



प्रधान आयुक्त का कार्यालय, सीमा शुल्क, अहमदाबाद

“सीमा शुल्क भवन”, पहली मंजिल, पुराने हाई कोर्ट के सामने, नवरंगपुरा, अहमदाबाद – 380 009.

दूरभाष: (079) 2754 4630 फैक्स: (079) 2754 2343 ई-मेल: cus-ahmd.guj@nic.in

SHOW CAUSE NOTICE

A Passenger, Mr. Pankaj Sureshlal Sadhwani (hereinafter referred as ‘the passenger’) having Indian Passport No. S4081467 was scheduled to depart on 09.08.2018, to Bangkok by Spice jet Flight No. SG-85. On suspicious movement of the passenger, he was intercepted by the officers, after he completed his check-in formalities & immigration clearance, when he was moving out of the Customs Area without declaring anything.

2 The AIU officer asked the passenger to provide his passport and boarding pass, whereupon the passenger provided his Passport showing his residence at BK-369, Room No. 05, Near Mayapur Apt., B/h Thakur Studio, Ulhasnagar, Thane 421002, Maharashtra. The AIU officer asked the said passenger if he was having anything to declare before Customs, in reply to which he denied. On being asked specifically about how much foreign currency he was carrying, the passenger stated that he is having only 1000 US Dollars. The passenger was carrying a black and red coloured back pack & a black coloured sling bag, but he did not have any check in bag. Then he was brought to Customs Office located at Departure Hall for his personal search and a thorough search of his black colour small sling bag was done wherefrom 10 currency notes of 100 dollars, 3 currency notes of 1000 Thai Baht, 1 currency note of 500 Thai Baht, 4 currency notes of 100 Thai Baht and 12 currency notes of 20 Thai Baht were recovered. Thereafter, the AIU officers searched the black and red colour backpack and asked the passenger to empty the bag and accordingly the passenger took out the contents of the bag viz. clothes and toiletries items from the bag and kept it on the table. Now the officer takes the bag and feels the thickness of the back portion of the back pack, whereupon the back portion seemed unusual. Then the officer checks the inner side of the back pack and finds that there is a hand stitched portion in the lower side of the inner back portion of the back pack. On removing the stitches, the said inner side is found to be fixed with a Ielcro strip. After removing the same it is seen that a rexine sheet having 2 pockets is kept inside. Now, the officer took out the said rexine sheet and opens one of the two pockets and finds foreign currency notes of 100 US Dollars inside. He then checks the second pocket of the said rexine sheet and also finds there foreign currency notes of 100 US Dollars. Total of 250 numbers of foreign currency notes of 100 US Dollars are recovered from both the pockets in the rexine sheet which was concealed in the said lower side of the inner back portion of the back pack.

3 Thereafter the AIU officers ask the passenger as to whether he has any other foreign currency notes concealed in his baggage or in his body, in reply to which the passenger informed that he was carrying only 25000 US Dollars concealed inside his back pack bag and 1000 US Dollars and some Thai Bahts which had already been reovered from his small sling bag. The officer then asked the passenger to remove his blue colour shoes which he was wearing as he wanted to search it. Prima facie, the shoes look normal but when the officer pressed the side portion of the sole of left shoe some gap was observed. Then the officer removed the outer sole of the left shoe and found that there are 3 black colour packets between the inner and outer sole of the left shoe. Thereafter, the AIU officer removed the inner sole of the right shoe and took out another 3 black colour packets from it. Totally, six packets are recovered from both the shoes which were concealed in the sole of the passenger’s shoes. The officer then asked about the content of these black colour packets, to which the passenger replied that he had concealed totally 15000 US dollars in these packets which were kept in the

shoes. Now the officer cuts these packets and finds 150 currency notes covering on each of the six packets. After removing the plastic wrapping from the said packets, totally 150 currency notes of 100 US Dollars are recovered from the six packets. Then, the officer asked the passenger whether he had any legitimate purchase documents of this currency, to which he replied in negative. He said that one person Mr. Deepu had given him the said black and red colour back pack bag and blue colour shoes in which the above recovered currency were concealed and he was supposed to hand over these currencies to one person who would meet him at the Bangkok airport on his arrival in Bangkok.

4 Total of 41000 US Dollars and 4140 Thai Baht foreign currency notes are recovered from the possession of Mr. Pankaj Sureshlal Sadhwani . The details of recovered foreign currency notes and their value in INR are as under:

	Denomination	No. of Notes	Total	Conversion Rate	Value in INR
US DOLLAR	100	410	41000	67.55	27,69,550/-
Baht	1000	3	3000	2.07	6,210/-
Baht	500	1	500	2.07	1,035/-
Baht	100	4	400	2.07	828/-
Baht	20	12	240	2.07	497/-
TOTAL			41000 US Dollars and 4140 Thai Baht		27,78,120/-

5 The AIU Officers then asked the Spice Jet Duty manager to off-load the passenger as he was carrying huge amount of foreign currency notes without having any legitimate documentary evidence regarding the purchase of the foreign currency notes. Thereafter, the AIU officers made the inventory of the foreign currency notes recovered from the passenger. A total foreign currency of 41000 US Dollars and 4140 Thai Baht which totally is equivalent to Indian Currency of Rs. 27,78,120/- (Rupees Twenty Seven Lakhs Seventy Eight Thousand One Hundred Twenty Only), as per the exchange rate of US Dollar of Rs. 67.55(for export) prescribed in the Exchange Rate Notification No. 67/2018-Customs(N.T.) dated 02.08.2018, issued by CBEC and the exchange rate of Thai Baht taken as Rs. 2.07, as per the online data taken as on 09.08.2018, which are recovered from the possession of Mr. Pankaj Sureshlal Sadhwani, who was about to depart from Ahmedabad International Airport to Bangkok through Spice Jet Flight No. SG-85 on 09.08.2018, and placed under seizure under panchnama dated 09.08.2018, on the reasonable belief that the same appear to be liable for confiscation under the provisions of Customs Act 1962('Act), as the passenger did not produce any legitimate documentary evidence at the relevant time of departure from Ahmedabad for purchase of said foreign currency from authorized person and had concealed it inside lower side of the inner back portion of his back pack and also inside the soles of his shoes, with an intent to illegally export foreign currency outside the country.

6 Further, the following travelling documents are withdrawn from Mr. Pankaj Sureshlal Sadhwani:

- i) Copy of stamped pages of his Passport No. S4081467, issued from Regional Passport Office, Mumbai
- ii) His Boarding pass dated 09.08.2018 of Spice Jet flight No. SG 85 bearing seat No. 5A (Original as well as photo copy)
- iii) His Flight Ticket of Spice Jet flight No. SG 85 from Ahmedabad to Bangkok(09.08.2018) bearing Airline PNR No. A6L13P.
- iv) His Return Flight Ticket of Spice Jet flight No. SG 86 from Bangkok to Ahmedabad to (18.08.2018) bearing Airline PNR No. G5WBJV.
- v) Booking confirmation letter of Saphaipae Hostel, Bangkok for period 09.08.2018 to 18.08.2018, for his stay in Bangkok.

7 A statement of Mr. Pankaj Sureshlal Sadhwani was recorded on 09.08.2018, under Section 108 of Customs Act, 1962, wherein he accepted the facts mentioned in the panchnama drawn on 09.08.2018. He stated that he was not having any legal documents of acquirement of foreign currency which he was carrying to Bangkok, and also stated that he didn't have any purchase vouchers/ documents of said foreign currency recovered from his possession and subsequently placed under seizure under panchnama dated 09.8.2018. He further stated that the said foreign currency did not belong to him, but it was given to him by Mr. Deepak of Ulhasnagar, whose mobile numbers were 8432323322 and 5698889333, but actual residential address was not known to him. Mr. Deepak had given the said foreign currency to him at Ulhasnagar on 8.8.2018 for handing over it to an unknown Indian person at Bangkok. He further informed that on 9.08.2018, he had arrived from Mumbai to Ahmedabad with the said foreign currency by Indigo Flight, for flying to Bangkok from Ahmedabad International Airport. He also informed that his air tickets of to and fro journey to Bangkok and hotel stay at Bangkok was booked by Mr. Deepak and that Mr. Deepak had promised to give him Rs. 10,000/-, as a remuneration for doing this job. The passenger also stated that his tour programme was of 9 days at Bangkok and he was to return Ahmedabad on 18.08.2018, from Bangkok. On being asked as to how many times in the past, he had carried foreign currency like this, he stated that he had visited Bangkok- Thailand, so many times in past and every time he had carried foreign currency of 20000/- to 25000/- US Dollars of the said Mr. Deepak for delivery to an unknown Indian person at Bangkok and he had received an amount of Rs. 10,000/-, for each such visit from Mr. Deepak in addition to the air tickets and hotel expenses. He also stated that he had no knowledge about the usage of the currency he took from India to Bangkok.

8 He further informed that he was doing a job in a BPO company for a monthly salary of Rs.15,000/-, prior to six-seven months and at present he was not working. He also informed that his PAN No. is DFRPS9929M. He confirmed that he was aware that as per the regulation of Foreign Exchange Management Act (Export and Import of currency) Regulations 2015, carrying of foreign currency not obtained from authorized person, is illegal and an offence and he had indeed committed the said offence.

9 Section 2(22) of the Customs Act, 1962, defines '**goods**' which includes (a) vessels, aircrafts and vehicles; (b) stores; (c) baggage; (d) currency and negotiable instruments; and (e) any other kind of movable property. Accordingly, currency is included in the definition of 'goods' under Section 2(22) of the Act. Further, Section 2(33) of the Act defines '**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. Section 2(39) of the Act defines '**smuggling**' as in relation to any goods, means any act or omission which will render such goods liable to confiscation under section 111 or section 113 of the Customs Act, 1962.

10 Notification No. FEMA-6 (R) /RB-2015 dated 29.12.2015 issued under the Foreign Exchange Management(Export and Import of Currency) Regulations, 2015('FEM Regulations') have to be seen in this context. In terms of Regulation 5 of the FEM Regulations, *no person shall, without the general or special permission of the Reserve Bank, export or send out of India, or import or bring into India, any foreign currency. Similarly, on the basis of Regulation 7 of the FEM Regulations, a person is entitled to take or send out foreign exchange drawn from an authorized person in accordance with the provisions of the Act or the rules or regulations or directions made or issued thereunder. The passenger could not produce any legitimate documents, issued by an authorised person under Regulation 7 of FEM Regulations in respect of foreign currency recovered from him during personal as well*

as baggage search. Rule 7 of the Baggage Rules, 'Baggage Rules') says that the export of currency under these Rules shall be governed in accordance with the provisions of FEM Regulations and the notifications issued thereunder. It, therefore, appears that Mr. Pankaj Sureshlal Sadhwani attempted to smuggle foreign currency notes worth 41000 US Dollars, 4140 Baht out of India as discussed above. Mr. Pankaj Sureshlal Sadhwani had attempted to export the foreign currency notes in violation of Regulations 5 & 7 of the FEM Regulations read with Rule 7 of the Baggage Rules, and Section 79 of the Customs Act, 1962, by concealing the same inside his inner layer of his backpack and also concealed inside the sole of both the shoes worn by him. The passenger had also not filed any declaration with the proper officer for the foreign currency notes which he was carrying and did not produce any legitimate documents of its purchase and had attempted to export it out of India.

11 In view of the discussions in the foregoing paras, it appears that the seized foreign currency notes which did not have the cover of proper, legal and legitimate documents and which were concealed by the passenger with an intent to evade detection of the same, cannot be cleared as a part of personal baggage. Therefore, the attempt of the passenger for illegal export of foreign currency notes appears to be a violation of regulations 5 and 7 of the FEM Regulations read with Rule 7 of the Baggage Rules. The seized foreign currency notes appear to fall within the ambit of 'prohibited goods' as defined under Section 2(33) of the Act. It also appears that his act of carrying the foreign currency notes without legitimate purchase documents amounts to 'illegal export', as per the provisions of Section 11H(a) of the Act. It also appears that his said act amounts to smuggling within the ambit of Section 2(39) of the Act.

12 It appears that Mr. Pankaj Sureshlal Sadhwani has contravened the provisions of :

- Rule 5 and 7 of the FEMR 2015 in as much as he has attempted to illegally export foreign currency and failed to produce any legitimate documents / proof for the purchase / acquirement of the foreign currency notes;
- Rule 7 of the Baggage Rules in as much as he had not followed the provisions of Regulations as envisaged in the FEM Regulations and also attempted to export the foreign currency notes by concealing them inside the inner layer of his backpack and also concealed inside the sole of his shoes, which were worn by him.

13 From the above, it appears that Mr. Pankaj Sureshlal Sadhwani was intercepted with foreign currency notes recovered from his possession. The foreign currency notes worth 41000 US Dollars and 4140 Baht, which were concealed by him inside the inner layer of his backpack and also concealed inside the sole of his shoes, which were worn by him and were recovered (as per the Panchnama dated 09.08.2018) from his possession, are liable for confiscation, under the provisions of Sections 113(d) and 113(e) of the Act read with Regulations 5 & 7 of FEM Regulations and Rule 7 of the Baggage Rules, and Section 79 of the Customs Act, 1962. Further, it appears that the black coloured small sling bag, the black and red coloured backpack and the blue coloured shoes which were used by the passenger for concealing the said foreign currency notes, which were seized under panchnama dated 09.08.2018, were also liable for confiscation, under the provisions of Section 118(b) & 119 of the Customs Act 1962. He has also accepted that he knew that it was an offence to carry foreign currency notes without proper documents. Accordingly, it appears that the passenger would be liable to penal action, under the provisions of Section 114(i) of the Customs Act, 1962.

14 Mr. Pankaj Sureshlal Sadhwani, is hereby called upon to show cause to the Additional Commissioner, Customs, Ahmedabad, having his office at First floor, Custom House, Nr. All India Radio, Income Tax Circle, Navrangpura, Ahmedabad as to why:


- i) 41000 US Dollars and 4140 Thai Baht equivalent to Indian Rupees 27,78,120/- (Rupees Twenty Seven Lakhs Seventy Eight Thousand One Hundred and Twenty Only) attempted to be illegally exported out of India in contravention to the provisions of the FEM Regulations and Rule 7 of the Baggage rules read with Customs Act, 1962, which were seized under panchnama drawn on 09.08.2018, should not be confiscated, under the provisions of Sections 113(d) & (e) of the Customs Act, 1962, read with the FEM Regulations and Rule 7 of the Baggage Rules;
- ii) The black coloured small sling bag, the black and red coloured backpack and the blue coloured shoes which were used in concealing the said foreign currency of 41000 US Dollars and 4140 Thai Baht meant for illegal export out of India in contravention to the provisions of Regulations 5 & 7 of the FEM Regulations and Rule 7 of the Baggage Rules read with Section 79 of the Customs Act, 1962, which were seized under panchnama drawn on 09.08.2018, should not be confiscated, under the provisions of Sections 118(b) & 119 of the Customs Act, 1962;
- iii) Penalty under Section 114 (i) of the Customs Act, 1962 should not be imposed upon him ; and

15 Mr. Pankaj Sureshlal Sadhwani, should state in his written reply to this notice as to whether he desires to be heard in person. If no reply to this notice is received from them within 30 days from the date of receipt of this notice or if they fail to appear for the personal hearing on the date and time intimated to him, the case will be decided on the basis of evidences available on records and on merits, without any further reference to him.

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

17 The documents relied upon in the Show Cause Notice are as listed at Annexure-A attached with this Show Cause Notice.

18. The Department reserves its right to amend, modify or supplement this notice at any time on the basis of available / further evidences prior to the adjudication of the case.


(M.L. MEENA)
Additional Commissioner,
Date: 31.01.2019

F. No.VIII/10-127/SVPIA/O&A/HQ/2018 *OIC*

BY SPAD:

To,
Mr. Pankaj Sureshlal Sadhwani,
Bk-369, Room No. 5,
Near Mayapuri Apartment,
B/h. Thakur Studio, Ulhasnagar,
Thane-421002, Maharashtra.

RECEIVED
CUSTOMS (HQ, A'BAD.
DATE : 31/1
SIGN. : <i>[Signature]</i> ③
NAME : <i>[Signature]</i>

Copy to:

1. The Deputy/Assistant Commissioner, Customs (AIU), SVPIA, Ahmedabad.
2. The Deputy/Assistant Commissioner, Customs, SVPIA, Ahmedabad.
3. Guard File.

ANNEXURE – 'A'

LIST OF DOCUMENTS/RECORDS RELIED UPON FOR THE PURPOSE OF SHOW CAUSE NOTICE ISSUED TO Mr. PANKAJ SURESHLAL SADHWANI , SCN F.
No.VIII/10-127/SVPIA/O&A/HQ/2018 Date: .01.2019

Sr. No.	Nature of document	Remarks
1.	Panchnama dated 09.08.2018	Already given
2.	Statement dated 09.08.2018 of Mr. Pankaj Sureshlal Sadhwani	Copy enclosed
3.	Seizure Order dated 09.08.2018	Copy enclosed
4.	Electronic Flight Ticket of Spice Jet flight No. SG 85 from Ahmedabad to Bangkok(09.08.2018) bearing Airline PNR No. A6L13P	Available with Noticee
5.	Electronic Flight Ticket of Spice Jet flight No. SG 86 from Bangkok to Ahmedabad (18.08.2018) bearing Airline PNR No. G5WBJV	Available with Noticee
6.	Passport No. S4081467 of the passenger	Available with Noticee
7.	Boarding pass dated 09.08.2018 of Spice Jet flight No. SG 85 bearing seat No. 5A	Available with Noticee
8.	Booking confirmation letter of Saphaipae Hostel, Bangkok for period 09.08.2018 to 18.08.2018, for his stay in Bangkok.	Available with Noticee