



सीमा शुल्क प्रिंसिपल आयुक्तालय

OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS

सीमा शुल्क भवन, नवरंगपुरा, अहमदाबाद 380009.

"Customs House", Navarangpura, AHMEDABAD, 380009

PREAMBLE

A	File No.	VIII/10-14/Commr/O&A/DRI/2015
B	Show Cause Notice No. and date	DRI/AZU/SRU/GI-01/SRU/A/ENV-01/3/2015 Dated 08.09.2015
C	Order-In-Original No.	05/Pr.Commr/O&A/DRI/2015
D	Order-In-Original Passed By	Ajay Jain, Principal Commissioner, Customs, Ahmedabad
E	Date of Order	16.09.2015
F	Date of Issue	16.09.2015
G	Name and Address of Noticees	<ol style="list-style-type: none">1. Shri Viren Pravinbhai Thacker, Prop. of M/s Paramount Overseas, 71 Somaiya Nagar, RTO Relocation site, Bhuj-370001 (Kutch).2. Shri Falgun Indravadan Shah Prop. M/s Mahavir Overseas, 1, Dr. Bhanji Street, Talav Sheri, Vaniya Vad, Chhathi Bari, Ring Road, Bhuj 370001, Kutch.3. Shri Mehul Navinchandra Purjara, Representative of M/s. Paramount Overseas, Bhuj, Kutch and M/s. Mahavir Overseas, Bhuj, Kutch residing at 174/1, Ward 6B, Near Nakoda Garden, Adipur, Tal.Gandhidham, Dist. Kutch.4. Shri Pratik Kanubahi Ramani / Thacker (Vagadiya), Plot No.272-D, Aiya Nagar, Mundra Road, Bhuj-371001



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 files before the Customs, Excise and Service Tax Appellate Tribunal, Western Zonal Bench (WZB), O-20, New Mental Hospital Compound, Meghaninagar, Ahmedabad, PIN Code No:380016 within three months from the date of 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 seven and a half per cent (subject maximum of Rs. 10 crores) of the Duty demanded, inc case where duty or duty and penalty are in dispute, or penalty, where such penalty along is in dispute, failure of 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

Based on a specific information to the effect that cigarettes of foreign make are being smuggled into India by way of concealment in containers declared to be of Waste Paper and LDPE Re-grinding, the Officers of Directorate of Revenue Intelligence (DRI) and Customs Officers, Surat had detained six containers on 26.03.2015 at Adani Hazira Port Pvt. Ltd., (AHPL) Surat. The said six containers arrived from Dubai and were destined to ICD, Valvada/Vapi under transhipment from Hazira Port, Surat. The said containers were examined under two Panchnama dated 27/28.03.2015 and 28.03.2015. During the course of Panchnama, the authorised persons of M/s Mathuradas Narandas & Sons Forwarders Ltd., Mumbai and MSC Agency (India) Pvt. Ltd., Surat had produced Bill of Lading, Commercial Invoice, letter of request by M/s. Paramount Overseas and M/s. Mahavir overseas for filing of IGM.etc. in respect of six containers.

2. During the course of examination of the said import consignments, it was revealed that the four containers declared to contain LDPE Regrinding cargo, were actually stuffed with cartons of Indonesian make Cigarettes with LDPE bags stacked in front to conceal the cartons stuffed with cigarettes. The goods i.e. 2602 cartons of Filter Cigarettes recovered from four containers in a concealed manner were other than the goods declared in respective Bills of Lading and its Commercial Invoices/Packing List as imported by M/s. Paramount Overseas and M/s. Mahavir Overseas, Bhuj, Kutch. Therefore, the said 2602 cartons containing 3,20,96,400 Nos. of foreign origin Filter Cigarettes valued at Rs.23,18,84,800/- imported by above said M/s.Paramount Overseas, Bhuj Kutch and M/s. Mahavir Overseas, Bhuj, Kutch, were placed under seizure under the provisions of the Customs Act, 1962 under reasonable belief that the same are liable to confiscation under the provisions of the said Act. At the same time, the said declared goods i.e. 820 bags of LDPE Regrinding totally weighing 20,500 Kgs. valued at Rs.10,25,000/- which had been used for concealment of the Filter Cigarettes were also placed under seizure under the provisions of the Customs Act, 1962 under reasonable belief that the same are also liable to confiscation under the provisions of the said Act.

3. During investigation, statements of different persons were recorded under Section 108 of the Customs Act, 1962 such as (1) Shri Mehul Navinchandra Pujara, Representative of Paramount Overseas (2) Shri Jayeshbhai L. Mehta, authorised Signatory of CHA firm M/s Shakti Forwarders P. Ltd. (3) Shri S.K.Pramod Kumar, Senior Manager (operation) of M/s. MSC Agency (India) Pvt. Ltd. Shipping Line Agent, (4) Shri Vijay Mathuradas Chandan Managing Director of M/s Mathuradas Narandas & Sons Forwarders, Mulund (West), Mumbai (5) Shri Vijay Singh, Proprietor of transporting firm M/s. Vijay Cargo Movers, Vapi; (6) Shri Kishor Bhagwandas Bhagat, Director of M/s. Shakti Forwarders Pvt. Ltd., Gandhidham, Kutch; (7) Shri Rajubhai Laxmandas Rana, Manager of CHA firm M/s Aashita International, Ahmedabad; (8) Shri Rashmin Rameshbhai Sanghavi, Proprietor of M/s. Roto Polymers, Ahmedabad, buyer of imported goods; (9) Shri Sahil Basir Shaikh Proprietor of M/s. Pacific Polymers, and Authorized Person of M/s. Sadaf Plastic Industries, Daman, buyer of imported goods.

4. The department is still investigating this case and Summons under Section 108 of the Customs Act,1962 were issued to the Shri Viren Pravinbhai Thacker proprietor of M/s. Paramount Overseas, Bhuj, Shri Falgun Indravadan Shah, proprietor of M/s. Mahavir Overseas, Bhuj and Shri Pratik Kanubhai Thacker alias Ramani of Bhuj on the different dates but they did not appear for giving their statements and on one or the other reasons avoided coming forward for interrogation in person before the authority issuing summons. All the said three persons had also filed Misc. Cr. Application No.1402/2015, 1403/20015 and 1404/2015 before the Hon'ble Principal District and Sessions Judge, Surat praying for anticipatory bail under Section 438 of Criminal Procedure Code, 1973, which has been rejected by Hon'ble Principal & District

Session Judge Surat vide Order dtd. 16.07.2015. Even thereafter, the said three persons did not appear before the DRI authority for their statement even after issuance of Summons thereafter.

5. Shri Pratik Kanubhai Thacker alias Ramani of Bhuj has filed Criminal Misc. Application (For Anticipatory Bail) No.14322/2015 before Hon'ble High Court of Gujarat in which Hon'ble High Court vide Oral Order dated 11.08.2015 issued direction to the Department not to take coercive action against Shri Pratik Kanubhai Thacker till 21.08.2015 and further directed Shri Pratik Kanubhai Thacker to appear on 14.08.2015 before the DRI Officers to record the statements. Accordingly, Statement of Shri Pratik Kanubhai Thacker was recorded on 14.08.2015 under section 108 of the Customs Act, 1962. In the meantime, the hearing of above referred anticipatory bail application No.14322/2015 fixed on 21.08.2015 was adjourned to 01.09.2015 and ordered that ad-interim relief granted earlier to continue till then. Again the matter was adjourned to 04.09.2015 and hearing took place on 04.09.2015 but adjourned to 08.09.2015.

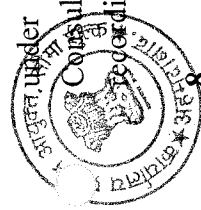
6. During the course of investigation, further statement of Shri Jayesh L Mehta, authorised Signatory of M/s Shakti Forwarders P. Ltd. was recorded on 22.05.2015 wherein he interalia stated that he has received Rs. 6,00,000/- from the Bank Account of M/s. Paramount Overseas, Bhuj towards customs clearance work of LDPE regrinding imported by M/s. Ganesh Tradelink, Bhuj, Kutch. Therefore, Summons under Section 108 of the Customs Act, 1962 were issued to the Shri Kamlesh H. Khatri proprietor of Ganesh Tradelink, on the different dates but he did not appear for giving his statements and avoided coming forward for interrogation in person before the authority of issuing summons.

7. During the investigation, it has come on record that that Shri Kamleshbhai based at Dubai has exported the said goods i.e. LDPE Regrinding and Filter Cigarettes and he own firms namely M/s. Al Shams Plastic Industries Tr. LLC and M/s. Azan General Trading FZE, both Dubai UAE. It has also come on record that as per shipping instructions at load port i.e. Jebel Ali, Dubai, the shipper was i.e. M/s. Azan General Trading FZE, P.O. Box-61446, Dubai-U.A.E., for both the B/Ls of goods loaded in four containers and later on the same was corrected as M/s. Hayat Al Duniya General Trading FZE, Ajman Free Zone, Ajman-UAE, upon request of shipper M/s. Azan General Trading FZE through email. Accordingly, a summons dated 10.06.2015 under Section 108 of the Customs Act, 1962 has been issued through Consul (Economic), Consulate General of India at Dubai to appear on 29.06.2015, 06.07.2015 or 13.07.2015, for recording a statement.

The financial investigation was conducted in the bank accounts of the above said firms held with Axis Bank, Bhuj, Bhuj Commercial Co-Op. Bank, Bhuj, IDBI Bank, Bhuj, ICIC Bank, Bhuj which revealed that no major financial transactions have taken place.

9. To carry out further investigation, the investigating agency has stated that they need further time, on account of the reasons mentioned below:

- i) The key persons Shri Viren Thacker, Proprietor M/s. Paramount Overseas, Bhuj, Shri Falgun Indravadan Shah, Proprietor of M/s. Mahavir Overseas, are to be traced and their statements are to be recorded.
- ii) Statement of other persons such as Shri Kamlesh Harilal Khatri, Shri Kamlesh bhai of Dubai and further statement of Shri Pratik Thacker, are still to be recorded.
- iii) Details of financial transactions of payment huge amount for purchasing filtered Cigarettes from overseas supplier are yet to be ascertained.
- iv) Payment details for import of LDPE regrinding, including the details of the buyers of LDPE regrinding to whom goods were sold in the past, is to be collected. Thereafter, statements of the concerned persons to be recorded.



v) During the course of investigation, three mobile phones without SIM cards were received from the premise of Shri Pratik Kanubhai Thacker and the same had been sent for forensic examination and report of FSL is just received by the DRI office on 03.09.2015. The scrutiny and investigation regarding the IMEI Number and cellphone used by the persons is pending.

10. Accordingly, the Additional Director General, Zonal Unit Ahmedabad has issued a Show Cause Notice F.No: DRI/AZU/SRU/GI-01/SRU/A/ENV-01/3/2015 dated 08.09.2015 to the noticees as to why - the time period prescribed for the issuance of Show Cause Notice under Section 110 of the Customs Act, 1962, in respect of the seized goods i.e. 2602 cartons containing 3,20,96,400 sticks of filter cigarettes of foreign origin of different brands and different sizes totally valued at Rs.23,18,84,800/- alongwith 820 bags of LDPE Regrinding total weighing 20,500 Kgs. valued at Rs.10,25,000/- vide Panchnama dated 28.03.2015 (detained on 26.03.2015) should not be extended by a further period of six months in terms of proviso to Section 110 (2) of the Customs Act, 1962, read with Section 124 of the Customs Act, 1962 for completion of investigation and issuance of Show Cause Notice.

11. Further the above Noticees were also informed vide the said Show Cause Notice about the opportunity of personal hearing on 14.09.2015 or on 15.09.2015 at 11.30 Hrs. before the Commissioner of Customs, Ahmedabad.

12. Record of Personal Hearing and defence submission:

For the Personal Hearing nobody turned up on the above dates. No defense reply has also been submitted in this regard. Therefore, I proceed to decide the matter on the basis of facts

available on record.

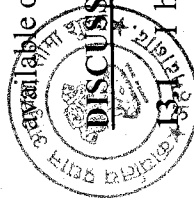
DISCUSSION AND FINDINGS

I have carefully gone through the facts mentioned in the show cause notice and the evidence on record.

13.2 It is observed that the sole purpose of issuance of the present show cause notice is to seek extension of time limit of further six months as envisaged in proviso to section 110 (2) of Customs Act, 1962 for issuance of show cause notice under section 124 of Customs Act, 1962 in respect of the seized goods i.e. 2602 cartons containing 3,20,96,400 sticks of filter cigarettes of foreign origin of different brands and different sizes totally valued at Rs.23,18,84,800/- alongwith 820 bags of LDPE Regrinding total weighing 20,500 Kgs. valued at Rs.10,25,000/- seized under Panchnama dated 28.03.2015, as detailed hereinabove.

13.3 As per section 110 (2) of Customs Act, 1962, where any goods are seized under sub-section (1) and no notice in respect thereof is given under clause (a) of section 124 within six months of the seizure of the goods, the goods shall be returned to the person from whose possession they were seized. However as per proviso to Section 110 (2) of the Customs Act, 1962 the aforesaid period of six months, on sufficient cause being shown can be extended by the Commissioner of Customs for a further period not exceeding six months.

13.4 It is seen that the investigation of key persons Shri Viren Thacker, Proprietor M/s. Paramount Overseas, Bhuj, Shri Falgun Indravadan Shah, Proprietor of M/s. Mahavir Overseas, is still to be carried out. They are yet to be traced and their statements to be recorded. Similarly, statement of other persons viz., Shri Kamlesh Harilal Khatri, Shri Kamlesh bhai of Dubai and further statement of Shri Pratik Thacker, are still to be recorded. Moreover, financial investigation regarding payment huge amount for purchasing filtered Cigarettes from overseas supplier is yet to be carried out. Payment details for import of LDEP regrinding, including the



details of the buyers of LDPE regrinding in the past, is to be collected and further investigation is to be carried out. Three mobile phones without SIM cards were recovered from the premise of Shri Pratik Kanubhai Thacker and the same were sent for forensic examination. Report of Forensic Labarotary has only received only on 03.09.2015. Further investigation, in this regard, also need to be done.

13.5 In this case, the proprietors of the importing firms and other persons are not coming forward and are not co-operating with the investigating agency i.e. DRI. The seized goods i.e. Filter Cigarettes were smuggled by concealing the same behind the declared cargo viz. LDPE Regrinding.

13.6 On the basis of facts brought on record, I find that the investigation is at a crucial stage where the statements of all the concerned persons need to be recorded under the provisions of the Customs Act, 1962. Further, the non-appearance of the importers has severely hampered the investigation into the financial transaction involved in the present case. In view of these discussions, I find that the investigation in the subject case is not yet complete and further investigation in the matter is needed for arriving at effective and logical conclusion of the case. Hence, I find that the request of the investigating agency i.e. DRI for granting further extension of six months for issuance of Show Cause Notice as justified.

ORDER

14. I, extend the time period for issuance of Show Cause Notice, for a further period of 6 months from 26.09.2015 in terms of proviso to Section 110(2) of the Customs Act, 1962, read with Section 124 of the Customs Act, 1962.

15. This order is issued under the provisions of the Customs Act, 1962 without prejudice to any other action that may be taken against them, under this Act and the Rules made there under or any other law for time being in force.



(AJAY JAIN)
PRINCIPAL COMMISSIONER
CUSTOMS, AHMEDABAD

Date: 16.09.2015

To

1. Shri Viren Pravinbhai Thacker, Proprietor of M/s. Paramount Overseas, 71, Somaiya Nagar, RTO Relocation Site, Bhuj-370001 (Kutch).
2. Shri Falgun Indravadan Shah, Proprietor of M/s. Mahavir Overseas, 1, Dr. Bhanji Street, Talav Sheri, Vaniya Vad, Chhathi Bari, Ring Road, Bhuj 370001, Kutch.
3. Shri Mehul Navinchandra Pujara, Representative of M/s. Paramount Overseas, Bhuj, Kutch and M/s. Mahavir Overseas, Bhuj, Kutch residing at 174/1, Ward 6B, Near Nakoda Garden, Adipur, Tal. Gandhidham, Dist. Kutch.
4. Shri Pratik Kanubhai Ramani / Thacker (Vagadiya), Plot No.272-D, Aiya Nagar, Mundra Road, Bhuj-371001

Copy to:

1. The Chief Commissioner of Customs, Ahmedabad.
2. The Additional Director General, Ahmedabad Zonal Unit, Rupen Bunglow, Jain Merchant Society, Near Mahalaxmi Cross Road, Paldi, Ahmedabad.
3. The Deputy Director, Directorate of Revenue Intelligence, Regional Unit, 2nd Floor, Avalon Building, Above Indian Bank, B/H S. D. Jain School Piplo-d-Vesu, Surat 395007.

✓ A. Guard file.