

E W 39465 2806 IN /

E W 39465 2681 IN /

DIN- 2025/276NL 0000 813473



भारत सरकार

GOVERNMENT OF INDIA

प्रधान आयुक्त सीमा शुल्क का कार्यालय (विमानपत्तन एवं हवाई माल परिसर)

OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS (AP & ACC)

एन.एस.सी.बी. अन्तर्राष्ट्रीय विमानपत्तन, कोलकाता-700052

N.S.C.B. International Airport, Kolkata-700052

(Email id- aiucell-kolcusap@gov.in)



F.No. – DRI/KZU/AS/ENQ-82/2025

Date: 19-12-2025

Ref. SCN No. - DRI/KZU/AS/ENQ-82/2025 DATED 10.11.2025

Order-in-Original No. – KOL/CUS/A&A/ADC/AIU CELL/256/2025

Dated: 21.12.2025

श्री अमित भारद्वाज, अपर आयुक्त, सीमा शुल्क, एन.एस.सी.बी. अन्तर्राष्ट्रीय विमानपत्तन, कोलकाता-700052, द्वारा पारित.

PASSED BY SHRI AMIT BHARDWAJ, ADDITIONAL COMMISSIONER OF CUSTOMS, NSCBI AIRPORT, KOLKATA - 700 052

1. यह प्रति संबंधित व्यक्ति के प्रयोग के लिए निःशुल्क जारी की गयी है।

This copy is granted free of charge for the private use of the person to whom it is issued.

2. यदि कोई व्यक्ति इस आदेश से असंतुष्ट हो तो इस आदेश के विरुद्ध, इस आदेश के जारी होने के 60 दिनों के अन्दर सीमा शुल्क आयुक्त (अपील), सीमा शुल्क भवन, 15/1, स्ट्रैंड रोड, कोलकाता - 700 001 के समक्ष अपील कर सकते हैं।

Any person deeming himself aggrieved by the order may appeal against the same to the Commissioner of Customs (Appeal), Customs House, 15/1, Strand Road, Kolkata-700 001 within 60 (sixty) days from the date of the receipt.

3. इस आदेश के खिलाफ, जहां शुल्क या शुल्क और जुर्माना विवाद में है, या दंड जहां अकेले दंड विवाद में है, इयूटी या दंड के 7.5% के अग्रिम भुगतान पर सीमा शुल्क आयुक्त (अपील) के समक्ष अपील किया जा सकता है।

An appeal against the order shall lie before the Commissioner of Customs (Appeal) on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute or penalty, where penalty alone is in dispute.

4. यदि कोई भी व्यक्ति, इस आदेश या निर्णय के खिलाफ अपील करने के इच्छुक हैं, या अपील विचाराधीन हो तो मांगा गया शुल्क अथवा जुर्माना, अथवा लगाया गया दंड जमा करना होगा एवं

9c

भुगतान का सबूत अपील के साथ पेश करना होगा, असफल होने पर सीमा शुल्क अधिनियम, 1962 की धारा 129E के प्रावधानों के अंतर्गत गैर अनुपालन हेतु अपील खारिज किया जा सकता है।

Any person desirous of appealing against the order or decision shall, pending the appeal, deposit the duty demanded or the fine, penalties levied therein and produce proof of such payment along with the appeal failing which the appeal is liable to be rejected for non compliance with the provisions of Section 129E of the Customs Act, 1962.

BRIEF FACTS OF THE CASE

1. Based upon specific information received that an individual, travelling on Singapore Airlines Flight SQ516 scheduled to arrive at Netaji Subhash Chandra Bose International Airport (hereinafter "*NSCBI Airport*") on 22.09.2025, intended to smuggle a commercial quantity of iPhones by failing to declare them to the Customs authorities, the officers of Directorate of Revenue Intelligence, Kolkata (hereinafter "*DRI*") initiated surveillance. DRI officers positioned themselves adjacent to the egress point of the immigration clearance zone, through which passengers deplaning from Flight SQ516 were required to pass subsequent to completing immigration procedures. The details of the said passenger are as under:

a. Name: Gupteswar Prasad Singh

b. Passport Number: Z5111473

c. Seat Number: 46K

d. Expected Arrival of Flight: 10.25 PM on 22.09.2025.

2. The aforementioned officers subsequently initiated a procedure requiring the presentation of passports and associated boarding passes from all individuals departing the immigration clearance area. Through this exercise, the officers identified the passenger (herein after also referred to as pax/noticee), namely Shri Gupteswar Prasad Singh, upon whom discreet observation was thereafter maintained. The said passenger, after procuring his checked in baggage from the reclaim area, was observed proceeding towards the direction of the Customs Green Channel.

3. Upon traversing the 'Green Channel' within the International Arrival Hall of NSCBI Airport, the passenger, Shri Gupteswar Prasad Singh, was intercepted by the DRI officers in the presence of two independent witnesses. The officers thereupon formally disclosed their official identities and affiliations to him. Subsequently, Shri Gupteswar Prasad Singh was inquired of as to whether he was

in possession of any goods that were dutiable, prohibited, or restricted under the prevailing statutes. The individual initially and summarily denied being in possession of any such goods. Upon sustained and rigorous interrogation by the DRI officers, the passenger eventually admitted of possessing a substantial quantity of iPhone 17 Pro Max devices within his baggage. It was evident that the act of proceeding through the 'Green Channel' was undertaken by him deliberately, knowingly, and with the intent to clandestinely import the said goods, thereby evading the payment of lawful duties to the Customs authorities. Furthermore, upon being expressly requested to do so, the said passenger failed to produce any valid documentation or legal authorization that would legitimize the possession or importation of the aforementioned goods. This attempted clearance was therefore undertaken in contravention of the provisions enshrined in the Customs Act, 1962. Consequently, the DRI officers introduced the passenger to the witnesses and directed him to proceed to the office of the Air Intelligence Unit (AIU), NSCBI Airport, along with his belongings, pursuant to a summons duly issued to him under Section 108 of the said Act. Shri Gupteswar Prasad Singh acknowledged the summons and the directive of the DRI officers, and thereafter he along with the DRI officers and the witnesses, proceeded to the AIU office.

4. Upon arrival at the AIU office, the DRI officers formally apprised Shri Gupteswar Prasad Singh of his statutory right, in accordance with the mandatory provisions of the Customs Act, 1962, to have his personal search conducted in the presence of a Magistrate or a Gazetted Officer of Customs. In response, Shri Gupteswar Prasad Singh voluntarily, unequivocally, and in writing, elected to be searched in the presence of a Gazetted Officer of the DRI. Subsequently, and prior to the commencement of the search, the DRI officers, in the presence of the undersigned, offered their persons to be searched by the passenger as a procedural formality. Shri Gupteswar Prasad Singh voluntarily and expressly waived this right, declining the offer.

5. Subsequently, a comprehensive personal search of Shri Gupteswar Prasad Singh, along with a meticulous examination of his baggage, was conducted in the presence of the witnesses. The aforementioned exercise culminated in the recovery of the following goods, which are detailed herein below:

a. Details regarding storage of those 20 nos. iPhone 17 Pro Max are mentioned in table below:

Sl. No.	Configuration of I Phone	Quantity (Numbers)
1	I Phone 17 Pro Max (256 GB)	2

2	I Phone 17 Pro Max (512 GB)	8
3	I Phone 17 Pro Max (1 TB)	10
TOTAL		20

b. Boarding pass of Flight No. SQ 516 with seat nos. 46K from the personal possession of Shri Gupteswar Prasad Singh.

6. Upon being expressly requested, Shri Gupteswar Prasad Singh failed to produce any valid documentation or legal authority justifying the possession, carriage, or intended importation of the aforementioned electronic goods. The attempted illicit importation of these twenty (20) units of iPhone 17 Pro Max mobile phones was therefore in contravention of the Customs Act, 1962. For the purpose of proceedings under the Act, the goods were valued with reference to the prevailing market prices listed on the official Apple India website are given as under:

Sl. No.	Configuration of I Phone	Quantity (No.)	Unit Price (Rs.)	Total Value (Rs.)
1	I Phone 17 Pro Max (256 GB)	2	1,49,900	2,99,800
2	I Phone 17 Pro Max (512 GB)	8	1,69,900	13,59,200
3	I Phone 17 Pro Max (1 TB)	10	1,89,900	18,99,000
TOTAL				35,58,000

7. Based on the aforesaid valuation methodology, the total value of the recovered goods was ascertained at Rs. 35,58,000/- (Indian Rupees Thirty-Five Lakhs Fifty-Eight Thousand only). Shri Gupteswar Prasad Singh acknowledged and concurred with both the applied valuation methodology and the resultant value.

8. The aforementioned recovered goods, along with one black-coloured backpack with marking "BIAOWANG" utilized for that concealment and transport, were seized under the provisions of Section 110 of the Customs Act, 1962. This action was predicated upon a reasonable belief that the said goods are liable for confiscation under the provisions of the said Act. Furthermore, the boarding pass of Shri Gupteswar Prasad Singh for Flight SQ 516 (Seat 46K) was also seized. This seizure was effected on the reasonable belief that the document constitutes material evidence pertinent to the ongoing investigation.

9. A comprehensive search-cum-seizure list was prepared, meticulously detailing all recovered and seized items. The said document was attested by the concerned DRI officer, Shri Gupteswar Prasad Singh, and the independent witnesses. A certified copy of the search cum-seizure list was furnished to Shri Gupteswar Prasad Singh, and his formal acknowledgment for its receipt was obtained and forms a part of the official record.

10. The following items were packaged and sealed for safekeeping:

(a) The twenty (20) iPhone 17 Pro Max devices, contained within the original black backpack, were secured inside a large steel box. The box was locked and sealed with the official DRI seal.

(b) The boarding pass was placed in an envelope, which was sealed with the official DRI seal.

11. Statement of Shri Gupteswar Prasad Singh was recorded under Section 108 of the Customs Act, 1962 on 23.09.2025, wherein he stated, *inter alia*, that.

(a) He frequently visits Thailand, China, and Hong Kong. While going to the said countries, he carries Indian spices and sells the goods there in market. While returning from the countries, he buys iPhones and sells the mobiles in Indian market. He mostly sells the iPhones in Kolkata. Sometimes he also sells the iPhones at Karol Bagh in Delhi. There is no fixed buyer of his iPhones in India. Most of the time he ends up selling only 1 iPhone to 2 iPhones to a single buyer.

(b) His previous travel originated from Kolkata to Hong Kong (via Singapore) on 16.09.2025. He departed Kolkata on Singapore Airlines flight SQ 517 at approximately 23:40 hours on 16.09.2025, connecting to Singapore Airlines flight SQ 892 from Singapore to Hong Kong on the morning of 17.09.2025. During his outbound journey to Hong Kong, he was carrying assorted spices with an approximate value of 10,00,000/- (Rupees Ten Lakh), which he subsequently sold in the Hong Kong market. On 21.09.2025, he procured twenty (20) units of iPhone 17 mobile phones. While he normally brings four to five (4-5) iPhones upon his return to India, he deliberately purchased twenty (20) units on this occasion, considering the upcoming festive season and the anticipated high consumer demand as reasons.

(c) For his return journey to Kolkata, he travelled on Singapore Airlines flight SQ 883 from Hong Kong to Singapore on 22.09.2025, subsequently connecting to Singapore Airlines flight SQ 516 from Singapore to Kolkata, which departed on the night of the same date.

(d) He explicitly stated that he does not possess any documentation pertaining to the aforementioned iPhones.

(e) He has engaged himself in the activity of travelling to foreign countries for the purpose of bringing goods into India via personal baggage for a period of approximately five years. He stated that he undertakes between ten to fifteen such trips annually.

(f) He admitted to having previously imported items including iPhones, refurbished mobile phones, and cosmetics into India. He further conceded that while he has, on certain occasions, paid applicable customs duty on the refurbished phones and cosmetics, he has **never** paid any customs duty on the importation of iPhones.

(g) He acknowledged his awareness that the importation of goods in commercial quantities is not permissible under the baggage rules. He explicitly admitted and conceded that the total assessed value of the seized iPhones, amounting to Rs.35,58,000/- (Rupees Thirty-Five Lakh Fifty-Eight Thousand Only), far exceeds the stipulated duty-free allowance of ₹50,000/- for bona fide baggage. On this basis, he agreed that the said goods were ineligible for import free of duty. **Shri Singh further made a crucial admission, stating that had the DRI officers not intercepted him at the entry of the Green Channel, he would have cleared the goods through the Green Channel without declaring them to the Customs authorities.**

(h) He sought to qualify his actions by claiming economic compulsion, stating that he engaged in this activity to earn his livelihood as he possessed no other viable means of income.

(i) He confessed to his role in smuggling iPhones, citing financial distress as the motivating factor.

12. Analysis of the legal position vis-à-vis facts of the case:

12.1 In view of the above, the high valued mobiles [i.e. 20 units of Apple iPhone (17 Pro Max)] recovered from Shri Gupteswar Prasad Singh on 22.09.2025 were imported goods upon which duties of Customs are leviable as per Section 12 of the Customs Act, 1962. The accused did not make a declaration to the proper officer upon his arrival at NSCBI Airport, Kolkata, as required under Section 77 of the Customs Act, 1962, for clearance of the said goods. As per Regulation 3 of Customs Baggage Declaration Regulations, 2013, read with Section 81 of the Customs Act, 1962, Gupteswar Prasad Singh was supposed to declare the said

goods before the Customs for the purpose of determining the duty liability that may arise. Instead, he opted to not declare the said goods before the Customs Authority that were liable to duty. **The passenger admitted in his statement recorded under Section 108 of the Customs Act, 1962, that he was attempting to smuggle the said goods in greed of earning higher/more profit.**

12.2 Section 79 of the Customs Act, 1962, read with Rule 3 of Baggage Rules, 2016, allows an Indian resident arriving from countries other than Nepal, Bhutan or Myanmar for free allowance of Rs. 50,000/- on bona-fide baggage. However, the total value of the seized goods (i.e., Rs. 35,58,000/-) is far more than that stipulated limit and therefore, the said goods are not eligible for import free of duty in baggage.

12.3 In view of the aforesaid facts, Gupteswar Prasad Singh, appears to have not declared the said seized goods, recovered from him, before the proper officer of the Customs at the Airport with the intent of evading the applicable customs duties. Thus, he appears to have contravened the provisions of Section 77 of the Customs Act, 1962, and Rule 3 of Customs Baggage Declaration Regulations, 2016, read with Section 81 of the Customs Act, 1962. Due to non-declaration of the said goods by the passenger before the proper officer of the Customs, the said goods cannot be considered to be bona fide baggage.

12.4 In terms of Section 7 of the Foreign Trade (Development and Regulation) Act, 1992 (FTDR Act, 1992), no person can import except under an Importer-Exporter Code (IEC) number. But import of any goods as Passenger Baggage under the Baggage Rules is regulated by Para 2.27(a) of the Foreign Trade Policy, 2023, which allows a passenger to import only bona-fide household goods and personal effects as part of passenger baggage as per limits, terms and conditions thereof in Baggage Rules notified by Ministry of Finance. As such, any imported goods in the baggage which are not bona-fide household goods and personal effects of the passenger would not qualify as "Passenger Baggage" to avail exemption in terms of the Rule 3 of Baggage Rules, 2016, and would be construed as Prohibited Goods in terms of the above mentioned provisions of the Foreign Trade (Development and Regulation) Act, 1992, read with Foreign Trade (Development & Regulations) Amendment Act, 2010.

12.5 In the instant case, the seized goods are not used personal effects and the total value of the seized goods is estimated at Rs. 35,58,000/-, i.e., much more than Rs. 50,000/-. In CBIC instruction issued vide F.No. 495/6/96-Cus.VI dated

06.05.1996 and reiterated in Circular Nos. 29/2000-Cus., dated 11.04.2000 and Circular No.9/2001-Cus., dated 22.01.2001, it is clearly stated that the import of goods in commercial quantities would not be permissible within the scope of the Baggage Rules, even on payment of baggage rate of duty. The seized goods having aggregate value of Rs. 35,58,000/- brought illegally into India by the said person in commercial quantity for monetary gain and not for personal use, and without any Import Export Code cannot be considered as bona-fide personal baggage as per the Customs Act 1962, Baggage Rules, 2016 and Foreign Trade Policy, 2023. As such, the said passenger could not produce any licit documents complying to the "Labelling Requirements" of Bureau of Indian Standards(BIS) registration in support of their legal acquisition/possession/importation of the said seized goods under Part 3 of the Electronics and Information Technology goods(Requirement of Compulsory Registration) Order, 2021-vide DGFT Notification No. 13/2024-25 Dated 20.05.2024. Thus, it can be deduced that the seized goods are "prohibited goods" under Part 3 of the Electronics and Information Technology goods (Requirement of Compulsory Registration) Order, 2021-vide Notification No.13/2024-25 Dated 20.05.2024.

12.6 Thus, the said goods i.e. 20 units of Apple Iphone (17 Pro Max) collectively valued at Rs.35,58,000/- (Rupees Thirty-Five Lakh Fifty-Eight Thousand Only) appear to be liable to confiscation as envisaged under Section 111(d), 111(i), 111(j), and 111(l) of the Customs Act, 1962.

12.7 The passenger also failed to comply with the provisions as laid down in the Notification No. 13/2024-25 dated 20.05.2024 issued by DGFT, Delhi.

13. Role played by Gupteswar Prasad Singh:

Gupteswar Prasad Singh was caught red-handed by the Officers of DRI at NSCBI Airport, Kolkata, when he was coming from Singapore, with the said seized goods [i.e. 20 units of Apple Iphone (17 Pro Max)], collectively valued at Rs.35,58,000/- (Rupees Thirty-Five Lakh Fifty-Eight Thousand Only) by concealing them inside his hand baggage without having declared the same before the proper officer of the Customs and thus, without paying the applicable customs duty on the said goods. In the statement recorded under Section 108 of the Customs Act, 1962, Gupteswar Prasad Singh, admitted that he attempted to smuggle the seized mobiles into India in lure of monetary benefit. Thus, Gupteswar Prasad Singh appears to have knowingly involved in the said act of fraudulent evasion of the Customs duty leviable on the seized mobiles by non-declaration and concealment in contravention of Section 77 of the Customs Act, 1962, and Rule 3 of Customs

Baggage Declaration Regulations, 2016, read with Section 81 of the Customs Act, 1962. He also failed to comply with the provisions as laid down in the Notification No. 13/2024-25 dated 20.05.2024 issued by DGFT, Delhi. Moreover, Gupteswar Prasad Singh acquired possession of the iPhones in a commercial quantity and attempted to clear them through the Green Channel of the NSCBI Airport, Kolkata, without declaring them to the customs Authorities. This act of attempting to clear goods concealed in his baggage through the channel designated for passengers with no dutiable goods renders the impugned goods liable for confiscation under the provisions of the Customs Act, 1962 detailed in para supra. Furthermore, by transporting the offending goods to Kolkata and undertaking a deliberate attempt to clear them clandestinely through the customs area, he has actively abetted the act of smuggling. For this act of omission (failure to declare) and commission (clandestine clearance), Shri Gupteswar Prasad Singh is liable for penal action under Section 112(a)(i) of the customs Act, 1962, as his actions would render the goods liable for confiscation under Section 111 of the said Act. Shri Gupteswar Prasad Singh acquired, carried, and dealt with the said goods with the full knowledge that they were of smuggled nature and that his actions were unlawful. By dealing with goods which he knew or had reason to believe were liable for confiscation, he has rendered himself liable for penal action under Section 112(b)(i) of the Customs Act, 1962. His role in the instant case is recapitulated as hereunder:

a. Habitual Smuggler: He admitted to being engaged in the business of travelling abroad specifically to bring back goods for sale in India, making 10-15 trips per year for approximately five years, establishing a pattern of illicit trade.

b. Premeditated Procurement: He deliberately purchased twenty (20) iPhone 17 Pro Max devices in Hong Kong, a commercial quantity far exceeding his claimed normal volume of 4-5 pieces, specifically intending to smuggle them to capitalize on festive season demand.

c. Knowledge of Illegality: He explicitly admitted of being aware that:-

- i. Importing goods in commercial quantities is not permissible as baggage.
- ii. The value of the goods (₹35,58,000) far exceeded the duty-free allowance (₹50,000).
- iii. His actions were in contravention of the law.

d. Clandestine Method of Import: He intentionally concealed the iPhones in his baggage and planned to use the "Green Channel" at the airport' which is legally designated for passengers with no dutiable goods, to avoid declaration and

detection.

e. Intent to Evade Duty: He categorically stated that had he not been intercepted, he would have cleared the goods through the Green Channel without declaring them to the Customs authorities, thereby evading the payment of lawful customs duties.

f. Lack of Legal Documentation: He failed to produce any valid invoices, documents, or legal authorization for the possession or importation of the high value electronic goods, confirming their illicit nature.

g. Initial Deception: Upon being intercepted and questioned by DRI officers, he initially and falsely denied being in possession of any dutiable goods, demonstrating a conscious intent to deceive.

h. Direct Admission of smuggling: He voluntarily and unequivocally confessed to being "involved in the activity of smuggling of iPhones," directly admitting to the offense.

14. Now, therefore, Shri Gupteswar Prasad Singh S/o Late Jainswar Singh, R/O 37 /2' First Floor, Balram Bose Ghat Road, Kolkata-700026 was called upon under the provisions of Section 124 of the Customs Act, 1962 to show cause in writing within 30 (thirty) days from the date of receipt of this notice, to the Additional Commissioner of Customs, Air Intelligence Unit, Arrival Upper, NSCBI Airport, Kolkata-700052 as to why:-

a . The seized twenty (20) numbers of iPhones collectively valued at Rs.35,58,000/-, as detailed in the inventory of the seized goods dated 23.09.2025 should not be confiscated under **Section 111(d), 111(i) and 111(l) of the customs Act, 1962** as discussed hereinabove;

b. The wrapping and concealing material i.e. black coloured backpack with marking "BIAOWANG", carried by Shri Gupteswar Prasad Singh and used for carrying and concealing the recovered 20 numbers of mobile phones, as detailed in the inventory of the seized goods, having no commercial value, should not be confiscated under **Section 119 of the Customs Act, 1962;**

c . Penalty should not be imposed upon Shri Gupteswar Prasad Singh under **Section 112(a)(i) of the Customs Act, 1962,** for the reasons discussed hereinabove;

d . Penalty should not be imposed upon Shri Gupteswar Prasad Singh under

Section 112(b)(i) of the Customs Act, 1962, for the reasons discussed hereinabove.

REPLY TO THE SCN AND RECORDS OF PERSONAL HEARING

15. A reply dated 27.11.2025 to the Show Cause Notice having SCN no. DRI/KZU/AS/ENQ-82/2025 DATED 10.11.2025 was received in this unit.

16. Opportunities to be heard in person were granted to the noticee to appear before the Competent Authority on 26.11.2025 and 10.12.2025, to which the noticee appeared on 10.12.2025 and submitted an invoice dated 22.09.2025 requesting to take a lenient view in the case and prayed for release of his goods with imposition of minimum fine and penalty. **However, it is noteworthy to mention that in his statement dated 23.09.2025, he himself denied having any document regarding those 20 units of Apple Iphone (17 Pro Max) collectively valued at Rs. 35,58,000/- (Rupees Thirty-Five Lakh Fifty-Eight Thousand Only).**

On perusal of the invoice produced by the noticee, it has been observed that the invoice has been provided at a later date as on the day of seizure, the noticee in his statement admitted the fact of not being in possession of any document related to the procurement of the impugned goods. The noticee submitted the invoice issued dated 22.09.2025 in the name of SINGH GUPTESHWAR PRASAD and the invoice number is 1020. On perusal of the invoice, it has been observed that the invoice does not have the passport number of the passenger which is an essentiality when the purchase is done. The invoice does not have any CR number and BR number printed and also does not have any banking details. As per the provisions of The Inland Revenue Ordinance (IRO), the invoice should have this following minimum requirement:

- Invoice number
- Invoice date of issue
- Customer's name (or Department name for B2G transactions) and address
- Order and invitation to quotation number for B2G transactions
- Company's business name and address
- Due date
- Date shipped
- A clear description of the goods and services, including product number, unit price or rate (if applicable), and total quantity or volume.

- The total amount for each item
- Grand total

On perusal of the invoice, it has been observed that the invoice lacks many information which is mandated by the local laws. There is no mention of the IMEI numbers of the iPhones purchased by the noticee. On perusal of the invoice, it has been observed that the name of the company which issued the invoice is different from the company registered with the Hong Kong government. The company registered with the Hong Kong government is "JMG TELECOMMUNICATIONS (HK) Limited" but in the invoice, the name on the top and also in the seal, the name is written as JMG TELECOMMUNICATIONS (HK) LTD. The address mentioned in the registry is FLAT 915L 9TH FLOOR, CENTURY CENTRE, 44-46 HUNG TO ROAD, KWUN TONG, KLN, HONG KONG whereas the address mentioned in the invoice is FLAT 915L, CENTURY CENTRE, 44-46 HUNG TO ROAD, KWUN TONG, KLN, HONG KONG. On the basis of reasons given above, I decide that the invoice produced by the passenger is fabricated and forged and thus, can not be relied upon to decide the case.

DISCUSSION AND FINDINGS

17. I have perused the facts presented before me. The questions that need to be addressed in the instant matter are within the jurisdiction of the Customs Act 1962 and allied laws and are enumerated as under:

i . Whether the goods are "prohibited goods" as defined under Section 2(33) of the Customs Act, 1962;

ii. Whether the act of the passenger will be considered as the act of "smuggling" as defined under Section 2(39) of the Customs Act, 1962;

iii. Whether the goods seized, i.e. 20 units of Apple iPhone (17 Pro Max) collectively valued at Rs.35,58,000/- (Rupees Thirty-Five Lakh Fifty-Eight Thousand Only) are liable for confiscation under Section 111(d), 111(i), 111(j) and 111(l) of the Customs Act, 1962 and in terms of Notification No. 13/2024-25 dated 20.05.2024 issued by DGFT, Delhi;

iv. Whether the seized 01 (one) piece of hand baggage having no commercial value, used for keeping/concealing/carrying the impugned goods, is liable for confiscation under Section 118 of the

Customs Act, 1962;

v. Whether the act of the passenger renders the passenger to be penalized discretionarily under Section 112 of the Customs Act, 1962;

18. The important question in the instant case is whether the goods are prohibited goods or not? As per the definition of prohibited goods in 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 but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with;*".

I further rely on the decisions of Hon'ble Apex Court, wherein the apex court decided that if the goods are restricted and there are certain conditions that has to be followed and if those conditions are not followed than the goods will be considered as 'prohibited goods'.

In the case of **Sheikh Mohd. Omer v. Collector of Customs Calcutta and others, AIR 1971 SC 293**, it has been held as under: "14. *It was urged on behalf of the appellant that expression 'prohibition' in Section 111(d) must be considered as a total prohibition and that expression does not bring within its fold the restrictions imposed by clause (3) of the Imports Control Order, 1955. According to the learned counsel for the appellant clause (3) of that Order deals with the restrictions of import of certain goods. Such a restriction cannot be considered as a prohibition under Section 111(d) of the Act. While elaborating his argument the learned counsel invited our attention to the fact that while Section 111(d) of the Act uses the word 'prohibition'. Section 3 of the Imports and Exports (Control) Act, 1947, takes in not merely prohibition of imports and exports, it also includes 'restrictions or otherwise controlling' all imports and exports. According to him restrictions cannot be considered as prohibition more particularly under the Imports and Exports (Control) Act, 1947, as that statute deals with 'restrictions or otherwise controlling' separately from prohibitions. We are not impressed with this argument. What clause (d) of Section 111 says is that any goods which are imported or attempted to be imported contrary to 'any prohibition imposed by any law for the time being in force in this country' is liable to be confiscated. 'Any prohibition' referred to in that section applies to every type of 'prohibition'. That prohibition may be complete or partial. A ny restriction on import or export is to an extent a prohibition. The expression 'any prohibition' in Section 111(d) of the Customs Act, 1962 includes restrictions. Merely because Section 3 of the Imports*

and Exports (Control) Act, 1947, uses three different expressions 'prohibiting', 'restricting' or 'otherwise controlling', we cannot cut down the amplitude of the word 'any prohibition' in Section 111(d) of the Act. 'Any prohibition' means every prohibition. In other words all types of prohibitions. Restriction is one type of prohibition. From Item (I) of Schedule I, Part IV to Import Control Order, 1955, it is clear that import of living animals of all sorts is prohibited. But certain exceptions are provided for. But nonetheless the prohibition continues."

In the case of **Sheshank Sea Foods Pvt. Ltd. Karnataka etc. versus Union of India & Ors. reported in (1996) 11 SC 755**, the Supreme Court held as follows: "7. For the reasons stated above, the Ministry of Law have advised that it may not be possible to take action under Section 111(o) with respect to the conditions of the licence relating to the use of goods after they are cleared from the Customs charge." 8. Section 111(o) is the sheet-anchor of the respondents' case. It reads thus : "111. Confiscation of improperly imported goods, etc.- The following goods brought from a place outside India shall be liable to confiscation xxxxxx xxx (o) any goods exempted, subject to any condition, from duty or any prohibition in respect of the import thereof under this Act or any other law for the time being in force, in respect of which the condition is not observed unless the non-observance of the condition was sanctioned by the proper officer." 9. Section 111(o) states that when goods are exempted from Customs duty subject to a condition and the condition is not observed, the goods are liable to confiscation. The case of the respondents is that the goods imported by the appellants, which availed to the said exemption subject to the condition that they would not be sold, loaned, transferred or disposed of in any other manner, had been disposed of by the appellants. The Customs authorities, therefore, clearly had the power to take action under the provisions of Section 111.

In this regard the effect of the interpretation of the words prohibited goods was considered in **Om Prakash Bhatia Vs. Commissioner of Customs, New Delhi (2003(6) SCC 161)** and in the said judgement, the Hon'ble Supreme Court held as follows:

"From the aforesaid definition, it can be stated that (a) if there is any prohibition of import or export of goods under the Act or any other law for the time being in force, it would be considered to be prohibited goods; and (b) this would not include any such goods in respect of which the conditions, subject to which the goods are imported or exported, have been complied with. This would mean that if the conditions prescribed for import or export of goods are not complied with, it would be considered to be prohibited goods".

As per the Notification no. 13/2024-25 dtd 20.05.2024, issued by the Department of Commerce (DGFT):

"Import policy of electronics and IT goods: " The import of goods(new as well as second hand, whether or not refurbished, repaired or reconditioned) notified under the "Electronics and Information Technology Goods (Requirement of Compulsory Registration) Order, 2021 as amended from time to time, is prohibited unless they are registered with the Bureau of Indian Standards(BIS), as amended from time to time, or on specific exemption letter from Ministry of Electronics and Information Technology(MeitY) for a particular consignment, as per provisions of Gazette Notification SO No. 1929 dtd 26.04.2023. The importer shall re-export such prohibited goods reaching Customs ports else the Customs authorities shall deform the goods beyond use and dispose of the goods as scrap under intimation to Ministry of Electronics and Information Technology(MeitY)."

In respect of the seizure of electronics goods, **i.e. 20 units of Apple I phone (17 Pro Max) collectively valued at Rs.35,58,000/- (Rupees Thirty-Five Lakh Fifty-Eight Thousand Only)**, the said passenger could not produce any licit documents complying to the "Labelling Requirements" of Bureau of Indian Standards (BIS) registration in support of their legal acquisition/possession/importation of the said seized goods under Part 3 of the Electronics and Information Technology goods (Requirement of Compulsory Registration) Order, 2021-vide DGFT Notification No. 13/2024-25 Dated 20.05.2024. Thus, it can be deduced that the seized goods are "prohibited goods" under Part 3 of the Electronics and Information Technology goods (Requirement of Compulsory Registration) Order, 2021-vide Notification No.13/2024-25 Dated 20.05.2024. Moreover, the import of goods in commercial quantities is not permissible within the scope of the Baggage Rules, 2016, even on payment of baggage rate of duty, and no person can make an import except under an Importer-Exporter Code (IEC) number. The seized goods having aggregate value of an aggregate value of ₹35,58,000/- (Indian Rupees Thirty-Five Lakh Fifty-Eight Thousand Only) have been brought into India by the noticee in commercial quantity for monetary gain and not for personal use, and without any Import Export Code. Therefore, the said goods cannot be considered as bonafide personal baggage as per the Customs Act 1962, Baggage Rules, 2016 and Foreign Trade policy, 2023. As such, the said seized goods would appropriately constitute 'Prohibited Goods' under Section 2(33) of the Customs Act, 1962, and the same are liable to confiscation under the Customs Act, 1962. **Hence, I hold that the goods seized are prohibited goods, under the definition of Section 2 (33) of the Customs Act, 1962.**

19. In regard to the **Point No. 17. (ii)**, it is essential to first see whether this is a case of smuggling as alleged by the Show Cause Notice. The word 'Smuggling' is defined in the section 2(39) of the Customs, Act 1962 as follows:

- *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;*

Therefore, it needs to be seen whether the said goods are liable to be confiscated under section 111 as it is the case of import as alleged in the SCN. The relevant provisions of section 111 read as follows:

Section 111. Confiscation of improperly imported goods, etc.-

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

- *(d) any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;*
- *(i) any dutiable or prohibited goods found concealed in any manner in any package either before or after the unloading thereof;*
- *(j) any dutiable or prohibited goods removed or attempted to be removed from a customs area or a warehouse without the permission of the proper officer or contrary to the terms of such permission;*
- *(l) any dutiable or prohibited goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77;*
- *(m) any goods which do not correspond in respect of value or in any other particular with the entry made under this Act or in the case of baggage with the declaration made under section 77 in respect thereof, or in the case of goods under transshipment, with the declaration for transshipment referred to in the proviso to sub-section (1) of section 54;*

It is evident that on 22.09.2025, Shri Gupteswar Prasad Singh was apprehended by officers of the Directorate of Revenue Intelligence (DRI) subsequent to his arrival at the Netaji Subhash Chandra Bose International (NSCBI) Airport, Kolkata, on Singapore Airlines Flight SQ516. The apprehension occurred at the egress point of the 'Green Channel' within the International Arrival Hall. Shri Singh was intercepted while in the process of attempting to clandestinely smuggle twenty (20) units of iPhone 17 Pro Max mobile devices, with an aggregate value of ₹35,58,000/-

(Indian Rupees Thirty-Five Lakh Fifty-Eight Thousand Only), into the territory of India. This attempted importation was effected in an illicit manner, without making the mandatory declaration to the Customs Authorities as required under Section 77 of the Customs Act, 1962. Hence, I decide that this is a case of smuggling in terms of Section 2(39) of the Act.

20. Further, 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;"

Also, as per **Section 79 of the Customs Act 1962**, which exempts only bona fide baggage from duty, the Proper Officer may, subject to any rules made under Sub-section (2), pass free of duty—

a. Any article in the baggage of a passenger or a member of the crew in respect of which the said officer is satisfied that it has been in his use for such minimum period as may be specified in the rules;

b. Any article in the baggage of a passenger in respect of which the said officer is satisfied that it is for the use of the passenger or his family or is a bona fide gift or souvenir; provided that value of each such article and the total value of all such articles does not exceeds such limits has may be specified in the rules;

With regard to the **Point No. 17. (iii) & (iv)**, it is evident from the discussion made supra that the noticee did not declare the phones before the proper officer on arrival in India in violation of the provision of section 77 of the Customs Act, 1962 *ibid*. He tried to clear the phones without payment of duty by suppressing the same before the proper officer.

Further, the noticee failed to prove that the phones were not been smuggled into India and the same were found undeclared in his possession attempted to be imported in a concealed manner contrary to the prohibition imposed on the same. Since, the goods are smuggled goods, **I hold them liable to be confiscated under Section 111 of the Customs Act, 1962 and the 01 (one) piece of hand baggage having no commercial value, used for keeping/concealing/carrying the impugned goods to be confiscated under Section 118 of the Customs Act, 1962.**

21. Section 112 in The Customs Act, 1962

112. Penalty for improper importation of goods, etc. —

Any person,- (b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harboring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111, 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 the value of the goods or five thousand rupees] [Substituted by Act 14 of 2001, Section 107, for certain words (w.e.f. 11.5.2001)], whichever is the greater;

(ii). in the case of dutiable goods, other than prohibited goods, subject to provisions of section 114A, to a penalty [not exceeding ten percent of the duty sought to be evaded on such goods or five thousand rupees, whichever is the greater;

Provided that where such duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA is paid within thirty days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent. of the penalty so determined;]

(iii)in the case of goods in respect of which the value stated in the entry made under this Act or in the case of baggage, in the declaration made under section 77 (in either case hereafter in this section referred to as the declared value) is higher than the value thereof, to a penalty 3 [not exceeding the difference between the declared value and the value thereof or five thousand rupees], whichever is the greater;

(iv)in the case of goods falling both under clauses (i) and (iii), to a penalty 4 [not exceeding the value of the goods or the difference between the declared value and the value thereof or five thousand rupees], whichever is the highest;

(v)in the case of goods falling both under clauses (ii) and (iii), to a penalty 5 [not exceeding the duty sought to be evaded on such goods or the difference between the declared value and the value thereof or five thousand rupees], whichever is the highest.]

In regard to the **Point No. 17. (v)**, in the instant case, it is evident that Shri Gupteswar Prasad Singh was caught red-handed by the Officers of DRI at NSCBI Airport, Kolkata, when he was coming from Singapore, with the said seized goods i.e., twenty (20) units of iPhone 17 Pro Max mobile devices, with an aggregate

value of ₹ 35,58,000/- (Indian Rupees Thirty-Five Lakh Fifty-Eight Thousand Only) by concealing them inside his hand baggage without having declared the same before the proper officer of the Customs and thus, without paying the customs duty applicable on the said goods. In the statement recorded under Section 108 of the Customs Act, 1962, Shri Gupteswar Prasad Singh, admitted that he attempted to smuggle the seized mobiles into India in lure of monetary benefit. Thus, Shri Gupteswar Prasad Singh appears to have knowingly involved in the said act of fraudulent evasion of the Customs duty leviable on the seized mobiles in contravention of Section 77 of the Customs Act, 1962, and Rule 3 of Customs Baggage Declaration Regulations, 2016, read with Section 81 of the Customs Act, 1962. The passenger in his statements admitted that he has been a habitual offender and this time also, he was aware that the value of goods was more than the limits prescribed in the statute and still, he attempted to get the impugned goods cleared without payment of applicable duty by way of non-declaration and concealment. He admitted to have been involved in this act for greed of money. He was a frequent traveler and was aware of customs rules and regulations and still attempted to get the impugned goods cleared without payment of customs duty by way of non-declaration and concealment. **Thus, Shri Gupteswar Prasad Singh is also liable for personal penalty under Section 112(b) of the Customs Act, 1962.**

22. Thereby, in the exercise of the powers conferred as the Adjudicating Authority, I hereby order as follows:

ORDER

- a. The goods are prohibited goods as per section 2(33) of the Customs Act, 1962 as discussed above.
- b. The act of the passenger is an act of smuggling as per section 2(39) of the Customs Act, 1962.
- c. I order for Absolute Confiscation of the seized goods, i.e. **twenty (20) units of iPhone 17 Pro Max mobile devices, with an aggregate value of ₹35,58,000/- (Indian Rupees Thirty-Five Lakh Fifty-Eight Thousand Only)** under Section 111 of the Customs Act, 1962.
- d. I also order for Absolute Confiscation of the **01 (one) piece of hand baggage having no commercial value**, used for keeping/concealing/carrying the impugned goods under Section 118 of the Customs Act, 1962.
- e. I impose a penalty of Rs. 7,00,000/- (Rupees Seven Lakh Only) on Shri

Gupteswar Prasad Singh under Section 112 of the Customs Act, 1962 for the act of omission and commission on his part.

23. The penalty may be submitted/deposited forthwith to the undersigned

I. By Pay Order/Demand Draft drawn in favor of "**RBI A/c. Commissioner of Customs, Kolkata**" OR

II. Through online banking to the **Account No. 5066203002**, Name of the Bank- **Reserve Bank Of India**, Name of the Branch- **PAD Kolkata**, **IFSC Code- RBIS0KLPA01**, Name- **Commissioner of Customs** OR

III. Through **TR-6** by visiting Custom House, 15/1, Strand Road, Kolkata under intimation to this office.



Digitally signed by
Amit Bhardwaj
Date: 19-12-2025
12:56:54
AMIT BHARDWAJ
ADDITIONAL COMMISSIONER
Air Intelligence Unit (Cell)
NSCBI Airport, Kolkata-700052.

To
Gupteswar Prasad Singh, (D.O.B. 02/02/1964),
Holder of Indian Passport No. Z5111473,
S/o- Late Shri Jainswer Singh,
R/o- 37/2 (1st Floor), Bhowanipore, Balram Bose Ghat Road,
Kolkata-700026.

F. No. DRI/KZU/AS/ENQ-82/2025

Date: 19-12-2025

Copy forwarded for information and necessary action to:

1. The A.D./J.D., Directorate Of Revenue Intelligence, KZU, CBD-93, International Financial Hub, Action Area-CBD, New Town, Kolkata-700161.
2. The A.C./D.C./SCP, Central Adjudication Cell, Custom House, Kolkata.
3. The A.C. /D.C./SCP, Review Cell, Custom House, Kolkata.
4. The A.C./D.C./SCP, STRC, Custom House, Kolkata.
5. The A.C./D.C./SCP, Disposal (AP & ACC), Custom House, Kolkata.
6. The Seizing unit/Custodian i.e. Air Intelligence Unit Customs, NSCBI Airport,

Kolkata with request to update the S1(VII) register.

7. The Superintendent of Customs, SCH, Custom House, Kolkata with request to display it on the Notice Board.

8. The Superintendent of Customs (Prev.), Computer Cell, Custom House, Kolkata with request to upload it on the Official website.

9. The Superintendent of Customs (Prev.), Appraising Sales Shed, Custom House, Kolkata.

10. Office Copy.



Superintendent of Customs (P)
Air Intelligence Unit (Cell)
NSCBI Airport, Kolkata-700052