shri. Veeru Roha Mahavir. (herein referred to as the Applicants or more specifically as Applicant No. 1 /(A1), Applicant No. 2 /(A2) and Applicant No. 3 /(A3), resp.) against the undermentioned three (03) Orders-in-Appeal resp., all issued by Commissioner of Customs (Appeals – II), Central Tax, Pune, against common Order-in-Original No. PUNE-CUSTOMS-000- JC-04/2020-21 date 24.07.2020 by Jt. Commissioner (Customs), Pune.

- (i). PUN-CT-APPII-(VNT)-000-048-2021-22 dated 25.10.2021 issued on 25.10.2021 from F.No. GAPPL/COM/CUSP/30/2021, in r/o. A1.
- (ii). PUN-CT-APPII-(VNT)-000-049-2021-22 dated 25.10.2021 issued on 25.10.2021 from F.No. GAPPL/COM/CUSP/31/2021, in r/o. A2.
- (iii). PUN-CT-APPII-(VNT)-000-050-2021-22 dated 25.10.2021 issued on 25.10.2021 from F.No. GAPPL/COM/CUSP/32/2021, in r/o. A3.

2(a). Brief facts of the case are that on 16.08.2018, the DRI Officers, Pune Regional Unit (PRU) in co-ordination with Customs Officers, Pune, acting on specific intelligence while rummaging in the Immigration Hall and public utility areas at the Pune International Airport (PIA), immediately after the immigration clearance of passengers who had arrived from Dubai on SpiceJet Flight No. SG52, had recovered 10.175 kgs of gold consisting of FM gold biscuits, cut biscuits, gold bands, etc of 999.0 purity, valued at Rs. 3,09,34,675/- (MV), from the gents lavatory. The said gold biscuits and articles of gold which had been concealed in packets were found in the dustbin, placed near a commode in the gents lavatory at Immigration Hall, PIA.

2(b). While profiling of the passengers who had arrived by SpiceJet Flight SG-52 and examination of the CCTV footage of 16.08.2018, the investigators suspected a passenger named Mr. Kollanavida Purayil Savad (referred as PAX) and AI, as it was observed that they were the last persons to have cleared from the Immigration Hall

and also, it was observed that they had spent considerable time in the gents toilet from where the said gold had been recovered.

2(c). Since, the said PAX is not the subject matter of these 3 revision applications, the details of the investigations carried out against him are not being discussed here and the same have been dealt with separately in another Revision Order pertaining to the revision application filed by him.

2(d). Moreover, it would be pertinent to mention here that a perusal of the case records does not indicate that the said pax and A1 had acted in tandem. It is observed that the investigations carried with regard to the PAX and A1 flow in different streams. Hence, they are being dealt separately.

2(e). The said profiling of A1 also revealed that he had left India from Mumbai Airport on 14.08.2018 and had boarded the SpiceJet flight at Dubai to Pune on 15.08.2023. His travel history also revealed that he had made many short international visits. His residential address at Ulhasnagar was searched on 17.08.2018. However, nothing incriminating was found.

2(f). In his statement recorded on 18.08.2018 under Section 108 of the Customs Act, 1962, A1 admitted possession, carriage and concealment of 3.5 kgs of gold on his body brought on 16.08.2023 by SpiceJet Flight No. SG-52. A1 admitted that he had smuggled out this gold from PIA without making any declaration to Customs and without payment of any duty; that outside the PIA he had handed over the gold to his accomplice viz A2; that he worked for A2; that on arrival from SpiceJet Flight No. SG-52 on 16.08.2018, he had handed over the gold A2 outside the airport; that the phone nos of A2 were 9923431354 and 8975096436; that he had started working as a carrier of imported goods like laptops, phones, cigarettes, gold etc from Dubai for Mr. Jacky and A2 alias, Sanju; that he had come across Jacky at a tea joint in Ulhasnagar who offered him attractive commission for the said work and had introduced him to A2; that Jacky instructed him to co-ordinate with A2 at PIA for handing over the imported goods; that he was engaged in smuggling activity for last six months and had brought perfumes, laptop, watches, gold etc on six occasions for Jacky and A2; to and fro

tickets to Dubai, accommodation etc; planning for the smuggling of gold was made by Jacky; that he (A2) had declared 3.4946 kgs of gold to the Customs at Dubai alongwith the invoice of AED 48600 before boarding SG52; that he had paid AED 295 as charges to the Dubai Customs; that this gold alongwith the invoice had been handed over to him by Jacky at Dubai; that he had destroyed this invoice at Dubai after getting Customs Clearance; that he had concealed 7 pieces of gold each weighing 500 grams in his socks and shoes and had wrapped it in tape in the toilet of the aircraft; that *Jacky had instructed him to call A2 on 8975096436 or 9923431354 after landing at Pune*; that accordingly he had done so and had called A2 after landing; that A2 had instructed him to wait in the toilet of immigration hall at PIA await his call and in case he was alerted then he should dump the gold in the toilet itself; that he had waited in the toilet for 8 to 10 minutes and after receiving call from A2 he came out of the airport with the gold concealed in his socks and shoes and without declaring to Customs; that he had handed over the 7 pieces of gold to A2; that he was aware that 10.175 grams had been recovered from the same toilet where he had spent considerable time on 16.08.2018; that he had no role in the smuggling of the 10.175 kgs of gold; that his sister viz, Smt. Namrata Khasturia had also travelled alongwith him; that on 12.05.2018, he had smuggled 3.5 kgs of gold from PIA.

2(g). The call data records (CDRs) pertaining to the phones used by A1 and the nos provided by him of the others involved in the smuggling operation revealed that he had contacted A2 on arrival and was constantly in touch with him on 16.08.2018; that he was in touch with Bharat Mehra on 16.08.2018;

2(h). The CDRs pertaining to the mobile nos used by A2 revealed that during the early hours of 16.08.2018, he was in constant touch with A1, A3, Rajendra Bane, Customs Havaldar, Bharat Mehra, and on 18.08.2018, he (i.e. A2) was in touch with A1 and Rajesh Manilal & Co (Pune based Angadiya) and an unidentified caller who it is alleged had obtained the mobile phone no in the name of an employee of A2.

2(i). The CDRs of the various phone numbers being used by Rajendra Bane, Customs Havaldar, revealed that on 16.08.2018, he was in constant touch with A2, the

unidentified caller who it is alleged had obtained the mobile phone no in the name of an employee of A2.

2(j). The CDRs of Bharat Mehra revealed that on 16.08.2018, he was in constant touch with A2, A1 and with an unidentified caller who it is alleged had obtained the mobile phone no in the name of an employee of A2.

2(k). From the details of the CDRs of the various persons involved in the case, it was alleged that on 14.08.2018, Rajendra Bane, Customs Havaldar had conveyed to A2, the date for smuggling of gold, that A2 in turn planned to smuggle gold on 16.08.2018 at PIA with the assistance of Bharat Mehra, the unidentified caller, A1 and A3;

2(l). It was alleged that the unidentified caller who had obtained the mobile no. in the name of an employee of A2 was in touch with the smuggler based at Dubai.

2(m). It was also alleged that at about 03.35 am on 16.08.2018 before the SpiceJet Flight No. SG-52 had even landed at PIA, someone had alerted Rajesh Bane, Customs Havaldar that there was a vigil on the passengers arriving on that flight, that in turn, Rajesh Bane had immediately alerted A2 who then contacted Bharat Mehra, A3, A1.

2(n). Statements of Rajendra Bane, Customs Havaldar was recorded under the Customs Act, 1962 wherein he confirmed that he knew A2 who used to call him to find out the duty free goods.

2(o). Statement of Hitesh Manilal Gajjar, partner of M/s. Rajesh Manilal & Co was recorded under Section 108 of the Customs Act, 1962 wherein he confirmed that he had received a call from A2 on their landline no, for cash of Rs. 10 lakhs; that A2 himself had taken delivery of the cash of Rs. 10 Lakhs; that he had the sign delivery receipt; that this instruction to hand over the cash to A2 had been received from their Bhuleshwar Branch; that as per their Bhuleshwar Branch it was ascertained that one Mukesh, who was a hawala operator from Ulhasnagar area had made a request.

2(p). Statement of Mukesh Jigyasi was recorded under Section 108 of the Customs Act, 1962 wherein he stated that he works on commission agent basis with an

angadiya; that on 18.08.2018, cash amount of Rs. 10 Lakhs had been deposited at their Ulhasnagar Branch by A3 to be handed over to A2 at Pune; that as per his knowledge A3 worked for Bharat Mehra who is a travel agent based at Ulhasnagar.

2(q). The office premises of Bharat Mehra situated at Ulhasnagar was searched. Hard disk of the computer was withdrawn. Forensic analysis of the hard disk of the computer led to the retrieval of (i). Customs Declaration of 3.5 kgs gold filed by A1 at Dubai International Airport on 11.05.2018 and (ii). Customs Declaration dated 20.12.2017 filed by Jacky Dodeja at Dubai International Airport for 4 kgs gold bars for PIA, (iii). Purchase invoices of Alfa Gold Trading LLC, Dubai for purchase of gold.

2(r). A2 was summoned on 05.09.2018, 19.09.2018, 26.09.2018 and 17.10.2018. However, he did not join the investigations neither did he make any written submissions.

2(s). Summons dated 03.01.2019, 24.01.2019 and 01.02.2019 were issued to A3. However, he had failed to appear on the said dates.

2(t). A1 was issued a summons dated 04.02.2018 for concluding statement and on the additional evidences which had been found during the investigations. However, he had failed to appear on the appointed date.

2(u). On 26.10.2018, A1 had filed retraction of his statement dated 26.10.2018. The same had been duly rebutted by the Respondent.

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3. After due process of investigations and the law, the Original Adjudicating Authority i.e. the Joint Commissioner of Customs, Pune, vide a common Order-In-Original No. No. PUNE-CUSTOMS-000-JC-04/2020-21 date 24.07.2020, among other things recovered in the case and other persons involved in the case, in respect of the applicants i.e. A1, A2 and A3, had ordered the following;

- (a). absolute confiscation of the gold biscuits, totally weighing 3.49 kgs valued at Rs. 1,06,40,000/- under the provisions of section 111(d), (j) and (l) of the Customs Act, 1962 which had been smuggled out by A1 from Pune International Airport after arriving on 11/12.05.2018 from Dubai, even though the goods were not available for confiscation.;

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- (b). absolute confiscation of the gold biscuits, totally weighing 3.5 kgs valued at Rs. 1,06,40,000/- under the provisions of section 111(d), (j) and (l) of the Customs Act, 1962 which had been smuggled out by A1 from Pune International Airport after arriving on 16.08.2018 from Dubai, eventhough the goods were not available for confiscation.;
- (c). Personal penalty of Rs. 3,00,000/- was imposed on A1 under the provisions of Section 112(a) and 112(b) of the Customs Act, 1962 and Rs. 3,00,000/- was also imposed on A1 under the provisions of Section 114AA of the Customs Act, 1962, in connection with smuggling of gold biscuits mentioned at (a) above.;
- (d). Personal penalty of Rs. 3,00,000/- was imposed on A1 under the provisions of Section 112(a) and 112(b) of the Customs Act, 1962 and Rs. 3,00,000/- was also imposed on A1 under the provisions of Section 114AA of the Customs Act, 1962, in connection with smuggling of gold biscuits mentioned at (b) above.;
- (e). Personal penalty of Rs. 3,50,000/- was imposed on A2 under the provisions of Section 112(a) of the Customs Act, 1962, in connection with smuggling of gold biscuits on 16.08.2018, weighing 3.5 kgs and valued at Rs. 1,06,40,000/-;
- (f). Personal penalty of Rs. 2,00,000/- was imposed on A3 under the provisions of Section 112(a) of the Customs Act, 1962, in connection with smuggling of gold biscuits on 16.08.2018, weighing 3.5 kgs and valued at Rs. 1,06,40,000/-;

4. Aggrieved by this Order, the applicants preferred an appeal before the appellate authority i.e. Commissioner of Customs (Appeals - II), Central Tax, Pune, who vide the undermentioned three Orders-in-Appeal Nos., passed the following ;

- (i). PUN-CT-APP-II-(VNT)-000-048-2021-22 dated 25.10.2021 issued on 25.10.2021 from F.No. GAPPL/COM/CUSP/30/2021, in r/o. A1, upheld the personal penalty of 3,00,000/- each, imposed on him by the OAA under Section 112(a) and (b) of the Customs Act, 1962, in connection with smuggling of gold biscuits totally weighing 3.5 kgs on 16.08.2018 and 3.49 kgs on 11/12.05.2018, resp. However, the personal penalty of Rs. 3,00,000/- each imposed on A1 by OAA under Section 114AA of the Customs Act, 1962, in connection with smuggling of gold biscuits totally weighing 3.5 kgs on 16.08.2018 and 3.49 kgs on 11/12.05.2018, resp., were dropped.
- (ii). PUN-CT-APP-II-(VNT)-000-049-2021-22 dated 25.10.2021 issued on 25.10.2021 from F.No. GAPPL/COM/CUSP/31/2021, in r/o. A2, upheld the personal penalty of Rs. 3,50,000/- imposed on him by the OAA under Section

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*112(a) of the Customs Act, 1962 in connection with smuggling of gold biscuits on 16.08.2018, weighing 3.50 kgs and valued at Rs. 1,06,40,000/-;*

- (iii). PUN-CT-APP-II-(VNT)-000-050-2021-22 dated 25.10.2021 issued on 25.10.2021 from F.No. GAPPL/COM/CUSP/32/2021, in r/o. A3, upheld the personal penalty of Rs. 2,00,000/- imposed on him by the OAA under Section 112(a) of the Customs Act, 1962 in connection with smuggling of gold biscuits on 16.08.2018, weighing 3.5 kgs and valued at Rs. 1,06,40,000/-.

5(a). Aggrieved by this Order, the applicant no. 1 has filed this revision application on the undermentioned grounds of revision;

- (i). that all the charges and allegations made in the SCN as well as the Order are based on presumptions and surmises; that these charges do not have any relevance under the law; that the charges cannot take the place of proof; that all the charges are denied; that the OIA deserves to be set aside; that he has been falsely implicated;
- (ii). that he had never brought any gold; that his statement had been recorded under duress; that after being incarcerated on 18.08.2018, he had filed a retraction dated 03.09.2018; that upon his release from incarceration on 21.10.2018, he had again filed a retraction on 26.10.2018; that the department had refuted the retraction after a long time i.e 24.12.2018; that the several judgements referred by him in reply to the SCN as mentioned at pgs nos. 31 to 36 of the Order may be considered as part of grounds of the RA; that he had nothing to do with the alleged gold; that no burden of proof has been cast on him to prove smuggling as per Section 123 of the Customs Act, 1962 as gold had not been recovered from him;
- (iii). that penalty was applicable only when goods are seized; that in his case goods had not been recovered or was available for confiscation;
- (iv). That in the impugned order , the department had failed to establish the facts; that the burden of proof was on the department; that the impugned order was vague; that the grounds in the order are not sustainable; that he was not a carrier for somebody else; that the exorbitant personal penalty of Rs. 6 lakhs was not justified;

The applicant no. 1 has prayed to the revisionary authority to waive off the personal penalty of Rs. 6 lakhs.



5(b). Aggrieved by this Order, the applicant no. 2 has filed this revision application on the undermentioned grounds of revision;

- (i). that all the charges and allegations made in the SCN as well as the Order are based on presumptions and surmises; that these charges do not have any relevance under the law; that the charges cannot take the place of proof; that all the charges are denied; that the OIA deserves to be set aside in the interest of justice; that the impugned order suffers from legal infirmities; that he has been falsely implicated;
- (ii). that he denies having received money from anybody; that after assuming but not admitting even if he had received money from A3, no evidence has been brought in the SCN or the order that the money was proceeds of smuggled gold; that he denies having anything to do with the gold;
- (iii). that he has been wrongly charged on the basis of statements given by A1 who too was a co-accused in the case; that the statements had not been corroborated by any independent material evidence; that case has been based only on basis of call records and statements of the co-accused;
- (iv). On the issue of corroboration and reliance on statement of co-accused, the applicant has relied upon the following case laws,
  - (a). Commr. Of C.Ex & ST, Udaipur vs. Mittal Pigment Pvt. Ltd; 2018-16-GSTL-41(RAJ);
  - (b). Continental Warehousing Corpn. (Nhava Sheva) Ltd. Vs. C.C Tuticorin; 2018-8-GSTL-300(TRI-Chennai);
  - (c). Omprakash Kulthia vs. Collector of Customs (P); 1997-91-ELT-684(Tri)
  - (d). Haricharan Kurmi vs. State of Bihar; AIR-1964-2-SC-1184-CR.L.J-344.
- (v). that no burden of proof has been cast on him to prove smuggling as per Section 123 of the Customs Act, 1962 as gold had not been recovered from him; that incriminating documents had not been recovered; that with this it was conclusively proved that he was not involved in the smuggling of gold; that he had nothing to do with the seized goods nor have any relation with the person from whom the goods have been seized;
- (vi). that penalty was applicable only when goods are seized; that in his case goods had not been recovered or was available for confiscation;
- (vii). That in the impugned order and SCN, the department had failed to conclude the role of the applicant and no proposal of penalty is there in the SCN; the department had failed to prove the legal burden that the goods were smuggled by the applicant; that in several judgements the judicial forums have ruled that the burden to prove lies is on the revenue when they allege smuggling of any goods whether notified or otherwise;

that the department had failed to establish smuggling by the syndicate of Rakesh-Bharat-Aswani-Veeru-Jacky;

The applicant no. 2 has prayed to the revisionary authority to waive off the personal penalty of Rs. 3.5 lakhs imposed on him.

5(c). Aggrieved by this Order, the applicant no. 2 has filed this revision application on the undermentioned grounds of revision;

- (i). that all the charges and allegations made in the SCN as well as the Order are based on presumptions and surmises; that these charges do not have any relevance under the law; that the charges cannot take the place of proof; that all the charges are denied; that the OIA deserves to be set aside in the interest of justice; that the impugned order suffers from legal infirmities; that he has been falsely implicated;
- (ii). that he denies having received money from anybody; that after assuming but not admitting even if he had received money from Mukesh, no evidence has been brought in the SCN or the order that the money was proceeds of smuggled gold; that he denies having anything to do with the gold;
- (iii). that he has been wrongly charged on the basis of statements given by co-accused noticee; that the statements had not been corroborated by any independent material evidence; that case has been based only on basis of call records and statements of the co-accused; that he denies receiving any summons which has been alleged in the SCN.
- (iv). On the issue of corroboration and reliance on statement of co-accused, the applicant has relied upon the following case laws,
  - (a). Commr. Of C.Ex & ST, Udaipur vs. Mittal Pigment Pvt. Ltd; 2018-16-GSTL-41(RAJ);
  - (b). Continental Warehousing Corpn. (Nhava Sheva) Ltd. Vs. C.C Tuticorin; 2018-8-GSTL-300(TRI-Chennai);
  - (c). Omprakash Kulthia vs. Collector of Customs (P); 1997-91-ELT-684(Tri)
  - (d). Haricharan Kurmi vs. State of Bihar; AIR-1964-2-SC-1184-CR.L.J-344.
- (v). that no burden of proof has been cast on him to prove smuggling as per Section 123 of the Customs Act, 1962 as gold had not been recovered from him; that incriminating documents had not been recovered; that with this it was conclusively proved that he was not involved in the smuggling of gold; that he had nothing to do with the seized goods nor have any relation with the person from whom the goods have been seized;

- (vi). that penalty was applicable only when goods are seized; that in his case goods had not been recovered or was available for confiscation;
  - (vii). that in the impugned order and SCN, the department had failed to conclude the role of the applicant and no proposal of penalty is there in the SCN; that the SCN was vague and the grounds in the impugned order are not sustainable;
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The applicant no. 3 has prayed to the revisionary authority to waive off the personal penalty of Rs. 3.5 lakhs imposed on him.

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6. Personal hearing in the case was scheduled for 28.07.2023, 03.08.2023. Shri. O. M. Rohira, Advocate appeared for personal hearing on 03.08.2023 on behalf of the applicants and reiterated earlier submissions. He requested to reduce the penalty as no gold was recovered.

7. At the outset, Government observes that the applicants i.e. A1, A2 and A3 have filed separate revision applications only on the limited issue of personal penalty against them upheld by the AA. Therefore, Government proceeds to decide the case on merits only on the limited issue of personal penalty imposed on A1, A2 and A3.

7(a). The Government has gone through the facts of the case. Government notes that after the detection and seizure of 10.175 kgs of gold that had been left abandoned in the dustbin at PIA, the profiling of passengers and the analysis of CCTV footage had pointed to suspicion in the direction of Applicant no. 1, especially that that he was a frequent traveller and had returned back from Dubai in 1-2 days and also that he had spent a considerable amount of time inside the lavatory at PIA from where the huge amount of gold had been recovered. On his examination, he confessed that he had carried 3.5 kgs of gold on 16.08.2018 and had cleared the same without declaring it to the Customs and had evaded Customs duty on the same. A1 had disclosed the name of A2 and confessed that the subject gold had been handed over to him.

7(b). A1 had disclosed the two phone nos of A2. Thereafter, from the CDR records, a clearer picture emerged where A1 was in contact with A2 and the unidentified person using the phone which was in the name of employee of A2.

7(c). A1 had on 16.08.2018 in his stated also disclosed that he had smuggled 3.5 kgs of gold on 11/12.05.2015 from PIA. Documentary evidence of this was subsequently recovered forensically, from the computer hard disk of Bharat Mehra which had been withdrawn on 03.12.2018. A Customs Declaration filed at Dubai International Airport on 11.05.2018 evidencing payment of duty by A1 was retrieved. Also, another Customs Declaration for 4 kgs of gold filed at Dubai International Airport on 20.12.2017 by Jacky Dodeja was also retrieved. These were clinching evidence which the respondents had managed to unearth in the follow-up investigations conducted by them. The details about Jacky mentioned by A1 in his statement too got corroborated. These Customs Declarations confirmed the details narrated by A1 way back on 18.08.2018 in his statement i.e. almost 3 ½ months earlier, and it was clear that he had made a factual admission in his statement including that he was a carrier.

7(d). The respondent through CDRs of the various nos, too had corroborated the link between, A1, A2, A3, Bharat, the unidentified caller, Hawala operator and various others including the Customs Havaladar at the PIA Airport. Some of the persons interrogated had revealed that though the mobiles phones were in their names, but infact were being used by A2, unidentified person, Ramesh Bane the Customs Havaladar etc involved in the smuggling activity. Details of the phone number contacted by A2 through his phone led to the Hawala operator who also admitted that at the instance of A3, they had handed over Rs. 10 Lakhs in cash to A2.

8(a). Government notes that all these facts have been thoroughly scrutinized and considered in the Order passed by the OAA who thereafter, used his discretion to absolutely confiscate the gold brought in by A1 even though the same was not available for confiscation. Thereafter, he had used his discretion in determining the quantum of punishment which he had imposed on the applicants.

8(b). Government notes that the AA in his impugned orders (3nos), has considered the minutest details of the roles played by A1, A2, A3 and others in the smuggling activity, the evidence unearthed by the investigators, the link weaved by the investigators from the various evidences that they had collected, had considered the pleas made by the applicants including A1 of retraction of statement which had been filed, evidentiary value of the statements recorded, the fact that A2, A3 from the start and later on A1 had not joined the investigations etc.

8(c). Government observes that the AA has relied on a host of case judgements passed by the Apex Court, High Courts and Tribunals and analysed the issues mentioned at para above, and thereafter, came to a conclusion on the roles played by A1, A2 and A3 in the smuggling operation. While doing so, he has dropped the penalties of Rs. 6 Lakhs imposed on A1 under Section 114AA of the Customs Act, 1962. Government finds that the AA has passed a legal and judicious order where all the issues have been covered. Government finds no reasons to interfere in the aforesaid 3 OIAs passed by AA. Government finds not merits in the 3 revision applications filed by the applicant and the same fails.

9. Accordingly, the 3 revision applications filed by the applicants are dismissed.

  
( SHRAWAN KUMAR )  
Principal Commissioner & ex-officio  
Additional Secretary to Government of India

**ORDER No. 782-784/2023-CUS (WZ) /ASRA/MUMBAI DATED 25.10.2023.**

To,

1. Shri. Rakesh Rameshlal Tharwani, BK No. 1084, Room No. 32, OT Section, Ulhasnagar - 421003.
2. Shri. Sanjay Aswani, Flat No. 404, E - Block, Sukhwani Crystal, Vaibhav Nagar Road, Pimpri, Pune.
3. Shri. Veeru Roha, Mahavir Hospital Road, BK No. 1696, Room No. 9, Ulhasnagar - 421 004.
4. Commissioner of Customs, 41 / A, Sassoon Road, Pune - 411 001.

**Copy to:**

1. Shri. O. M. Rohira, Advocate, 148 / 301, Uphaar, 10<sup>th</sup> Road, Khar (West), Mumbai - 400 052.
2. Sr. P.S. to AS (RA), Mumbai.
3. File Copy.
4. Notice Board.