

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
WEST ZONAL BENCH, MUMBAI
COURT No. I

Appeal No.C/85064/2018
C/CO/85260/2018

Arising out of Order-in-Original No. Commr/VRM/Adjn/09-2017-18 Dated
29.12.2017

Passed by Commissioner of Customs (Airport), Mumbai

Date of Hearing: 12.12.2018

Date of Decision: 8.3.2019

JITENDRA CHIMANLAL THAKKAR

Vs

COMMISSIONER OF CUSTOMS, MUMBAI (AIRPORT)

Appellant Rep by: Shri J.C. Thakkar (self)

Respondent Rep by: Ms. P Vinitha Sekhar, Additional Commissioner (AR) &
Ms. Trupti Chavan, Assistant Commissioner (AR)

CORAM: Sanjiv Srivastava, Member (T)

Cus - Apart from making an attempt to show that he was not carrying Indian/foreign currency recovered and seized from him contrary to the evidences and records available, the appellant has not stated anything except accusing the authorities including Metropolitan Magistrate for framing and falsely implicating him in the case of smuggling of currency - since all the evidences are contrary to the submissions and rhetoric of the appellant, Bench is not in agreement with any of the submissions made - Appellant is a habitual offender and, therefore, Bench has no hesitation in upholding the penalties imposed u/s 114(i) of the Customs Act, 1962 - Appellant also cannot plead violation of principles of natural justice as although he had been offered the opportunity of personal hearing and cross examination of panchas, he deliberately refused and sought order on merits - no merit in the appeal, hence dismissed: CESTAT [para5.15, 5.16, 5.17, 6.1]

Appeal dismissed

FINAL ORDER No. A/85443/2019

Per: Sanjiv Srivastava:

This appeal is directed against the order in original No
Commr/VRM/Adjn/0-2017-18 dated 02.01.2018 of Commissioner of
Customs, Airport Mumbai passed in remand proceedings. By the said order
Commissioner has held follows:

*"22.1 I order absolute confiscation of Indian Currency amounting to Rs
20,10,000/- and Foreign Currency equivalent to Indian Currency of Rs*

1,88,349/- totally valued at Rs 21,98,349/- which were recovered from Shri Jitendra Chimanlal Thakkar under Section 13 (d). (e) and (h) of Customs Act, 1962.

22.2 I also order the confiscation of pair of socks, small checkered coat and black coloured zipper hand bag having marking "SATCHI which were used for concealment of Indian and Foreign Currency under seizure, under Section 118 and 119 of the Customs Act, 1962.

22.3 I impose a personal penalty of Rs 3,00,000/- on Shri Jitendra Chimanlal Thakkar under Section 114(i) of the Customs Act, 1962.

2.1 Appellant was intercepted by the officers of Air Intelligence Unit at airport on 15.08.2001, while he was on his way to board the Singapore Airlines Flight (SQ 4111).

2.2 During the search of the Appellant in person and of his baggage, he was found carrying Indian Currency (Rs 20,10,000/-) and Assorted Foreign Currency (equivalent to Rs 1,88,349/-). The search proceeding were conducted in presence of two panchas namely Shri John Joseph Fernandes (P-1) and Shri Ajit Jayant Naik (P-2) and a panchnama dated 15.08.2001 drawn.

2.3 Since Appellant was unable to explain about the currency being carried by him, or produce any document in respect of the same the said currency was seized by the officers along with the personal effects and bags of the Appellant used for carriage of the currency.

2.4 In his statement recorded under Section 108 of Customs Act, 1962 on 15.08.2001, Appellant admitted that the

i. Indian Currency was handed over to him by Shri Rajendra Malhotra as per the direction of Shri Louis of Switzerland for being handed over to Shri Hari Om Prakash in Singapore as the payment towards the previous supply of electronic goods.

ii. Indian Currency was being clandestinely smuggled by him so that he can hand over the same to Shri Hari Om Prakash.

iii. He has no supporting documents for currencies recovered from him and also he had not made an declaration of the currencies being carried by him to Customs.

iv. He was aware that carrying the currencies in concealed manner without making a declaration to Customs is illegal and a punishable offence.

v. He was offered Rs 1,00,000/- by Shri Louis of Switzerland for carrying the said currency and he accepted the same.

2.5 After completion of investigations a Show Cause Notice dated 12.02.2002 was issued to the Appellant asking him to show cause as to why

a. "Indian Currency of Rs 20,10,000/- and assorted Foreign Currency equivalent to Indian Currency of Rs 1,88,349/- totally Rs 21,98,349/-

(Rupees Twenty One Lakhs Ninety Eight Thousand Three Hundred and Forty Nine only) now under seizure should not be confiscated under the above said provisions of Customs Act, 1962.

b. Pair of socks, Small Checkered Coat and Black Coloured Zipper hand bag having marking "SATCHI used for concealing the Indian and Foreign Currency under seizure should not be confiscated under Section 118 and 119 ibid.

c. Penalty should not be imposed on him under section 114(i) ibid.

2.6 Show Cause Notice was adjudicated by Commissioner vide his order No SD/INT/AIU/28/01/APA dated 04.06.2004. The said order of Commissioner was set aside by the tribunal vide Order no A/89890/16/CB and matter remanded back to the Commissioner for re-adjudication after following the principles of natural justice.

2.7 Commissioner has vide impugned order adjudicated the matter in remand proceedings.

2.8 Aggrieved appellant has filed this appeal.

2.9 Revenue has filed cross objections to the appeal filed by the appellants

3.1 In his appeal appellants has stated that

i. He has been falsely implicated by the Custom Officers in case of seizure of Indian Currency which was never recovered from his possession either in person or in his baggage.

ii. He denies and disowns the entire Indian Currency purportedly recovered and seized from him and now confiscated by the Commissioner.

iii. The panchnama dated 15.08.2001 is imaginary and false document never recorded in his presence or in presence of the panchas.

iv. The statement recorded from him is also false and fabricated which was signed by him under duress and coercion and physical assault.

v. The SCN dated 12/02/2002 itself is a sufficient proof that this is a knowingly initiated false case as the modus operandi of concealment as stated in the SCN is impracticable which takes us to the recovery of Rs 20,10,000/- in denomination of Rs 1000/-.

vi. The request for cross examination and demonstration to disprove the main allegation of alleged concealment was blatantly denied by the Commissioner as she was aware such cross examination/ demonstration will bring to surface the falsehood of the case.

vii. The alleged Indian currency of Rs 20,10,000/- recovered from him would eventually be deposited in a nationalized bank. However, none whatsoever bank receipt, a photocopy is on record.

viii. When one of the pancha (P-1) was cross examined in the trial court he deposed "It is true that the personal search of the Accused was not carried out in my presence. It is true that nothing has been recovered from the possession of the Accused and no incriminating article was seized from the possession of Accused.

ix. During the persona hearing on 20/11/2017 the Commissioner resorted to her eccentric behavior thereby insulting him. Thus he decided not to honour her invitation of Personal hearing to denovo proceedings s it was unsafe to visit her office.

x. The impugned order is knowingly drafted false order by the adjudicating authority violating the principles of natural justice, and is based on surmise and conjectures.

3.2 In the cross objections filed revenue has stated

i. A case smuggling of foreign currency equivalent to Rs 33,06,667.60/- was booked against a passenger who identified himself as Jayendra Chandulal Thakker holding Indian Passport No E- 7913318 on 14.03.2006. During course of investigation it was revealed that the passenger intercepted on 14.03.2006 was none other than appellant. He admitted that he was also known as Jitendra Chimanlal Thakker and had concealed the facts by changing his name and other credentials. This case was adjudicated by the Commissioner vide his order No Commr/PVR/ADJ/08 dated 31.03.2008, confiscating the seized foreign currency and imposition of personal penalty of Rs 4,00,000/-. Appeal (Appeal no C/375/08) filed against the said order of Commissioner has been disposed off by the tribunal.

ii. The Indian Currency had been recovered and seized by the Custom officers from the appellant under a proper panchnama and the fact about recovery of the said currency has been admitted by the appellant in his statement.

iii. Appellant was knowingly involved in carrying, possession, concealing, dealing and attempting to smuggle out Indian and Foreign Currency which has been seized and confiscated.

iv. Pursuant to the directions given by the CESTAT vide orders dated 01.09.2017 personal hearing was fixed on 14.12.2017 and the Appellants were duly intimated vide letter dated 30.11.2017. Further taking into account the apprehensions expressed by the appellant, his request for cross examination of panchas was allowed ad appellant informed about the same and he was also informed that the proceeding would be videographed. Appellant vide his letter dated 11.12.2017 declined to participate in the adjudication proceedings and also did not in person or through authorized representative appeared.

v. The contention of the appellant that Indian currency recovered and seized from him was not deposited in the bank is totally incorrect. In fact

the currency was deposited in State Bank of India vide MJC/Add/10 dated 23/8/2001.

vi. The principles of natural justice have been duly followed and opportunity of personal hearing extended to the appellant. It was the appellant who decided not to appear.

4.1 I have heard the Appellant in person and Ms P Vinita Shekhar, Additional Commissioner with Ms Trupti Chavan, Assistant Commissioner, Authorized Representatives for the revenue.

4.2 Appellant has during the course of hearing made demonstration to show that it was not possible for him to carry the Indian Currency as alleged in the show cause notice. He emphasized that he has been implicated in a false case by the Customs Officer and the entire proceedings undertaken as per panchnama dated 15.08.2001 were fabricated. Panchnama was neither drawn in his presence or in presence of the panch witnesses. He was not carrying any Indian currency which has been stated to be seized and recovered from him. Since no Indian currency was recovered or seized from him, he disowns the entire Indian Currency under seizure as per panchnama date 15.08.2001. He was only carrying the Foreign Currency which should be returned to him. This foreign Currency was given to him by Singapore based company named Harmit Brothers which was to be utilized as show money amount while entering some European countries for the business purposes (in support he produced a certificate from the said Harmit Brothers dated 12th January 2018). He also submitted since he has been falsely implicated in the case the penalty under Section 114(i) of the Customs Act, 1962 too would not be justified.

4.3 Arguing for the revenue, learned Authorized Representatives, reiterated the findings in the order. They emphasized, the fact that Indian Currency was recovered and seized from the appellant and all the proceedings in relation to search and seizure have been duly documented in panchnama dated 15.08.2001. Appellant has in his statement recorded on the spot admitted about the carriage of the said currency and also its recovery from him. The fact of recovery and deposit of the currency with state bank of India has been confirmed by the Commissioner in the affidavit dated 5th December 2018. Also the appellant is habitual offender and this fact is evidenced by the order dated 31.03.2008 confiscating the foreign currency of Rs 33,06,667.60/- from the same appellant but under different name and passport number. Since Appellant is habitual offender he deserves no mercy of any kind and also the penalty imposed by the Commissioner is not excessive.

5.1 I have considered the submissions made in appeal and during the course of hearing.

5.2 If it was a movie or a drama and theatrics and rhetoric of appellant could be considered as evidence of his innocence, appellant would have succeeded long back in establishing that he has been falsely implicated in

the case of seizure of Indian Currency and Foreign Currency totaling to Rs 21,98,349/-. However the case proceedings are not part of any movie or drama but are based on facts and evidences recovered as part of the proceedings leading to recovery, seizure and confiscation of Indian and Foreign Currency.

5.3 Appellant has disputed the panchnama recorded on 15.08.2001. He has stated and demonstrated during the course of hearing that it was not possible for him to conceal the said amount of Indian Currency in his socks, coat etc as has been stated in the panchnama. In fact he denied that the recovery Indian Currency from his possession completely. In his submission he stated that no search or panchnama was drawn at that time. However said submissions made by the appellant are contrary to facts and proceedings.

5.4 The appellant was arrested after recovery of the said Indian and Foreign Currency and was produced before the Magistrate at Esplande Court on 16/08/2001. Magistrate after taking the cognizance of the offence committed remanded him to judicial custody and was bailed out only after two weeks. During the proceedings before the Magistrate appellant could have contested the said recovery which he didn't.

5.5 In his Application for retraction in R A No 276 of 2001 filed by him before the Court of additional Metropolitan Magistrate, 3rd Court Esplande, Mumbai on 18.09.2001 appellants has admitted to the panchnama being drawn by stating "*The copy of the panchnama was not given to me though my signature was already obtained under the pretext that it has been furnished to me.* Above submission clearly shows that panchnama was drawn on 15.08.2001. If the grievance of the appellant was that the copy of panchnama was not been given to him, he could have easily obtained the same from the said court of additional metropolitan magistrate, as that would be the part of the case records filed in the court at the time of production of appellants in the court after arrest.

5.6 The facts about the seized currency was duly verified by Shri S V Patil Special Metropolitan Magistrate on 23.08.2001. The records of proceedings are as follows:

Hon'ble Shri. Shyam V. Patil Spl.
Metropolitan Magistrate, Greater Mumbai.

Shri. D.A. Miskori Applicant.
Intelligence Officer,
Air Intelligence Unit,
Chhatrapati Shivaji International Airport, Sahar,
Mumbai-400 099.

MAY IT PLEASE YOUR WORSHIP

The applicant above named is an officer of the Air Intelligence Unit, Chhatrapati Shivaji International Airport, Sahar, Mumbai-400 099, duly employed in the prevention of smuggling.

The applicant states that on 13-8-2001 contraband goods as described under were seized under Section 110 of the Customs Act, 1962.

Since the said goods happen to be of the description specified under Govt. of India Notification No. 31/86 (CUS) dated 5th Feb, 1986 to which provisions of Section 110(1) A, 110(1) B, and 110 (1) C are applicable.

The applicant above named herein submits to your worship to:

1. Certify the correctness of the inventory of the goods seized.
2. Witness the taking of photographs of the said seized goods and certify the photograph as true.

DESCRIPTION OF GOODS SEIZED: Indian currency of Rs. 20,10,000/- and assorted foreigning currency equivalent to Indian Rs. 1,66,349/-

MARKET VALUE :-

MUMBAI

DATE :- 23-8-2001

on 23-8-2001

(S.V. PATIL)
SPECIAL METROPOLITAN MAGISTRATE
MUMBAI



[Signature]
Intelligence Officer,
Air Intelligence Unit,
Chhatrapati Shivaji
International Airport,
Sahar, Mumbai.

(Applicant)

True copy
[Signature]

File No. SD/INT/AIU/ 28 /2000 APA
Ware House No. :- DSU/AIU/ /2000

EX-P-7
24-3-5-06

CC MEST/1001/01

A-C-M M

49

On 15-8-2001 Officers of Air Intelligence Unit, Chhatrapati

Shivaji International Airport, Sahar, Mumbai-400 099 have seized Indian
Currency of Rs.20,10,000/- & Assorted foreign currency
equivalent to Indian Rs.1,88,349/-

valued at Rs. 21,98,349/- (Local Market Value) Under Section 110
of the Customs Act, 1962.

The goods happen to be of the description specified under Govt. of
India Notification No. 31/86 (Cus) dt. 5th Feb, 1986 to which the provisions
of Section 110 (1) (C) are applicable.

Having allowed and witnessed the taking of photographs and
inventory of the seized goods, I certify :-

- (a) The correctness of the inventory of goods seized as per panchanama
dated 15-8-2001
- (b) The photographs taken of the seized goods to be true.

Mumbai

Dated 23-8-



Signature of Spl. Metropolitan Magistrate
SPL. METROPOLITAN MAGISTRATE
MUMBAI

To be copy

(JITAN.7.8)
NATIONAL INFORMATION JOURNAL
BANGALURU

DEPOSAL ORDER

From: The Asst. Dy. Commissioner of Customs, Air Intelligence Unit, Chhatrapati Shivaji International Airport, Salur, Mumbai-400 094.

To: The Asst. Dy. Commissioner of Customs, Deposa Unit, Chhatrapati Shivaji International Airport, Salur, Mumbai-400 094. Action under Section 110 (1A)(1B) (1C) of Customs Act 1962 has been completed of below mentioned cases. As such, the goods listed below may be disposed off in terms of Section 110 of the Customs Act, 1962 at the earliest. After disposal, all particulars of disposal should be intimated to this unit with reference to this Disposal Order.

Sr. No.	Case File No. Warehouse No.	Description of goods	Value %	Present Position	Remarks
	SD/INT/410/26/2005 AP DEWAR 2000	Indian Currency of Rs. Foreign Currency equivalent to	20,10,000 1,90,505 17,30,505	Date of Seizure: 12-10-2007 Date of SCN issued: Date of Application: Appel pending (if any) Action up to date on: 25-10-2007	

[Signature]
10/11/2007
(S. H. K. S. K.)
I.O. Disposal (Sec. 110)

[Signature]
10/11/2007
A.C. Disposal (Sec. 110)

[Signature]
10/11/2007
Asst. Dy. Commissioner of Customs,
Air Intelligence Unit,
Salur, Mumbai

Copy for information and necessary action to:
1. The Officer in Charge Store Warehouse/Airport
2. Super. P.C. Salur/AIU

from him, and no such currency is available, Commissioner Customs, Airport Mumbai was asked to cause an verification and file an affidavit testifying the facts about availability and deposit of the said currency. In compliance Commissioner has filed duly notarized affidavit dated 5th December 2018. In her affidavit after stating the facts and history of the case leading to recovery and seizure of Indian and Foreign Currency, Commissioner has in para 4 (c) & (d) stated as follows-

"(c) As per the available office records, the seized currency under Panchnama dated 15.08.2001 was deposited in DS-1 on 15.08.2001 vide register entry No DS/1/35/2001 (copy enclosed). Subsequently the said seized currency was transferred in Strong Room vide register entry no 73. Thereafter, the procedure u/s 110 of the Customs Act, 1962 was initiated on 23.08.2001. The packets of seized currency was opened in the presence of Hon'ble Special Metropolitan Magistrate, Shri Shyam V Patil under Panchnama dated 23.08.2001. He vide his certificate dated 23.08.2001 certified the correctness of the inventory of goods seized under panchnama dated 15.08.2001. Thereafter, the said seized currency was deposited in SBI vide MJC/Add/10 dated 23.08.2001.

(d) As per the records available, the assorted foreign currency was realised vide Certificate No VBG/22 and VBG/23 dated 23/08/201 ECF No 2291373 and ECF 2291374 to Rs 1,90,606/-.

5.9 From the affidavit filed by the Commissioner, it is quite evident that both Indian and Foreign Currency were duly inventorized at the time of seizure and after verification of the same by Special Metropolitan Magistrate; the same was disposed of by way of depositing the same with State Bank of India. In view of the said evidences I do not find any merits in the submissions made by the appellant in this respect.

5.10 The submission made by the appellant to the effect that panchnama dated 15.08.2001 was an instrument to falsely implicate him in the case of smuggling of Indian Currency is a self defeating argument. If the said panchnama is to be discarded then, the entire proceedings get vitiated even the proceedings in relation to seized foreign currency. Though Appellant denies the existence of Indian Currency but admits the existence of Foreign Currency. If it is the case of Appellant that no panchnama was drawn etc, then how he proceeds to claim the foreign currency seized which is part of the said panchnama. Either there was no panchnama drawn as sought to established by the Appellant then he also loses the case in respect of recovery and seizure of foreign currency too. While disclaiming the Indian Currency, Appellant has claimed the foreign Currency seized under the said panchnama. This itself is enough to establish the fact of search and recovery from him.

5.11 Since appellant is himself not claiming the Indian Currency and has in appeal and during the course of hearing before CESTAT the same, the order of Commissioner, absolutely confiscating the Indian Currency is not in challenge in this appeal and is upheld.

5.12 Now in respect of the foreign currency seized and confiscated, appellant has claimed that the said currency belongs to him and was handed over to him by some Harmit Brothers. He has also produced a certificate dated 12th January 2018 to support such a claim. I do not find any merits in the claim made by the appellants, as it is contrary to his statement recorded on 15.08.2001 wherein he has deposed that the foreign currency was brought from abroad on his earlier trip from Switzerland which is less than US\$ 5000/- and therefore he has not declared it to Customs. In his statement recorded then he has not even mentioned about the Foreign Currency being given to him by Harmit Brother in Singapore. Nowhere in the proceedings over the last 18 years, this has been stated and it was only after the re-adjudication of the case by the Commissioner in remand proceedings that this certificate from Harmit Brothers has been produced. From the face of order it is evident that Commissioner has issued the re-adjudication order on 02.01.2018 and Certificate of Harmit Brothers is dated 12th January 2018. Production of such a certificate after the adjudication of the case in remand proceedings is nothing but an after-thought. Secondly I do not find any merits in the statement made in the certificate to the effect *"That the amount of US Dollars 5000/- was provided to Mr Jitendra Thakkar by our above named company to keep it in his pocket as a show money and to meet his personal expenses whilst he is on business tour on our behalf towards Gulf States and European Countries from Singapore via Bombay.* The said certificate do not specify as to what was the business relationship between the Harmit Brothers and Appellant, which had prompted them to give sum of US\$ 5000/- to the Appellants. Further the date and document evidencing the payment of said amount of US\$ 5000/- by Harmit Brothers to appellant is not stated and enclosed with the Certificate. The certificate do not inspire any confidence vis a vis the transaction mentioned therein and hence cannot be accepted or allowed at this stage of proceedings.

5.13 Commissioner has in para 14.8 of the impugned order while discussing the issue in relation to the Foreign Currency seized has observed as follows:

"14.8 From the records of the case as well as from the submissions of the Noticee it is evident and established that the Noticee was a resident of India and he was in possession of foreign currencies equivalent to Indian Currency amounting to Rs.1,88,349/- which is equivalent USD 4095, which exceeded the maximum limit of USD 2000 as prescribed under the aforesaid Regulation for the purpose of retention of foreign exchange by an Indian resident. The Noticee has not produced any evidence about the acquisition of the said foreign currency. He has only stated that these represented the commission earned by him against of sale of various items which were procured by him from the Far East Asian countries for delivery in European countries. In absence of any evidence him claim regarding the acquisition of said foreign currencies abroad is not acceptable. However, even if his claim is accepted for the sake of argument, its retention in excess of USD 2000 was not permissible under

the Regulations issued by the Reserve Bank of India as per powers conferred on it under the FEMA, 1999. The Noticee attempt to smuggle out the foreign currency equivalent to USD 4095 was a clear cut violation of the provision of the aforesaid Regulation. Besides the possession and retention and accordingly the export of the foreign currency, in excess of USD 2000, was prohibited under the aforesaid provision of said Regulation 3(iii) of the Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulation, 2000 read with Regulation 5 & 7 of the Foreign Exchange Management (Export and Import of Currency) Regulation, 2000.

5.14 Commissioner has in para 20, found that the appellant has manipulated his identity and passport, and was involved in the case of smuggling of foreign currency again in 2006. The said para of Commissioner order is reproduced below:

"20. I find that Noticee has failed to substantiate his claim by submitting any evidence with regard to procurement of seized Indian/Foreign Currency. In absence of any such evidence, the procurement of the currency itself becomes tainted and it can safely be concluded that currency has been obtained through illegal channels. It is also observed from the Order-in- Appeal No. MUM-CUSTOM-PAX-APP-188/13-14 dated 08.10.2013 that the Noticee had also used another passport in the name of Jayendra Chandulal Thakkar and assorted foreign currency equivalent to Indian Rs.33,06,667/- was also seized on 14.03.2006, which was found in his possession. It is also observed that 85 mobile phones valued at Rs.18,53,000/- were also seized on his arrival from Switzerland on 04.09.2003 in Bangalore. It is therefore, apparent that the appellant is a habitual offender, well conversant with the rules and regulations concerning import and export and his deposition regarding opportunities of personal hearing and exhibit, was just an attempt to escape the consequences of law. It is also seen that in a case of seizure of foreign currency from Abdulla Abdul Khadar at departure, reported in 2011 (272) ELT 440 (GOI), Govt of India has upheld absolute confiscation on the grounds of concealment. In another case of 31 silver bars recovered from the possession of the appellant Roopchand Khemchand Oswal reported in 2007 (271) ELT 48 (Tri - Mumbai) CESTAT = **2007-TIOL-689-CESTAT-MUM** has upheld absolute confiscation as the appellant had failed to produce documentary evidence regarding licit possession of the goods. The ratio of the above cases is squarely applicable to this case. I am therefore, inclined to agree with the findings of adjudicating authority in denying redemption of the currency.

5.15 Since appellant is a habitual offender and has been involved in the case of smuggling of Indian and Foreign currency more than once, I have no hesitation in upholding the penalties imposed under section 114(i) of the Customs Act, 1962.

5.16 Appellant cannot plead violation of principles of natural justice In the present case because he had been offered the opportunity of personal

hearing and cross examination of panchas by the Commissioner which he deliberately refused and asked for the order on merits. The correspondence in this respect between the office of adjudicating authority and the appellant is reproduced below:

CHHATRAPATI SHIVAJI INTERNATIONAL AIRPORT
SAHAR, ANDHERI (EAST), MUMBAI - 400 099
TEL : 022-2856 0629

F.No. S/14-6-7/2001 Adjn
SD/INT/AIU/28/2001 AP "A"

Mumbai, the 30 November, 2017

To,

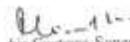
Shri Jitendra Chomanlal Thakkar,
B 201, Ratanpuri Complex,
Opp. Barnopura Petrol Station,
Vadodra, Gujarat - 390004

Sub : Personal Hearing Memorandum - reg.

Please refer to the personal hearing held on 20.11.2017 and your letter dated 21.11.2017 received in this office on 24.11.2017

2. In this connection it is informed that the issues conveyed vide your aforesaid letter dated 21.11.2017 are extremely exaggerated and emotional in nature.
3. In view of your apprehensions as expressed in your letter and in discharge of the quasi judicial functions as per law, you are given an opportunity to either appear in person or through a authorized representative or a Advocate appointed by you to participate in the hearing in order to complete the adjudication proceedings as mandated by the Hon'ble CESTAT Orders dated 24.08.2016 & 01.09.2017.
4. Your request for cross examination of the panchas is acceded to and they will be available on the date of hearing for participating in the adjudication proceedings.
5. The request for cross examination of the officers has been made without giving any reasons thereof. The cross examination cannot be claimed as a matter of right on mere asking for it without furnishing the reasons for the same as per Supreme Court guidelines. Therefore you are first required to establish the reasons for cross examination of officers before the same can be considered.
6. The Hon'ble Supreme Court in a petition filed by Shri Pradyuman Bishi has directed that in a bid to bring transparency the installation of CCTV cameras with audio recording. Accordingly, keeping your apprehension in consideration and for a fair adjudication proceedings the next hearing will be video graphed.
7. Commissioner of Customs, Chhatrapati Shivaji International Airport, Mumbai has fixed the personal hearing in the case on 14.12.2017 at 15.30 hrs.
8. You or your authorized representative or Advocate is therefore, requested to be present before Smt. V. Rama Mathew, Commissioner of Customs, Chhatrapati Shivaji International Airport, Sahar, Andheri (East), Mumbai 400 099, on the date and time specified above alongwith the necessary documents which you intend to produce before her in support of your defence, as the case is in the process of adjudication.
9. Please note that if you or your representative fails to appear for the personal hearing, the case will be decided ex-parte on the basis of documents available on record.
10. It is also requested to report at least one hour before the scheduled time alongwith two passport size photographs, an original ID and its photocopy of the persons desirous of attending the personal hearing, to get Airport Entry Pass from the Pass Section located at level P4 of the CSI Airport.

AIR CUSTOMS SUPERINTENDENT


Air Customs Superintendent,

Track on www.telcelnet.com
KIAO PABADIA NO 170001
KIAO B B0110049377A
Device No: 9-09-Cdn-153
To: THE COMR OF CUSTOMS, CSD AIRPORT T-2 400M
Airport: S.S (Mumbai), PIN-400099
From: JITENDRA THAKKAR, B/287-BARANPURI COMPLEX, N
M: 94260, 11/12/2017, 10:29
Track on www.telcelnet.com, 1011

By-RPAD

Jitendra Chimanlal Thakkar
B 201, Ratnapuri Complex
Opp: Baranpura Petrol Station
Vadodara 390004
Date: 11/12/2017
Mobile No: 0 94260 24579

The Commissioner of Customs
Smt. V Rama Mathew
C S I Airport, T-2
Sahar Village
Andheri (East)
Mumbai 400099

Your Ref: File No,
SD/INT/AIU/29/01/AP 'A'
Dated 15/08/2001

Sub: My response to your letter dated 30/11/2017, reg.

Madam

I acknowledge the receipt of your letter dated 30/11/2017 which I had received on 09/12/2017 that is on Saturday afternoon.

I am grateful indeed to you to realize from your letter that you have offered me and allowed the cross-examination of the panch witness however, it is too late now. I do not wish to take any more risk by acknowledging your invitation of Personal Hearing dated 14/12/2017 to appear before you.

Therefore, I reiterate that you may decide the above referenced matter by reading the SCN dated 12/02/2002 carefully to ascertain as to whether your allegation of attempt to smuggle out of India the huge amount Rs. 20,10,000/- along with the permissible amount of the foreign currency by clandestinely concealing in my worn apparel is possible or not.

I am waiting to receive your Order-in-Original very soon in the nearest future.

Thank you for your attention to my response.

This letter may be taken on record, please.

Yours faithfully



SELF ATTESTED
TRUE COPY

5.17 Apart from making an attempt to show that he was not carrying Indian Currency recovered and seized from him contrary to the evidences and records available, appellant has not stated anything except accusing the authorities including Metropolitan Magistrate for framing and falsely implicating him in the case of smuggling of Indian Currency. Since all the evidences are contrary to the submissions and rhetorics of the appellant I am not in agreement with any of submissions made.

6.1 I do not find any merits in the appeal filed by the Appellant and dismiss the same. The cross objection is also disposed of.

(Pronounced in court on 08.03.2019)