



OFFICE OF THE COMMISSIONER OF CUSTOMS
NR.INCOME TAX CIRCLE OPP. OLD HIGH COURT
NAVRANGPURA AHMEDABAD

Order-in-Original No.18/Commr/O&A/DRI/2014

Dated: 8th August 2014

A	File No.	F.No.VIII/10-33/Commr/O&A/DRI/14
B	Name of the Party	Shri Madhusudan Thakkar, B-9, Punit Apartment, Near Indian Bank, Opp. Good NCK Hall, Daxini Society, Maninagar, Ahmedabad
C	Show Cause Notice No.	DRI/AZU-GI/02/ENQ-22(INT-3)/14
D	Show Cause Notice date	06.08.2014
E	Date of passing of Order-in-Original	8 th August 2014
F	Date of issue of Order-in-Original	8 th August 2014
G	Order-in-Original passed by	Captain Sanjay Cahlot, Commissioner of Customs, Ahmedabad.

1. This copy is granted free of Charge for the use of the person to whom it is issued.
2. An appeal against this Order lies before the Western Zonal Bench (WZB), O-20, New Mental Hospital Compound, Meghanagar, Ahmedabad, PIN Code No:380 016 within three Months (90 days) from the receipt of this Order as provided under Section 129A(3) of the Customs Act, 1962.
3. The appeal is required to be filed in quadruplicate in from CA-3 as per Rule 6(4) of Customs (Appeals) Rules, 1982. It should be accompanied by following documents:-
 - I) Four copies of the Order, appealed against should be filed, where one copy should be a certified copy duly affixed a Court Fee Stamp of Rs.5=00.
 - II) A crossed demand draft drawn in favour of the Assistant Registrar of the Bench of the Tribunal on a branch of any Nationalized Bank located where the Tribunal is situated, for an amount of Rs.1,000/-, Rs.5,000/- or Rs.10,000/- as the case may be, in view of Sub- Section 6 of Section 129(A) of the Customs Act, 1962.
4. The Appeal should bear a Court Fee Stamp as provided under Indian Stamp Act, 1989 (enacted by the State legislation).
5. Any person desirous to file an Appeal against this Order Shall deposit the Duty, Fine, Penalty, etc. as ordered to be paid and produce proof of the same, failure to which

the Appeal will be liable to be rejected for non-compliance of the provisions of Section 129(E) of the Customs Act, 1962.

6. The Appeal should be presented in person to the Registrar of the Bench or to be sent by registered post addressed to the Registrar.

BRIEF FACTS OF THE CASE

An intelligence was received by the Directorate of Revenue Intelligence, Ahmedabad Zonal Unit, Ahmedabad (hereinafter referred as 'DRI') that seven parcels consigned to Shri Madhusudan Thakkar of Maninagar, Ahmedabad had arrived at Mumbai from Dubai and were given out of charge by Customs, Mumbai. These parcels have been booked by Raising Express Logistics Pvt. Ltd., Mumbai for delivery to Madhusudan Thakkar, 9, Punit Apartment, Maninagar, Ahmedabad, through PNX Logistics Pvt Ltd., Narol- Aslali Road, Ahmedabad. These parcels arrived at PNX Logistics Pvt. Ltd. from Mumbai on 13.02.2014. The parcels contained articles like photo frame, fruit Bowls, glass plates etc. It was suspected that gold in substantial quantity in the form of alloy of gold was concealed in the said articles to prevent its detection by Customs Authorities.

2. The above parcels were intercepted from the premises of M/s. PNX Logistics Pvt. Ltd.,55/546, Jagadish Industrial Estate, Opp. Shivam Park, Near Kalapi Hotel, Narol -Aslalai Road, Narol, Ahmedabad- 382405 on 13.02.2014 by the officers of DRI, Ahmedabad. On verification of the documents of the above parcels it was found that the seven parcels weighing 119 Kgs. were booked by Mr. Chanshyambhai Bhavinbhai through AL ROLLA CARGO, P.O. Box. No. 96110, B/h Giant Super Market, Near K.M.Trading, Rolla, Sharjah-U.A.E., to be delivered to Shri Madhusudan H. Thakkar, B/9, Punit Flats , Near Indian Bank, Opposite Good Luck Hall, Daxini Society, Maninagar, Ahmedabad- 380008. On further verification , it was found that the out of the seven parcels only one parcel was addressed to Shri Madhusudan Thakkar whereas the remaining six parcels were addressed to other persons who were based at Andhra Pradesh, Kerala, Maharashtra and Rajasthan. The details of the parcels are listed below:

AIRWAY BILL NO. 098-7606-5592			
Sr. No.	Name & Address of sender(consignor)	Name & Address of the receiver(Consignee)	House Airway Bill No. Description of goods
1	Mr. Chanshyambhai	Mr. Madhusudan Thakkar, Nr. Indian bank, Opp. Good Kuck Hall, Daxini, Maninagar, Ahmedabad	56951 Photo frame, Show Ashtray
2	Mr. Chandra Rao	Mr. Chandra Rao, S/o Shri Surya Narayan, Malkipuram, Mandal East, Godawari- Distt., Andhra Pradesh	56952 Plastic with Glass tray
3	Mr. Nisar P.B.	Mr. Nisar P.B., Jaseera Manzil, Central Chithari, PO Chithari, Near Petrol pump via Kanhangad, Kasargod, Kerala	56953 Show Plate
4	Mr. Chinnan	Mr. Chinnan, Koothoor House , Kunnankulam, Trichur -Distt., Kerala	56954 Showcase Tray
5	Ms. Anita	Ms. Anita Attingal, Parambath Konam, Kizhuvilam, Trivandrum- Distt., Kerala	56955 Photo frame, Plates

6	Ms. Santosh	Ms. Beena Santosh C/o Shri Santosh George John, Vidya Nagar Colony, Nagpur Road, N.H.No.6, Bhandara, Maharashtra	56956	Plastic with Glass tray
7	Mr. Uttam Chand	Mr. Uttam Chand, Meharchan Dani, Village Royal Boot House, Shop No. 295, Jhawari Bazar, Jaipur, Rajasthan	56957	Photo frame

3. As the verification of the above parcels was not possible at PNX Logistics Pvt. Ltd., the same were taken to Sub Foreign Post Office, Shahibaug, Ahmedabad, for further examination of parcels through the screening machines available at Sub Foreign Post office on the same day. On examination through the scanning machine ECIL- Rapiscan Enhanced Performance X-ray (EPX) installed in Sub Foreign Post Office, Ahmedabad it was noticed from the image of the items that majority of the parcels contain metal, probably gold. The said parcels were thus sealed and detained under panchnama for further inquiry/test under the provisions of Customs Act, 1962 on 13.02.2014.

4. A statement of Shri Madhusudanbhai Hiralal Thakkar S/o Hiralal Vanmallal Thakkar was recorded on 14.02.2014 in which he has accepted that all the said seven parcels belong to him and also gave his permission for testing of the said goods. All the seven parcels were therefore sent to the Directorate of Forensic Science (DFS), Gandhinagar vide letter dtd. 15.02.2014 for testing of the suspected metal contained in the articles i.e photo frame, show case tray . The report from the Directorate of Foreign Science, Gandhinagar is still awaited .

5. The inquiry in the case could not proceed for want of the test report from DFS, Gandhinagar. Further, recording of the further statement of Shri Madhusudanbhai Hiralal Thakkar and his accomplices are crucial to unearth the entire conspiracy. As the offence involved in the impugned case is of very serious nature the investigating agency is in the process of gathering further evidences.

6. In view of the circumstances elaborated in the foregoing paras, the Directorate of Revenue Intelligence, Ahmedabad who is inquiring the case has brought on record that on account of the circumstances mentioned above, it would not be possible for them to conclude the investigation within six months from the date of seizure i.e. 13.02.2014 as stipulated under Section 110(2) of the Customs Act, 1962 and propose a show cause notice contemplating further course of action in the matter. Accordingly, a Show cause notice F.No. DRI/AZU-GI/02/ENQ-22(INT-3)/14 dtd. 06.08.2014 has been issued by the Additional Director General, DRI to extend the period of issuance of Show Cause Notice in respect of the seized goods i.e. above mentioned seven parcels suspected to have metal (may be gold), in terms of proviso to Section 110 (2) read with Section 124 of the Customs Act, 1962 for a further

period of 6 months from 12.08.2014 for effective and logical conclusion of the inquiry and to unearth the entire conspiracy.

PERSONAL HEARING AND DEFENCE REPLY

7. Personal Hearing in the matter was given on 08.08.2014, however nobody appeared for the personal hearing. However, a letter dtd. 07.08.2014 was received from Shri Madhusudan Hiralal Thakkar on 08.08.2014. In his letter Shri Thakkar has submitted that he is not keeping good health. Further, since the SCN is in English and he is not conversant in English the assistance of an advocate would be required which is not possible in such a short time. Thus, he has requested four weeks time to submit his reply.

DISCUSSION AND FINDINGS

8. I have gone through the facts of the case, the records placed before me as well as the submissions made by Shri Madhusudan Hiralal Thakkar. I find that the short issue involved is that seven parcels were intercepted from the premises M/s. PNX Logistics Pvt. Ltd., 55/546, Jagadish Industrial Estate, Opp. Shivam Park, Near Kalapi Hotel, Narol -Aslalai Road, Narol, Ahmedabad- 382405 on 13.02.2014 by the officers of DRI, Ahmedabad. On verification of the documents accompanying the said parcels it was found that the seven parcels weighing 119 Kgs. were booked by one Mr. Ghanshyambhai Bhavinbhai through AL ROLLA CARGO, P.O. Box. No. 96110, B/h Giant Super market, Near K.M.Trading, Rolla, Sharjah-U.A.E., and was to be delivered to Shri Madhusudan H. Thakkar, B/9, Punit Flats, Near Indian Bank, Opposite Good Luck Hall, Daxini Society, Maninagar, Ahmedabad- 380008. On further verification, it was found that the out of the seven parcels only one parcel was addressed to Shri Madhusudan Thakkar whereas the remaining six parcels were addressed to other persons who were based at Andhra Pradesh, Kerala, Maharashtra and Rajasthan.

9. Verification of the parcels at the Sub Foreign Post Office by scanning through the scanning machine ECIL- Rapiscan Enhanced Performance X-ray (EPX) revealed that the said parcels contained metal, probably gold. All the seven parcels were thus seized on 13.02.2014. A statement of Shri Madhusudan Thakkar was recorded on 14.02.2014 wherein he stated that all the parcels though addressed to different persons actually belonged to him. He also gave his consent for testing the said goods contained in the parcels. Thus, all the seven parcels were sent to the Directorate of Forensic Science, Gandhinagar vide letter dtd. 15.02.2014 for the testing of the suspected metal contained in the goods. The report from the Directorate of Forensic Science is awaited. Since, the report from the DFS is awaited without which DRI could not proceed in the matter and is unable to conclude the investigation within the time period stipulated under Section 110 (2) of the Customs

Act, 1962 they have come up with a request to extend the time period available for investigation.


10. According to Section 110 (2) of the Customs Act, 1962 where any goods have been seized under sub-section (1) of Section 110 and no notice in respect thereof is issued under clause (a) of Section 124 within six months of the seizure of the goods, the goods so seized is required to be returned to the person from whose possession the same were seized. However, according to proviso to Section 110 (2) of the Customs Act, 1962, the aforesaid period of six months may, on sufficient cause being shown, be extended by the Commissioner of Customs for a further period not exceeding six months.

11. It is seen that in absence of the report from the Directorate of Forensic Science, the case could not be investigated further. Also after the report is received, the statements of the persons in whose names the consignments were imported is also to be recorded to ascertain their role in the whole case. Therefore, I find merit in the request made for extension of time limit for issuance of show cause notice in terms of Section 110(2) of the Customs Act, 1962. Since, the period of six months for issuing SCN gets over on 12.08.2014, the request made by Shri Madhusudan Thakkar that four weeks time be granted to him cannot be acceded to. Even otherwise, as has been held in several cases by various judicial authorities that by the order of extension, right to the return of goods is not taken away. By the order of extension, the final proceedings are merely postponed. Hence, no prejudice would be caused to Shri Thakkar if the extension is granted. The confiscation of goods would ultimately depend upon the order to be made under Section 124 of the Customs Act, 1962 on conclusion of investigation. Thus, I am of the view that by an order of extension important rights of the Importer are not affected.

12. In view of the above I pass the following order.

ORDER

Having regard to the facts and circumstances mentioned hereinabove, I, extend the time period for issuance of show cause notice, in the case of seizure of seven parcels seized under panchnama dated 13.02.2014 and sent for testing to the Directorate of Forensic Science, Gandhinagar on 15.02.2014 by a further period of 6 months i.e. up to 12.02.2015 in terms of proviso to Section 110(2) of the Customs Act, 1962, read with Section 124 of the Customs Act, 1962.


(Capt. Sanjay Gahlot)
Commissioner of Customs
Ahmedabad

BY REGD A.D./HAND DELIVERY

Shri Madhusudan Thakkar,
B-9, Punit Apartment,
Near Indian Bank,
Opp. Good NCK Hall,
Daxini Society,
Maninagar,
Ahmedabad

Copy to:

- 1) The Chief Commissioner of Customs,
Gujarat Zone
Customs House,
Near All India Radio, Navrangpura,
Ahmedabad.
- 2) The Additional Director General
Directorate of Revenue Intelligence
Zonal Unit
Ahmedabad
- 3) Guard File.