

24/10/19

भारतसरकार  
वित्तमंत्रालय  
राजस्वविभाग



Govt. Of India  
Ministry of Finance  
Department of  
Revenue



राजस्वआसूचनानिदेशालय

**DIRECTORATE OF REVENUE INTELLIGENCE**

हैदराबादआंचलिकइकाई/ Hyderabad Zonal Unit

हाउस नं. 10-2-289/57/1 & 2, 'सूर्यवंशीरेसीडेन्सी', II क्रॉसरोड, शांतिनगर, मसाबटैंक, हैदराबाद-500 028

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F.No.DRI/HZU/VRU/48/ENQ-09(INT-09)/2018/1179

Dated: 14.10.2019

कारणबताओनोटिस

(सीमाशुल्कअधिनियम, 1962केधारा124तहतजारी)

**SHOW CAUSE NOTICE**

**(ISSUED UNDER SECTION 124 OF THE CUSTOMS ACT, 1962)**

**Subject: Customs offence – Seizure of 685 grams of Gold valued at Rs.22,28,990/- from the possession of Sri Muthalagu Mohana Sundaram and seizure of 560 Antique Indian One Rupee Silver coins of pre-independence era from Sri Muthalagu Mohana Sundaram (340 coins) valued at Rs.5,14,845/-, Sri M S Panch Peer (100 coins) valued at Rs.1,51,425/- and Sri Maung Maung Than (120 coins) valued at Rs.1,81,710/- at Rajahmundry Railway station, Visakhapatnam on 31.10.2018 – Issue of Show Cause Notice – Regarding.**

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Based on intelligence that a few persons were carrying smuggled gold of foreign origin and travelling on 31.10.2018 by Train No. 22807 Santragachi-Chennai AC Express (SRC-MAS AC Express) from Santragachi to Chennai Central in AC three tier, the officers of Directorate of Revenue Intelligence, Visakhapatnam Regional Unit have boarded the said train at Visakhapatnam on 31.10.2018 and started checking the passenger chart available with the TTE. After the train crossed Samalkot Railway Station, the officers of DRI received further information about three suspected passengers having PNR No. 6521376373, are travelling in B8 compartment and occupying Berth Numbers 23, 31 and 39. The DRI officers have identified the passengers in B8 compartment and ascertained that their names are Sri M S Panchpeer, Sri Muthalagu Mohana Sundaram and Sri Maung Maung Than and learnt that they are travelling from Santragachi to Chennai Central. The DRI officers then asked the passengers to get down at Rajahmundry Railway station for further enquiry. The officers then in presence of the two panchas continued further proceedings at Platform No. 1 of Rajahmundry Railway Station by asking the above said persons to produce their train tickets and identification cards. The passengers then produced their travelling ticket with PNR No. 6521376373 which was showing their names as M S Panchpeer (aged 71 Years), Muthalagu Mohana Sundaram (aged 61 Years) and Maung Maung Than (aged 52 Years), with date of boarding as 30.10.2018 in Train No. 22807 starting from Santragachi and destination being Chennai Central. Shri Muthalagu Mohana Sundaram produced an Aadhar card bearing No.4614 4368 2532 and showing the details as S/o Muthalagu, 5/95, Subramaniyabharathiyar Street, MA Nagar, Padiyanallur, Tiruvalur, TN - 600052. He was also having a passport bearing number – Z2824472. Shri M S Panchpeer produced his Aadhar card bearing no.8475 7458 3735 and showing the details as S/o Sahul Hameed, 36/29, Krishnappa Mudali street, Chepuk, Triplicane, Chennai. Shri Maung Maung Than said that he is a Myanmar



national and showed his passport bearing no.MA898690. Shri Muthalagu Mohana Sundaram had a black and white coloured trolley bag. Shri MS Panchpeer had a large brown coloured trolley bag along with two cartons and two carry bags. Shri Maung Maung Than had a maroon colour trolley bags. The DRI officers questioned the passengers whether they were carrying any smuggled gold of foreign origin for which they replied that they were not in possession of any gold. On sustained questioning, Shri Muthalagu Mohana Sundaram began to panic and speak incoherently. On further questioning, he admitted of carrying gold of foreign origin with him. He then showed two packages wrapped in black coloured tape concealed around his waist in a secret pouch in his pants. As it was not safe and convenient to continue further proceedings on the railway platform, the officers of DRI along with the pancha witnesses, and the passengers Shri Muthalagu Mohana Sundaram, Shri M S Panchpeer and Shri Maung Maung Than, along with their luggage, came out of Rajahmundry railway station and got into a vehicle and proceeded to the office premises of The Deputy Commissioner of Central Tax, Central GST Division, Srinagar, Morampudi Junction, Rajahmahendravaram-533107.

2. Upon reaching the office, further proceedings were conducted at the said office premises, in the presence of pancha witnesses. On being cut open the black coloured tape of the two packages, which are shown and handed over by Shri Muthalagu Mohana Sundaram himself, the officers found eleven (11) rectangular pieces of different sizes of yellow coloured metal. Out of the eleven rectangular yellow metal pieces of different sizes, ten yellow metal pieces are having foreign markings on them. Shri Muthalagu Mohana Sundaram admitted that the yellow metal is gold and is of foreign origin. The DRI officers then asked each of the passengers to empty their luggage from their trolley bags and make visible all the contents in their luggage. Then out of the belongings taken out by the three passengers there were large number of Indian one Rupee coins of pre independence era. The total number of coins in the baggage with Shri Muthalagu Mohana Sundaram were 340; total number of coins in the baggage with Shri M S Panchpeer were 100; and the total number of coins in the baggage with Shri Maung Maung Than were 120.

3. To find out the exact nature of the 11 pieces of yellow metal, the services of Shri N. Sudhakar, Quality Manager of M/s Sri Ganesh Hallmarking Centre, Rajahmundry, a government approved Gold Appraiser was sought for. He examined the 11 pieces of yellow metal and after examination, he certified that the 11 pieces of yellow metal are Gold of 99.9 purity (24 carat) and totally weighing 685 grams and valued at Rs.22,28,990/- (Rupees Twenty Two lakhs Twenty Eight thousand Nine hundred and Ninety only) @ Rs.3,254/- per gram. In token of the assay having been conducted in their presence, the pancha witnesses and Sri Muthalagu Mohana Sundaram appended their signatures on the assayer report dated 31.10.2018.

4. When the officers asked Shri Muthalagu Mohana Sundaram whether he was in possession of any documents to show the licit import of the gold, he informed the officers that he was not in possession of any documents to show the licit import of the gold and admitted that it was smuggled gold of foreign origin into India from Myanmar. He has also informed that the Indian one Rupee coins of pre-independence era were also brought by him from Myanmar. Person-wise details of the Indian one Rupee coins of pre-independence era found out from the above-said three persons have been furnished in the annexure attached to the Panchanama dated 31.10.2018.

5. Shri Muthalagu Mohana Sundaram informed the officers that he was aware that possession of smuggled gold of foreign origin without any licit document is prohibited under law but still he had resorted to this illegal activity for the sake of financial gains. The officers of DRI informed the pancha witnesses that since Shri Muthalagu Mohana Sundaram was in possession of 11 pieces of smuggled gold of foreign origin totally weighing 685 grams and totally valued at Rs.22,28,990/- (Rupees twenty two lakhs twenty eight thousand nine hundred and ninety only) @ Rs.3,254/- per gram which was smuggled into India from Myanmar, they



intend to seize the said eleven pieces of Gold as they have reasons to believe that the same are liable for confiscation under Customs Act, 1962. Accordingly, Sri Gyan Prakash, Intelligence Officer, DRI, has seized the said eleven pieces of Gold of foreign origin weighing 685 grams and totally valued at Rs.22,28,990/- (Rupees twenty two lakhs twenty eight thousand nine hundred and ninety only), which was smuggled into India from Myanmar, under the provisions of the Customs Act, 1962, along with the packing material i.e., black coloured tape used for concealing the gold. Thereupon, the officers in the presence of pancha witnesses and Shri Muthalagu Mohana Sundaram placed the seized eleven pieces of Gold in a plastic box and covered the same with a cloth and sealed with paper slips containing signatures of pancha witnesses, Shri Muthalagu Mohana Sundaram and the seizing officer and with lac affixing DRI seal. The same was marked as M-1 for the purpose of identification. The packing material i.e., the black coloured tape was placed in a green cloth lined cover and sealed with paper slips containing signatures of pancha witnesses, Sri Muthalagu Mohana Sundaram and the seizing officer and with lac affixing DRI seal. The same was marked as M-2 for the purpose of identification. Further, a copy of Aadhar card bearing no.4614 4368 2532 of Shri Muthalagu Mohana Sundaram was recovered. The panch witnesses, Shri Muthalagu Mohana Sundaram and the seizing officer have put their dated signature on the copy of the said Aadhar Card No. 4614 4368 2532. The ticket bearing PNR No. 6521376373 was also recovered. The panch witnesses, Shri Muthalagu Mohana Sundaram, Shri M S Panchpeer, Shri Maung Maung Than and the seizing officer have put their dated signature on the same. Further, DRI officers informed panch witnesses that they intend to detain all the five hundred and sixty (560) Indian one Rupee coins of pre-independence era which were being carried by Shri Muthalagu Mohana Sundaram (340 coins), Shri M S Panchpeer (100 coins) and Shri Maung Maung Than (120 coins) suspecting the authenticity of coins of antique nature and which require further investigation for confirmation of the same. Thereupon, the officers of DRI have detained five hundred and sixty numbers (560) of Indian one Rupee coins of pre-independence era under the provisions of Customs Act, 1962 and placed the same separately in three different plastic boxes, person-wise, and sealed with paper slips containing signatures of respective persons viz. Shri Muthalagu Mohana Sundaram, who is carrying 340 number of coins in his baggage, Shri M S Panchpeer who is carrying 100 number of coins in his baggage and that of Shri Maung Maung Than who is carrying 120 number of coins in his baggage, Sri Gyan Prakash, Intelligence Officer, DRI and the panchas, and also with lac affixing DRI seal and marked as M-3, M-4 and M-5.

6. The entire proceedings were recorded in the Panchanama dated 31.10.2018 (**Annexure A1**). The Panchanama was read over and explained to Shri Muthalagu Mohana Sundaram, Shri M S Panchpeer and Shri Maung Maung Than in Hindi by one of the Panch witnesses and all three of them have agreed that the contents of the Panchanama are true and correct and have appended their signatures on the Panchanama.

7. Statement of Shri Muthalagu Mohana Sundaram was recorded on 01.11.2018 (**Annexure A2**) under Section 108 of the Customs Act, 1962, wherein he *inter alia* stated that,

- he is one of the partners in a small travels company by name M/s. Azhagu Tours & Travels in Chennai and arrange tours to pilgrimage centers in India and package tour to Myanmar. He also sells Indian dresses in Myanmar.
- contents of Panchanama dated 31.10.2018, wherein gold of foreign (Myanmar) origin totally weighing 685 grams and packing material i.e. the black coloured tape used for concealing the smuggled gold were true and correct and that the entire panchanama proceedings were conducted in the presence of two witnesses and in his presence and it is true narration of events.
- total eleven (11) rectangular pieces of gold of different sizes of foreign origin out of which ten pieces are having foreign markings on them, were seized from his possession.
- he does not have any documents in support of the licit import of gold. He brought the gold from Myanmar. He has come to India from Myanmar through Kolkata



Airport. At the Airport he has not declared the Gold to the Indian Customs and smuggled the same. On being inquired by the officers of DRI, he has taken out and handed over the 685 grams Gold concealed in around waist in a secret pouch in the pants he was wearing, to the officers of DRI and they have seized the same.

- He has also taken out the 340 Indian one Rupee coins of pre-independence era from his luggage bag and handed over the same to the officers of DRI which were detained by them. In respect of the gold of foreign origin seized from him, he stated that he smuggled the said 685 grams of Gold from Myanmar to India to make quick money for undergoing a heart operation as his doctor told there are blocks in heart veins. Since he regularly travels between India and Myanmar, for his dress business and also as a tour operator, he was tempted to do this smuggling of gold in lure of good amount of money he can make in a span of about 10 days, and undertook the illegal transportation i.e., smuggling of foreign origin Gold. He was planning to sell the Gold brought from Myanmar to any gold merchant/jeweler in Chennai.
- he went to Yangoon (Myanmar) from Kolkata on 21.10.2018. He purchased four gold biscuits and a small rectangular strip of gold from a shop in Mugal Street in Yangoon city in Myanmar on 27.10.2018. The four biscuits were cut into 10 pieces by the seller himself for convenience of packing in a concealed manner. The total weight of the gold purchased by him is 685 Gms. He paid 50% of the amount in Kyat (Myanmar Currency), which he earned by selling the dresses taken from India. For the remaining 50%, his cousin S. Sekar, who is a resident of Yangon, stood as surety.
- he left Yangoon (Myanmar) on 28.10.2018 and reached Kolkata on the same day. From there he started by Train No. 22807 Santragachi-Chennai AC Express (SRC-MAS AC Express) from Santragachi to Chennai Central in AC three tier on 30.10.2018. He has got the ticket for 3Tier AC under RAC quota for the Train No. 22807 Santragachi-Chennai AC Express (SRC-MAS AC Express) from Santragachi to Chennai Central on 30.10.2018. During the journey, he has been allotted berth no. 39 in B8 compartment. When the train was about to reach Rajahmundry Railway Station in the morning of 31.10.2018, the DRI officers intercepted him, the Gold, and packing material being carried by him, for concealing the gold of foreign origin, were seized under Panchanama dated 31.10.2018 and 340 Indian one Rupee coins of pre-independence era were detained by the officers under the same panchanama.
- he is aware that dealing in smuggled gold of foreign origin is punishable under the Customs Act, 1962 and that the smuggled gold of foreign origin is liable for absolute confiscation. He has further admitted that he does not possess any documents showing the legal importation of the contraband Gold.

8. With the permission of the competent authority, Shri Muthalagu Mohana Sundaram was placed under arrest at 05:00 pm on 01.11.2018, in terms of Section 104 of the Customs Act, 1962. Shri Muthalagu Mohana Sundaram was explained the grounds of his arrest and the conditions for getting bail i.e., production of cash security deposit for Rs.2,20,000/- (Rs. Two Lakhs and Twenty Thousands only), along with a bond for Rs.2.2 Lakhs and two sureties for equal amount of bond value. He requested for time till 04:00 pm of 02.11.2018 for fulfilling the bail conditions. However, on being unable to fulfil the bail conditions, Shri Muthalagu Mohana Sundaram was produced before the Court of Hon'ble Special Judge for Economic Offences, Visakhapatnam on 02.11.2018. The Hon'ble Judge remanded him to judicial custody for fourteen days from 02.11.2018 till 16.11.2018. He was subsequently released on bail by the Court of Hon'ble Special Judge for Economic Offences, Visakhapatnam.

9. Shri Maung Maung Than was summoned on 01.11.2018 to appear on 02.11.2018 at the office of Directorate of Revenue Intelligence, Visakhapatnam Regional Unit, Visakhapatnam, to give statement with regard to inquiry into One Hundred and twenty (120) Indian One Rupee



coins of pre-independence era detained from his possession under Panchanama dated 31.10.2018.

10. Statement of Shri Maung Maung Than was recorded on 02.11.2018 (**Annexure A3**) under Section 108 of the Customs Act, 1962, wherein he inter alia stated that,

- he buys mostly Lungis, banians and handkerchiefs from Indians coming to Yangon, and sells them in Yangon and at various other places in Myanmar. He used to visit Chennai two to three times a year during the period from 1989 to 2007 for placing orders for Lungis, banians and handkerchiefs. Thereafter the demand for his business had gone down and he stopped visiting Chennai. Now, he is going to Chennai for placing orders for Lungis, banians and handkerchiefs after a long time. He has visited India along with his family in April this year for a tour of 30 days. He has visited Chennai only in September for placing orders for Lungis and banians.
- He admitted to the contents of the panchanama dated 31-10-2018 wherein 120 Indian one Rupee coins of pre independence era, were detained from his possession. The entire panchanama proceedings were conducted in his presence and are true narration of events. He bought those coins off and on in a piecemeal manner over a period of time. He does not have any documents in support of the licit import of the above said coins from Myanmar.
- On being asked by the officers of DRI, he states that he has brought those coins for putting in Hundi of the Lord Balaji and Madurai Meenkashi as a token of gratitude to the Gods for making good his spoiled health in the past.
- He has purchased the 120 Indian one Rupee coins of pre-independence era by paying 4500 kyat, i.e., about Rs.250/- for each coin. He left Yangoon of Myanmar on 28.10.2018 and reached Kolkata on the same day. Later he started by the Train No. 22807 Santragachi-Chennai AC Express (SRC-MAS AC Express) from Santragachi to Chennai Central in AC three tier on the evening of 30.10.2018. He has been allotted berth no. 31 in B8 compartment.
- When the train reached Rajahmundry Station in the morning of 31.10.2018, the DRI officers intercepted him, and 120 Indian one Rupee coins of pre-independence era were detained by the officers under the panchanama dated 31.10.2018. He further stated that he does not know it is an offence to carry those coins.

11. Shri M S Panchpeer was summoned on 01.11.2018 to appear on 02.11.2018 at the office of Directorate of Revenue Intelligence, Visakhapatnam Regional Unit, Visakhapatnam, to give statement with regard to inquiry into One Hundred (100) Indian One Rupee coins of pre-independence era detained from his possession under Panchanama dated 31.10.2018. However, he did not appear on 02.11.2018 at the office of Directorate of Revenue Intelligence, Visakhapatnam Regional Unit, Visakhapatnam.

12. The seized goods i.e., 685 grams of foreign origin gold seized from Shri Muthalagu Mohana Sundaram were deposited with the Superintendent of Customs, Customs Warehouse, Custom (Preventive) Commissionerate, Vijayawada on 02.11.2018 under Deposit memo dated 02.11.2018 (**Annexure A4**)

13. In order to examine the antique nature and value of the 560 Indian One Rupee coins of pre-independence era detained under panchanama dated 31.10.2018, the said coins were presented for examination before the Superintending Archaeologist, Amaravati Circle, Archaeological Survey of India (ASI). The Superintending Archaeologist, ASI, Amaravati Circle, in his letter F.No.6/AMT/10/CA/2018-19-Tech dated 02.11.2018 (**Annexure A5**), inter alia mentioned that as per definition of antiquity in The Antiquity and Art Treasure Act, 1972, an antiquity includes any coin which is more than 100 years old, and as the detained coins are issued before the year 1917, they are antiquities by virtue of the definition of antiquity. Further,



he informed that, the value may be arrived at by a simple formula as three times the metal value; and suggested to approach the Regional Director, (South) ASI, Bengaluru for issuance of antiquity certificate. After examination of the coins, the Superintending Archaeologist, ASI, Amaravati Circle, returned the said 560 coins sealed in the same boxes with paper slips containing signatures of Sri P. S. Sriraman, the Superintending Archaeologist, ASI, Amaravati Circle, Dr. Sushant K. Kar, Deputy Superintending Archaeologist, ASI, Amaravati Circle, Sri G. Suryaprakash, Assistant Archaeologist, ASI, Amaravati Circle and Sri Gyan Prakash, Intelligence Officer, DRI, Visakhapatnam Regional Unit

14. As the investigation into the case was not completed due to certain pending information from other agencies, in the case of seizure of 685 grams of smuggled Gold of foreign origin and detention of 560 Indian One Rupee coins of pre-independence era from the said three persons at Rajahmundry Railway Station on 31.10.2018, in exercise of the powers conferred under proviso to Sub-section (2) of Section 110 of the Customs Act, 1962, as amended, the Principal Commissioner of Customs (Preventive) Commissionerate, Vijayawada vide C.No.VIII/26/10/2019-Prev. dated 12.04.2019 (**Annexure A6**), has extended the time limit for issue of show cause notice in respect of the seized 685 grams of gold and detained 560 Indian One Rupee coins of Pre-independence era, for a period of six months i.e., from 30.04.2019 to 30.10.2019.

15. On being approached, the Regional Director, (South Zone), ASI, Bengaluru convened a meeting of Appeal Committee comprising experts nominated by the Director General, ASI, New Delhi, on 03.08.2019 at the office of the Superintending Archaeologist, ASI, Hyderabad Circle, Hyderabad to examine the 560 Indian One Rupee coins of Pre-independence era and asked to produce the said coins along with photographs. The 560 Indian One Rupee coins of Pre-independence era were photographed on 01.08.2019 under Panchanama and re-sealed. The 560 Indian One Rupee coins of pre-independence era were presented in sealed packages along with photographs before the Appeal Committee on 03.08.2019 at the office of the Superintending Archaeologist, ASI, Hyderabad Circle, Hyderabad. The said Appeal Committee had examined the 560 Indian One Rupee coins of Pre-independence era on 03.08.2019 and returned the said 560 Indian One Rupee coins of Pre-independence era packed and sealed with paper slips containing the signatures of the Assistant Superintending Archaeologist, ASI, Hyderabad Circle, Hyderabad and Sri Gyan Prakash, Intelligence Officer, DRI, Visakhapatnam. The decision of the Appeal Committee after examination of the said detained 560 Indian One Rupee coins of pre-independence era, was communicated by the Regional Director, (South), ASI, Bengaluru vide letter F.No.4/50/HYD/ANT/RD(S)/2019-20 dated 14.08.2019, through the Superintending Archaeologist, ASI, Hyderabad Circle, Hyderabad letter No. ANT/Tech/2019 dated 19.08.2019 (**Annexure A7**), wherein it is mentioned that all the 560 coins are "British India Silver One Rupee Coins" and are "Antiquities". The Regional Director, (South), ASI, Bengaluru has also certified the photographs of the said coins.

16. In order to conduct further investigation with regard to the detained 560 Antique Indian One Rupee Silver Coins of pre-independence era, summons dated 21.08.2019 were issued to Shri Muthalagu Mohana Sundaram, Shri M S Panchpeer and Shri Maung Maung Than (addressed to his C/o address at Chennai) to appear on 05.09.2019 at the office of Directorate of Revenue Intelligence, Visakhapatnam Regional Unit, Visakhapatnam, to produce documents/evidence, if any, relating to the detained 340, 100 and 120 coins respectively. The summons addressed to Shri M S Panchpeer returned back unserved with remarks of postal department as "Left" and the summons addressed to Sri Maung Maung Than was returned back unserved with remarks of postal department as "No such person". Further, none of the said three persons appeared at the office of DRI, Visakhapatnam Regional Unit on the given date i.e., 05.09.2019. Also, no evidence is produced showing licit import of the said 560 Antique Indian One Rupee Silver Coins of pre-independence era.



17. On 17.09.2019, two independent pancha witnesses were called upon and requested to witness the proceeding related to seizure of the said 560 Indian One Rupee Silver Coins of pre-independence era detained under the provisions of the Customs Act, 1962 from three persons namely (i) Muthalagu Mohana Sundaram (340 coins), (ii) M S Panch Peer (100 coins), and (iii) Maung Maung Than (120 coins), at Rajahmundry Railway station under a Panchanama on 31.10.2018. The DRI officers then showed the pancha witnesses three green colour cloth lined covers sealed with paper slips on which signatures dated 03.08.2019 of Intelligence Officer, Directorate of Revenue Intelligence, Visakhapatnam Regional Unit, and Assistant Superintending Archaeologist, Archaeological Survey of India, Hyderabad Circle, Hyderabad were available. On opening the said three green colour cloth lined covers, three plastic boxes (one box from each cover) along with packing materials of the said boxes cut opened on 02.11.2018, 01.08.2019 and 03.08.2019 were taken out. The said three plastic boxes contain the Indian One Rupee coins of pre-independence era. The coins contained in three boxes were counted and it was found that the first box contained 340 Indian One Rupee coins of pre-independence era; second box contained 100 Indian One Rupee coins of pre-independence era and the third box contained 120 Indian One Rupee coins of pre-independence era. In order to find out the weight and metal value of the said coins, in the presence of two independent pancha witnesses, the services of Shri Vankayala China Venkata Rama Gupta, Government approved Assayer and Valuer for Customs and Income Tax departments having License No. CC/VSP/TECH/34AB/16, was sought for. He examined all the 560 coins and after examination, he certified vide Assayer Report dated 17.09.2019 that all the 560 coins are of silver metal of 91.6% purity, and each coin is weighing 11.65 grams, and the silver content in each coin is 10.6714 grams and value of each coin is Rs.504.75 (@Rs.47.30 per gram); the total weight of silver content in 340 coins detained from Shri Muthalagu Mohana Sundaram is 3628.276 grams and the total metal value comes to Rs.1,71,615/- (Rs. One Lakh Seventy One Thousand Six Hundred and Fifteen Only); the total weight of silver content in 100 coins detained from Shri M S Panch Peer is 1067.14 grams and the total metal value comes to Rs.50,475/- (Rs. Fifty Thousand Four Hundred and Seventy Five Only); the total weight of silver content in 120 coins detained from Shri Maung Maung Than is 1280.568 grams and the total metal value comes to Rs.60,570/- (Rs. Sixty Thousand Five Hundred and Seventy Only). In token of the assay having been conducted in their presence, the pancha witnesses appended their signatures on the assayer report dated 17.09.2019. As per Point No. 4, of the letter F.No.6/AMT/10/CA/2018-19-Tech dated 02.11.2018 of the Superintending Archaeologist, ASI, Vijayawada, the value of One Rupee Antique coin can be arrived at as three times the metal value, and since all the 560 coins are certified as "Antique" by the ASI, Bengaluru vide their letter dated 14.08.2019, the value of each antique silver Indian One Rupee coin of pre-independence era shall be Rs.1514.25 i.e., three times the metal value (Rs.504.75) of each coin. Accordingly, the value of 340 antique silver Indian One Rupee coin of pre-independence era detained from Shri Muthalagu Mohana Sundaram comes to Rs.5,14,845/-; the value of 100 antique silver Indian One Rupee coin of pre-independence era detained from Shri MS Panch Peer comes to Rs.1,51,425/-; and the value of 120 antique silver Indian One Rupee coin of pre-independence era detained from Shri Maung Maung Than comes to Rs.1,81,710/-. Thereupon, the DRI officers in the presence of the said two independent pancha witnesses seized the said 560 coins under the provisions of the Customs Act, 1962, on the grounds that the same are smuggled into India from Myanmar without any licit documents for import in contravention of the Customs Act, 1962. The DRI officers in the presence of the said two independent pancha witnesses seized the said 340 antique silver Indian One Rupee coin of pre-independence era valued at Rs.5,14,845/- detained from Sri Muthalagu Mohana Sundaram and sealed them in the same plastic box from which they were taken out, in a green cloth lined cover and sealed it with paper slip containing signatures of the panchas, seizing officer, and also with lac affixing DRI seal and marked as C-1 for the purpose of identification. The DRI officers in the presence of the said two independent pancha witnesses seized the said 100 antique silver Indian One Rupee coin of pre-independence era valued at Rs.1,51,425/- detained from Sri M S Panch Peer and sealed them in the same plastic box from which they were taken out, in a green cloth lined cover and sealed it with paper slip containing signatures of the



panchas, seizing officer, and also with lac affixing DRI seal and marked as C-2 for the purpose of identification. The DRI officers in the presence of the said two independent pancha witnesses seized the said 120 antique silver Indian One Rupee coin of pre-independence era valued at Rs.1,81,710/- detained from Sri Maung Maung Than and sealed them in the same plastic box from which they were taken out, in a green cloth lined cover and sealed it with paper slip containing signatures of the panchas, seizing officer, and also with lac affixing DRI seal and marked as C-3 for the purpose of identification. The entire proceedings were recorded in the Panchanama dated 17.09.2019 (**Annexure A8**).

## 18. **LEGAL PROVISIONS:**

### **A. Gold :-**

a) In terms of Foreign Trade Policy (FTP) 2015-20, import of gold into India is always subject to the regulations of Reserve Bank of India. The Reserve Bank of India has periodically issued various circulars regulating the import of gold into India. In Reserve Bank of India circular viz., A.D.(G.P.Series) Circular No.7 dated 06/03/1998 it has been clearly mentioned that – *“Under the liberalised policy of import, Government of India has permitted import of gold by certain nominated agencies viz., Mineral and Metal Trading Corporation, Handicraft and Handloom Export Corporation, State Trading Corporation, State Bank of India and other agencies authorized by Reserve Bank for sale to jewellery manufacturers, exporters, Non Resident Indians, holders of Special Import licenses and domestic users. Accordingly, Reserve Bank of India has decided to permit the nominated agencies/banks to import gold under different arrangements, besides outright purchase on D/P basis as follows.....”*. Hence, only nominated agencies viz., Metals and Minerals Trading Corporation limited, Handicraft and Handloom Export Corporation, State Trading Corporation, Project and Equipment Corporation of India Limited, Spices Trading Corporation Limited, Metal Scrap Trade Corporation Limited, Diamond India Limited, Gems & Jewellery Export Promotion Council, a Star Trading House (only for Gems & Jewellery sector) or a Premier Trading House under Foreign Trade Policy and Scheduled Commercial Banks authorized by Reserve Bank of India are allowed to import gold into India. Even in case of the gold imported by these agencies, the import has to be made at notified Customs Stations on filing appropriate declaration, as required under Customs Act, 1962, and applicable duty has to be paid on the imported gold.

b) Further, Reserve Bank of India vide Circulars RBI/2012-13/5220 A.P.(DIR Series) Circular No.107 dated 04.06.2013, RBI/2013-14/148 A.P.(DIR Series) Circular No.15 dated 22.07.2013, RBI/2013-14/187 A.P.(DIR Series) Circular No.25 dated 14.08.2013 has imposed stringent conditions on import of gold even by nominated agencies and agencies authorized by Banks.

c) In line with the prevailing regulations of Reserve Bank of India, the Central Board of Excise and Customs (CBEC) has vide **Circular No. 34/2013 dated 04.09.2013** issued fresh guidelines on import of gold and gold dore bars into India and in the said Circular, it has been clearly mentioned that - *“2. Henceforth, gold shall be permitted to be imported only by the agencies notified by DGFT, which as of now are as follows:*

- i. *Metals and Minerals Trading Corporation limited (MMTC);*
- ii. *Handicraft and Handloom Export Corporation (HHEC);*
- iii. *State Trading Corporation (STC);*
- iv. *Project and Equipment Corporation of India Ltd. (PEC);*
- v. *Spices Trading Corporation Ltd;*
- vi. *Metal Scrap Trade Corporation Limited;*



- vii. *Diamond India Limited (DIL);*
- viii. *Gems & Jewellery Export Promotion Council (G&J EPC);*
- ix. *A Star Trading House (only for Gems & Jewellery sector) or a Premier Trading House under paragraph 3.10.2 of Foreign Trade Policy; and*
- x. *Any other agency authorized by Reserve Bank of India (RBI)."*

**d). Rule 4 of Baggage Rules, 2016 (as amended) – Rule 4 – Passenger arriving from Nepal, Bhutan or Myanmar - An Indian resident or a foreigner**

residing in India or a tourist, not being an infant arriving from Nepal, Bhutan or Myanmar, shall be allowed clearance free of duty articles in his bona fide baggage, that is to say,

- (a) used personal effects and travel souvenirs; and
- (b) articles other than those mentioned in Annexure -I up to the value of fifteen thousand rupees if these are carried on the person or in the accompanied baggage of the passenger:

Provided that where the passenger is an infant, only used personal effects shall be allowed duty free:

Provided further that where the passenger is arriving by land, only used personal effects shall be allowed duty free.

*Explanation.-* The free allowance of a passenger under this rule shall not be allowed to pool with the free allowance of any other passenger.

**ANNEXURE-I**

(See Rule 3, 4 and 6)

1. Fire arms.
  2. Cartridges of fire arms exceeding 50.
  3. Cigarettes exceeding 100 sticks or cigars exceeding 25 or tobacco exceeding 125 gms.
  4. Alcoholic liquor or wines in excess of two litres.
  5. Gold or silver in any form other than ornaments.
  6. Flat Panel (Liquid Crystal Display/Light-Emitting Diode/Plasma) television.
- e). **In terms of CBEC Circular No. 29/2000-Cthem dated 11-04-2000 issued from File F.No. 495/19/99-Custom-IV**, while reiterating the instructions contained in Board's instructions vide F.No. 495/6/96-Cthem.VI dt. 6.5.1996, it was clarified that import of goods in baggage in commercial quantities would not be permissible within the scope of the Baggage Rules, even on payment of baggage rate of duty.
- f). **Notification 50/2017-Customs dated 30-06-2017 (Serial No. 356) as amended:**

In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962) and sub-section (12) of section 3, of Customs Tariff Act, 1975 (51 of 1975), and in supersession of the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 12/2012-Customs, dated the 17th March, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 185(E), dated the 17th March, 2017, except as respects things done or omitted to be done before such supersession, the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts the goods of the description specified in column (3) of the Table below or column (3) of the said Table read with the relevant List appended hereto, as the case may be, and falling within the Chapter, heading, sub-heading or tariff item of the First Schedule to the said Customs Tariff Act, as are specified in the corresponding entry in column (2) of the said Table, when **imported** into India,-



(a) from so much of the duty of customs leviable thereon under the said First Schedule as is in excess of the amount calculated at the standard rate specified in the corresponding entry in column (4) of the said Table;

(b) from so much of integrated tax leviable thereon under sub-section (7) of section 3 of said Customs Tariff Act, read with section 5 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) as is in excess of the amount calculated at the rate specified in the corresponding entry in column (5) of the said Table, subject to any of the conditions, specified in the Annexure to this notification, the condition number of which is mentioned in the corresponding entry in column (6) of the said Table:

S.No.	Chapter	Description of goods	Standard rate	IGST	Condition No.
(1)	(2)	(3)	(4)	(5)	(6)
356	71 or 98	(i) Gold bars, other than tola bars, bearing manufacturer's or refiner's engraved serial number and weight expressed in metric units, and gold coins having gold content not below 99.5%, imported by the eligible passenger	12.5%	NIL	41
		(ii) Gold in any form other than (i), including tola bars and ornaments, but excluding ornaments studded with stones or pearls	12.5%	NIL	41
357	71 or 98	Silver, in any form including ornaments, but excluding ornaments studded with stones or pearls	12.5%	NIL	41

The condition 41 is reproduced below:

Condition No.	Conditions
41	<p>If, -</p> <ol style="list-style-type: none"> <li> <p>(a) the duty is paid in convertible foreign currency;</p> <p>(b) the quantity of import does not exceed ten kilograms of gold and one hundred kilograms of silver per eligible passenger; and</p> </li> <li>the gold or silver is, - <ol style="list-style-type: none"> <li>carried by the eligible passenger at the time of his arrival in India, or</li> <li>the total quantity of gold under items (i) and (ii) of Sr. No. 356 does not exceed one kilogram and the quantity of silver under Sr. No. 357 does not exceed ten kilograms per eligible passenger; and,</li> <li>is taken delivery of from a customs bonded warehouse of the State Bank of India or the Minerals and Metals Trading Corporation Ltd., subject to the conditions 1;</li> </ol> </li> </ol> <p><b>Provided</b> that such eligible passenger files a declaration in the prescribed form before the proper officer of customs at the time of his arrival in India declaring his intention to take delivery of the gold or silver from such a customs bonded warehouse and pays the duty</p>



	<p>leviable thereon before his clearance from customs.</p> <p><b>Explanation.-</b> For the purposes of this notification, “eligible passenger” means a passenger of Indian origin or a passenger holding a valid passport, issued under the Passports Act, 1967 (15 of 1967), who is coming to India after a period of not less than six months of stay abroad; and short visits, if any, made by the eligible passenger during the aforesaid period of six months shall be ignored if the total duration of stay on such visits does not exceed thirty days and such passenger has not availed of the exemption under this notification or under the notification being superseded at any time of such short visits.</p>
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**g) The relevant provisions under the customs Act, 1962 are:-**

**1.Section 2(11) —‘customs area’** means the area of a custom station or a warehouse and includes any area in which imported goods or export goods are ordinarily kept before clearance by Customs Authorities;

**2.Section 2(13)—‘customs station’** means any customs port, customs airport, international courier terminal, foreign post office or land customs station;

**3.Section 2(22)—‘goods’** includes baggage.

**4.Section 2(23) – “import”**, with its grammatical variations and cognate expressions, means bringing into India from a place outside India;

**5.Section 2(33) – “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;

**6.Section 2(39) – “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.

**7.Section 11– Power to prohibit importation or exportation of goods.** – (1) If the Central Government is satisfied in sub-section (2), it may, by notification in the official Gazetted, prohibit either absolutely or subject to such conditions (to be fulfilled before or after clearance) as may be specified in the notification, the import or export of goods of any specified description.

(2) The purposes referred to in sub-section (1) are the following:-

(c) the prevention of smuggling;

(e) the conservation of foreign exchange and the safeguarding of balance of payments;

(f) the prevention of injury to the economy of the country by the uncontrolled import or export of gold or silver;

(l) the protection of national treasures of artistic, historic or archaeological value;

**8.Section 77 – Declaration by owner of baggage.** – The owner of any baggage shall, for the purpose of clearing it, make a declaration of its contents to the proper officer.

**9.Section 111 – Confiscation of improperly imported goods, etc.** – The following goods brought from a place outside India shall be liable to confiscation:-

(b) any goods imported by land or inland water through any route other than a route specified in a notification issued under clause (c) of section 7 for the import of such goods;



(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;

(f) any dutiable or prohibited goods required to be mentioned under the regulations in an [arrival manifest, import manifest] or import report which are not so mentioned;

(i) any dutiable or prohibited goods found concealed in any manner in any package either before or after the unloading thereof;

(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;

**10. Section 112 – Penalty for improper importation of goods, etc. – Any person, -**

(a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or

(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, 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 or the goods or five thousand rupees, whichever is the greater;

(ii) in the case of dutiable goods, other than prohibited goods, to a penalty not exceeding the duty sought to be evaded on such goods or five thousand rupees, whichever is the greater;

(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 valued thereof, to a penalty not exceeding the difference between the declared valued and the valued 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 not exceeding the value of the goods or the difference between the declared valued 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 not exceeding the duty sought to be evaded on such goods or the difference between the declared value and the valued thereof or five thousand rupees, whichever is the highest.

**11. Section 119 – Confiscation of goods used for concealing smuggled goods, - Any goods used for concealing smuggled goods shall also be liable to confiscation.**

**12. Section 123 – Burden of proof in certain cases. – (1) Where any goods to which this section applies are seized under this Act in the reasonable belief that they are smuggled goods, the burden of proving that they are not smuggled goods shall be –**

(a) in a case where such seizure is made from the possession of any person, -



(i) on the person from whose possession the goods were seized; and

(ii) if any person, other than the person from whose possession the goods were seized, claims to be the owner thereof, also on such other person;

(b) in any other case, on the person, if any, who claims to be the owner of the goods so seized.

(2) This section shall apply to gold, and manufactures thereof, watches, and any other class of goods which the Central government may by notification in the official gazette specify.

13. **Foreign Trade (Exemption from application of Rules in certain cases) Amendment Order, 2017 issued vide F.No. 01/93/180/16/AM-16/ PC-2(B) dated 25.07.2017 :**

**3. Exemption from the application of rules. -**

(1) Nothing contained in the Rules shall apply to the import of any goods –

(h) by the person as passenger baggage to the extent admissible under the Baggage Rules for the time being in force:

*Provided that in the case of imports by a tourist, articles of high value whose re-export is obligatory under Baggage Rules, 2016, shall be re-exported on his leaving India, failing which such goods shall be deemed to be goods the import of which has been prohibited under the Customs Act, 1962 (52 of 1962);*

14. **Para 2.26 of Foreign Trade Policy – Passenger Baggage**  
(a) Bona fide household goods and personal effects may be imported as part of passenger baggage as per limits, terms and conditions thereof in Baggage Rules notified by Ministry of Finance.

15. **As per section 3(2) of the foreign trade (Development & Regulation) Act, 1992,** The central government may also, by order published in the official gazette, make provisions of prohibiting, restriction or otherwise regulation, in all cases or in specific classes of cases and subject to such exceptions, if any, as may be made by or under the order, the import or export of goods or services or technology, As per section 3(3) of the foreign trade (development & Regulation) Act, 1992 all goods to which sub-section (2) applies shall be deemed to be goods the import or export of which has been prohibited under Section 11 of the Customs Act, 1962.

**B. Antique Indian One Rupee Silver Coins of Pre-independence era:-**

i. **Rule 4 of Baggage Rules, 2016 (as amended) – Rule 4 – Passenger arriving from Nepal, Bhutan or Myanmar –**

An Indian resident or a foreigner residing in India or a tourist, not being an infant arriving from Nepal, Bhutan or Myanmar, shall be allowed clearance free of duty articles in his bona fide baggage, that is to say,

(a) used personal effects and travel souvenirs; and

(b) articles other than those mentioned in Annexure -I up to the value of fifteen thousand rupees if these are carried on the person or in the accompanied baggage of the passenger:

*Provided that where the passenger is an infant, only used personal effects shall be*



*allowed duty free:*

*Provided further that where the passenger is arriving by land, only used personal effects*

*shall be allowed duty free.*

*Explanation.- The free allowance of a passenger under this rule shall not be allowed to pool with the free allowance of any other passenger.*

#### ANNEXURE-I

(See Rule 3, 4 and 6)

1. Fire arms.
2. Cartridges of fire arms exceeding 50.
3. Cigarettes exceeding 100 sticks or cigars exceeding 25 or tobacco exceeding 125 gms.
4. Alcoholic liquor or wines in excess of two litres.
5. Gold or silver in any form other than ornaments.
6. Flat Panel (Liquid Crystal Display/Light-Emitting Diode/Plasma) television.
- ii. **In terms of CBEC Circular No. 29/2000-Cthem dated 11-04-2000 issued from File F.No. 495/19/99-Custom-IV**, while reiterating the instructions contained in Board's instructions vide F.No. 495/6/96-Cthem.VI dt. 6.5.1996, it was clarified that import of goods in baggage in commercial quantities would not be permissible within the scope of the Baggage Rules, even on payment of baggage rate of duty.
- iii. **Section 11- Power to prohibit importation or exportation of goods.** – (1) If the Central Government is satisfied in sub-section (2), it may, by notification in the official Gazetted, prohibit either absolutely or subject to such conditions (to be fulfilled before or after clearance) as may be specified in the notification, the import or export of goods of any specified description.
  - (2) The purposes referred to in sub-section (1) are the following:-
    - (c) the prevention of smuggling;
    - (e) the conservation of foreign exchange and the safeguarding of balance of payments;
    - (l) the protection of national treasures of artistic, historic or archaeological value;
- iv. **Section 77 – Declaration by owner of baggage.** – The owner of any baggage shall, for the purpose of clearing it, make a declaration of its contents to the proper officer.
- v. **Section 111 – Confiscation of improperly imported goods, etc.** – The following goods brought from a place outside India shall be liable to confiscation:-
  - (b) any goods imported by land or inland water through any route other than a route specified in a notification issued under clause (c) of section 7 for the import of such goods;
  - (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;
  - (e) any dutiable or prohibited goods found concealed in any manner in any conveyance;



(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;

(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;

vi. **Section 112 – Penalty for improper importation of goods, etc. – Any person, -**

(a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or

(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, 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, whichever is the greater;

(ii) in the case of dutiable goods, other than prohibited goods, to a penalty not exceeding the duty sought to be evaded on such goods or five thousand rupees, whichever is the greater;

(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 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 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 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.

vii. **Section 7 of THE FOREIGN TRADE (DEVELOPMENT AND REGULATION) ACT, 1992 (as amended)-** No person shall make any import or export except under an Importer-exporter Code Number granted by the Director General or the officer authorized by the Director General in this behalf, in accordance with the procedure specified in this behalf by the Director General.

viii. **Section 46 of The Customs Act, 1962- Entry of goods on importation--(1)**The importer of any goods, other than goods intended for transit or transshipment, shall make entry thereof by presenting electronically on the customs automated system to the proper officer a bill of entry for home consumption or warehousing in such form and manner as may be prescribed:

ix. **Foreign Exchange Management (Export and import of currency) Regulations, 2015- Para 3 Export and Import of Indian currency and currency notes :-**



(1) *Save as otherwise provided in these regulations, any person resident in India,*

- a. *may take outside India (other than to Nepal and Bhutan) currency notes of Government of India and Reserve Bank of India notes up to an amount not exceeding Rs.25000/- (Rupees Twenty Five Thousand Only) per person or such amount and subject to such conditions as notified by Reserve Bank of India from time to time;*
- b. *may take or send outside India (other than to Nepal and Bhutan) commemorative coins not exceeding two coins each.*

*Explanation: 'Commemorative Coin' includes coin issued by Government of India Mint to commemorate any specific occasion or event and expressed in Indian currency.*

- c. *who had gone out of India on a temporary visit, may bring into India at the time of his return from any place outside India (other than from Nepal and Bhutan), currency notes of Government of India and Reserve Bank of India notes up to an amount not exceeding Rs.25,000/- per person or such amount and subject to such conditions as notified by Reserve Bank of India from time to time.*

*Without prejudice to the provisions of sub-regulation (1), Reserve Bank may, on application made to it and on being satisfied that it is necessary to do so, allow a person to take or send out of India or bring into India currency notes of Government of India and/or of Reserve Bank of India subject to such terms and conditions as the Bank may stipulate.*

(2) *Save as otherwise provided in these regulations, any person resident outside India, not being a citizen of Pakistan or Bangladesh, and visiting India,*

- a. *may take outside India currency notes of Government of India and Reserve Bank of India notes up to an amount not exceeding Rs.25000 (Rupees Twenty Five Thousand Only) per person or such other amount and subject to such conditions as notified by Reserve Bank of India from time to time.*
- b. *may bring into India currency notes of Government of India and Reserve Bank of India notes up to an amount not exceeding Rs.25000 (Rupees Twenty Five Thousand Only) per person or such other amount and subject to such conditions as notified by Reserve Bank of India from time to time.*

X.

#### **Para 6. Import of foreign exchange into India:-**

**A person may –**

- a. *send into India without limit foreign exchange in any form other than currency notes, bank notes and travellers cheques:*
- b. *bring into India from any place outside India without limit foreign exchange (other than unissued notes).*

*provided that bringing of foreign exchange into India under clause (b) shall be subject to the condition that such person makes, on arrival in India, a declaration to the Custom authorities in Currency Declaration Form (CDF) annexed to these Regulations;*

*provided further that it shall not be necessary to make such declaration where the aggregate value of the foreign exchange in the form of currency notes, bank notes or traveller's cheques brought in by such person at any one time does not exceed US\$10,000 (US Dollars ten thousands) or its equivalent and/or the aggregate value of foreign currency notes brought in by such person at any one time does not exceed US\$ 5,000 (US Dollars five thousands) or its equivalent.*



19. In view of the facts mentioned in the foregoing, it appears that,

**A. 685 grams Gold valued at Rs.22,28,990/- seized from Sri Muthalagu Mohana Sundaram -**

- (i) the 685 grams of gold is of foreign origin and was smuggled from Myanmar by Sri Muthalagu Mohana Sundaram. The 685 grams (11 rectangular pieces of gold of different sizes) of gold in the instant case, smuggled into India from Myanmar by him by concealing the same and by not disclosing the same on arrival at the Airport, in order to avoid customs check, thereby making the said gold liable for confiscation in terms of Section 111(d) & Section 111 (l) of the Customs Act, 1962.
- (ii) The seized 11 rectangular pieces of gold weighing 685 grams concealed around waist in a secret pouch in the Pants and smuggled into India from Myanmar was found in the possession of Shri Muthalagu Mohana Sundaram. No documents were found in the possession of Shri Muthalagu Mohana Sundaram and he admitted that he does not have documents to show the licit import of the seized 11 rectangular pieces of gold weighing 685 grams.
- (iii) It is apparent that gold was not imported by any agencies nominated by RBI. FTP 2015-20 states that import of gold into India is always subject to the regulations of Reserve Bank of India and there is no evidence to suggest that gold seized from Shri Muthalagu Mohana Sundaram is imported by any nominated agency and hence the same is in violation of FTP and therefore falls in the category of 'prohibited goods' as per the provisions of the Foreign Trade Policy read with Section 3(3) of the Foreign Trade (Development & Regulation) Act, 1992, and hence liable for confiscation under Section 111(d) and Section 111(f) of the Customs Act, 1962.
- (iv) The 685 grams of gold of foreign origin seized from the possession of Shri Muthalagu Mohana Sundaram was smuggled into India. The seized gold does not fall in the category of bonafide baggage as per para 2.26 of Foreign Trade Policy and the same is brought in to India in violation of the Foreign Trade Policy and Customs Act, 1962 thereby rendering the said gold of foreign origin liable for confiscation under Section 111(d), Section 111(f) and Section 111(l) of Customs Act, 1962.
- (v) Further, the 685 grams of gold smuggled into India is of commercial quantity and cannot be treated as 'bonafide baggage'. Hence, the gold weighing 685 grams smuggled into India in commercial quantity would not fall within the scope of Baggage Rules, even on payment of baggage rate of duty. Import of any goods as passenger baggage is regulated by Para 2.26 of Foreign Trade Policy which allows a passenger import of 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. Hence, the 685 grams of gold smuggled in commercial quantities fall in the category of 'prohibited goods' under the provisions of the Foreign Trade Policy read with Section 3(3) of the Foreign Trade (Development & Regulation) Act, 1992 and therefore, such goods are liable for confiscation under Section 111(d) and Section 111(f) of the Customs Act, 1962.
- (vi) The seized 11 rectangular pieces of gold weighing 685 grams were found concealed in the black colour tape and the said black colour tape has also been seized as the same is constituting to be the goods used for concealing, thereby rendering the gold liable for confiscation also under Section 111 (i) of the Customs Act, 1962.
- (vii) The seized Gold was not declared at any point of time while being brought into India and without following proper procedure as laid down in Customs Act, 1962. Hence, the said act, tantamount to 'smuggling' within the meaning of Section 2(39) of Customs Act, 1962.



- (viii) Shri Muthalagu Mohana Sundaram has admitted that the gold was smuggled by him from Myanmar. The person who brings gold by Air/Sea or land through an Airport/Sea port or a Land Customs Station has to make a declaration of the gold that was brought by Air/Sea or land into India as required under Section 77 of the Customs Act, 1962. Apparently, it appears that there is no declaration made under Section 77, thereby rendering the gold liable for confiscation under Section 111 (l) of the Customs Act, 1962.
- (ix) Shri Muthalagu Mohana Sundaram has admitted that he smuggled the gold of foreign origin knowing it fully well that smuggling gold of foreign origin is an offence.
- (x) In terms of Serial No. 356 and Condition No. 41 of Notification 50/2017-Customs dated 30-06-2017 (as amended), a passenger of Indian origin or a passenger holding a valid passport, issued under the Passports Act, 1967 (15 of 1967), who is coming to India after a period of not less than six months of stay abroad can import gold bars on payment of duty in convertible foreign exchange, not exceeding 1 kg. Benefit of the exemption notification cannot be extended to a person who had illegally imported gold in commercial quantity into the country, as it does not constitute bonafide household goods and personal effects and as such cannot be treated as passenger baggage as per Baggage Rules, 1998. Import of goods in violation of the provisions of Customs Act, 1962, cannot be a valid import under the Act, and therefore, such goods cannot be treated as lawfully "imported goods" within the definition of that term in Section 2(25) of the Act. Further, 'smuggled goods' will not come within the definition of 'imported goods' for the purpose of any beneficial notification. Therefore, Shri Muthalagu Mohana Sundaram is not entitled to the benefit of any of the notifications.
- (xi) In terms of Section 123 of the Customs Act, 1962 gold falls in the category of notified goods under the Act, *ibid*, and the burden of proving that the seized goods viz., 11 rectangular pieces of gold of different sizes total weighing 685 grams were not smuggled goods, lies on Shri Muthalagu Mohana Sundaram which he failed to do so. The department by its investigation, has provided ample proof that the gold seized is smuggled into India by Shri Muthalagu Mohana Sundaram and he has not discharged his burden of proof, though mandatory in terms of Section 123 of the Act, *ibid*
- (xii) Shri Muthalagu Mohana Sundaram in his statement dated 01.11.2018 admitted that he was in possession of gold of foreign origin and that the same was smuggled into India and by him and that he does not have any documents to show the licit import of the same.
- (xiii) As per Section 119 of the Customs Act, 1962, any goods used for concealing the smuggled goods shall also be liable to confiscation. Accordingly, it appears that the packing material i.e., black coloured tape used for concealing the smuggled gold, is liable to confiscation under Section 119 of the Customs Act, 1962.
- (xiv) It appears that Shri Muthalagu Mohana Sundara had smuggled the 685 grams of gold and bringing the same from Kolkata to Chennai for making quick money and has orchestrated this whole unscrupulous activity of smuggling of gold of foreign origin without declaring the same to Customs and without payment of any duty.
- (xv) In the light of the gravity of offence committed by Shri Muthalagu Mohana Sundaram as discussed above, it is a fit case for imposition of exemplary penalty under Section 112 of Customs Act, 1962 commensurate with the seriousness of the offence committed by him.
- (xvi) As the gold pieces in commercial quantity is imported in violation of the orders passed under Foreign Trade (Development & Regulation) Act, 1992, as per



Section 3(3) *ibid* the goods under import shall be deemed to be prohibited under Section 11 of the Customs Act, 1962.

- (xvii) The gold which was smuggled into India in commercial quantity found to be in possession of Shri Muthalagu Mohana Sundaram and as such he has concerned himself in carrying, harboring, keeping, concealing smuggled gold of foreign origin in commercial quantity which he had reasons to believe that they are liable to confiscation under Section 111 of the Customs Act, 1962.
- (xviii) In terms of Section 123 of the Customs Act, 1962, gold falls in the category of notified goods under the Act, *ibid*, and the burden of proof that the seized gold, totally weighing 685 grams was not smuggled goods lies on Shri Muthalagu Mohana Sundaram, which he failed to do so.
- (xix) For the reasons mentioned in the foregoing para, the seized 11 rectangular pieces of gold of different sizes total weighing 685 grams and valued at Rs.22,28,990/- smuggled into India are liable for confiscation under Section 111(d), Section 111(f), Section 111(i) and Section 111(l) of the customs Act, 1962.
- (xx) Shri Muthalagu Mohana Sundaram has admitted that he smuggled gold knowing it fully well that smuggling gold of foreign origin is an offence and thereby has knowingly concerned himself in aiding and abetting the conspiracy of smuggling of gold of foreign origin which he knew is liable for confiscation under Section 111 of the Customs Act, 1962. Thus, he has rendered himself liable for imposition of penalty under Section 112(a) and 112(b) of the Customs Act, 1962.

**B. 560 Antique Indian One Rupee Silver Coins of pre-independence era -**

- i. The statement of Shri Muthalagu Mohana Sundaram clearly indicates that the 340 Antique Indian One Rupee Silver Coins of pre-independence era in the instant case, appear to be smuggled into India from Myanmar by him by concealing in his baggage and not disclosing the same at the time of arrival at the Airport, in order to avoid customs check, thereby making them liable for confiscation in terms of Section 111(e) of the Customs Act, 1962.
- ii. Even after having been summoned for giving statement, related to the detention of 100 Antique Indian One Rupee Silver Coins of pre-independence era from his possession, Shri M S Panchpeer, did not appear on the scheduled date before the officers of DRI. The 100 Antique Indian One Rupee Silver Coins of pre-independence era found in the baggage of Shri M S Panchpeer without any licit documents of import clearly indicates that the same were smuggled from Myanmar by him by concealing in his baggage and not disclosing the same at the time of arrival at the Airport, in order to avoid customs check, thereby making them liable for confiscation in terms of Section 111(e) of the Customs Act, 1962.
- iii. The statement of Shri Maung Maung Than clearly indicates that the 120 Antique Indian One Rupee Silver Coins of pre-independence era in the instant case, are smuggled into India from Myanmar by him by concealing in his baggage and not disclosing the same at the time of arrival at the Airport, in order to avoid customs check, thereby making them liable for confiscation in terms of Section 111(e) of the Customs Act, 1962.
- iv. The seized 340 Antique Indian One Rupee Silver Coins of pre-independence era were found in the possession of Shri Muthalagu Mohana Sundaram. No documents were found in the possession of Shri Muthalagu Mohana Sundaram and he admitted that he does not have documents to show the licit import/purchase of the seized 340 Antique Indian One Rupee Silver Coins of pre-independence era. The seized 100 Antique Indian One Rupee Silver Coins of pre-independence era were found in the possession of Shri M S Panchpeer. No documents showing licit import of the said coins were produced by Sri M S



Panchpeer at any stage. The seized 120 Antique Indian One Rupee Silver Coins of pre-independence era were found in the possession of Shri Maung Maung Than. No documents were found in the possession of Shri Maung Maung Than, and he admitted that he does not have documents to show the licit import of the seized 120 Antique Indian One Rupee Silver Coins of pre-independence era. Therefore, the said 560 Antique Indian One Rupee Silver Coins of pre-independence era were imported in violation of the provisions of Customs Act, 1962, and hence, the said 560 Antique Indian One Rupee Silver Coins of pre-independence era are liable for confiscation under Section 111(d) of the Customs Act, 1962.

- v. The 340 Antique Indian One Rupee Silver Coins of pre-independence era seized from the possession of Shri Muthalagu Mohana Sundaram, the 100 Antique Indian One Rupee Silver Coins of pre-independence era seized from the possession of Shri M S Panchpeer, and the 120 Antique Indian One Rupee Silver Coins of pre-independence era seized from the possession of Shri Maung Maung Than were smuggled into India. The seized silver coins does not fall in the category of bonafide baggage as per para 2.26 of Foreign Trade Policy as the same was brought in to India in violation of the Foreign Trade Policy and Customs Act, 1962 thereby rendering the said Antique Indian One Rupee Silver Coins of pre-independence era liable for confiscation under Section 111(d) of the Customs Act, 1962.
- vi. Further, the 560 Antique Indian One Rupee Silver Coins of pre-independence era weighing 6524 grams (11.65 grams each X 560) smuggled into India is of commercial quantity and cannot be treated as 'bonafide baggage'. Hence, the 560 Antique Indian One Rupee Silver Coins of pre-independence era weighing 6524 grams smuggled into India in commercial quantity would not fall within the scope of Baggage Rules, even on payment of baggage rate of duty. Import of any goods as passenger baggage is regulated by Para 2.26 of Foreign Trade Policy which allows a passenger import of 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. Hence, the 560 Antique Indian One Rupee Silver Coins of pre-independence era weighing 6524 grams smuggled in commercial quantities fall in the category of 'prohibited goods' under the provisions of the Foreign Trade Policy read with Section 3(3) of the Foreign Trade (Development & Regulation) Act, 1992 and therefore, such goods appear to be liable for confiscation under Section 111(d) and Section 111(m) of the Customs Act, 1962.
- vii. The said 560 Antique Indian One Rupee Silver Coins of pre-independence era were smuggled into India through a route other than those appointed under clause (c) of Section 7 of the Customs Act, 1962, to avoid Customs check, thereby making them liable for confiscation under Section 111(b) of the Customs Act, 1962.
- viii. The said 560 Antique Indian One Rupee Silver Coins of pre-independence era were removed from the customs area (airport) by Shri Muthalagu Mohana Sundaram (340 coins), Shri M S Panchpeer (100 coins) and Shri Maung Maung Than (120 coins) as defined under Section 2 (11) of the Customs Act, 1962, without the permission of the proper officer, and hence, the said 560 Antique Indian One Rupee Silver Coins of pre-independence era are liable for confiscation under Section 111 (j) of the Customs Act, 1962.
- ix. The seized 560 Antique Indian One Rupee Silver Coins of pre-independence era weighing 6524 grams was not declared by Shri Muthalagu Mohana Sundaram, Shri M S Panchpeer and Shri Maung Maung Than at any point of



time while being brought into India and by them and without following proper procedure as laid down in Customs Act, 1962. Hence, the said act, tantamount to 'smuggling' within the meaning of Section 2(39) of Customs Act, 1962.

- x. No Import Export Code (IEC) as stipulated under Section 7 of the Foreign Trade (Development and Regulation) Act, 1992 (as amended) was taken by either of Shri Muthalagu Mohana Sundaram or Shri M S Panchpeer or Shri Maung Maung Than for import of the said coins.
- xi. No Bill of Entry as stipulated under Section 46 (1) of the Customs Act, 1962, was filed by either of Shri Muthalagu Mohana Sundaram or Shri M S Panchpeer or Shri Maung Maung Than for import of the said coins.
- xii. Procedures laid down under Foreign Trade Policy and Customs Act, 1962 and rule thereof stipulated for legal import have not been followed by either of Shri Muthalagu Mohana Sundaram or Shri M S Panchpeer or Shri Maung Maung Than for import of the said coins.
- xiii. In the light of the gravity of offence committed by Shri Muthalagu Mohana Sundaram, Shri M S Panchpeer and Shri Maung Maung Than as discussed above, this is a fit case for imposition of exemplary penalty under Section 112 of Customs Act, 1962 commensurate with the seriousness of the offence committed by them.
- xiv. There are contraventions of provisions of – Notification issued under Customs Act, 1962; Foreign Trade Policy; thereby rendering the goods to be treated as smuggled goods.
- xv. For the reasons mentioned in the foregoing para, the seized 560 Antique Indian One Rupee Silver Coins of pre-independence era totally weighing 6524 grams and valued at Rs.8,47,980/- (Rs.1514.25 for each coinX560) smuggled into India appears to be liable for confiscation under Section 111(b), Section 111(d), Section 111(e), Section 111(j) and Section 111(m) of the customs Act, 1962.
- xvi. Shri Muthalagu Mohana Sundaram, and Shri Maung Maung Than have admitted that they smuggled the said coins knowing it fully well that the same is an offence and thereby have knowingly concerned themselves in aiding and abetting the conspiracy of smuggling of Antique Indian One Rupee Silver Coins of pre-independence era which they knew is liable for confiscation under Section 111 of the Customs Act, 1962. Thus, they have rendered themselves liable for imposition of penalty under Section 112(a) and 112(b) of the Customs Act, 1962.
- xvii. Shri M S Panchpeer failed to respond to the summons issued under Section 108 of the Customs Act, 1962. However, he was also travelling along with Shri Muthalagu Mohana Sundaram, and Shri Maung Maung Than from Myanmar along with 100 Antique Indian One Rupee Silver Coins of pre-independence era and also not produced any proof of their licit import, and thereby has knowingly concerned himself in aiding and abetting the conspiracy of smuggling of Indian One Rupee Coins of Pre-independence era which he knew is liable for confiscation under Section 111 of the Customs Act, 1962. Thus, he has rendered himself liable for imposition of penalty under Section 112(a) and 112(b) of the Customs Act, 1962.

20. Now therefore, Shri Muthalagu Mohana Sundaram, S/o Shri K. Muthalagu, R/o 5/219, New Number 5/95, Subrahmanya Bharati Street, Mondiamman Nagar, Redhills, Chennai, Tamilnadu-600052, is required to show cause to the **Additional Commissioner of Customs, Office of the Principal Commissioner of Customs, Customs(Preventive) Commissionerate,**



**D.No.55-17-3, C-14, Road No.2, Industrial Estate, Autonagar, Vijayawada-520007 within 30 [thirty] days of the receipt of this show cause notice as to why:-**

(i) The 11 rectangular pieces of gold of different sizes totally weighing 685 grams and totally valued at Rs.22,28,990/- (Rupees Twenty Two lakh Twenty Eight Thousand Nine Hundred and Ninety only), seized under Panchanama dated 31.10.2018, should not be absolutely confiscated under Section 111(d), 111(f), 111(i) and 111(l) of the Customs Act, 1962;

(ii) Penalty should not be imposed on him under Section 112 of the Customs Act, 1962;

(iii) the 340 Antique Indian One Rupee Silver Coins of pre-independence era totally weighing 3961 grams (11.65 gramsX340) and valued at Rs.5,14,845/- (Rs.1514.25X340) (Rupees Five Lakh Fourteen Thousand Eight Hundred and Forty Five only), detained under Panchanama dated 31.10.2018 and seized under Panchanama dated 17.09.2019, should not be absolutely confiscated under Section 111(b), 111(d), 111(e), 111(j), and 111(m) of the Customs Act, 1962;

(iv) Penalty should not be imposed on him under Section 112 of the Customs Act, 1962;

**21. Shri M S Panchpeer, S/o Shri Sahul Hameed D.No.36/29 Krishnappa Mudali Street, Chepauk, Triplicane, Chennai, Tamilnadu-600005 is required to show cause to the Additional Commissioner of Customs, Office of the Principal Commissioner of Customs, Customs(Preventive) Commissionerate, D.No.55-17-3, C-14, Road No.2, Industrial Estate, Autonagar, Vijayawada-520007 within 30 [thirty] days of the receipt of this show cause notice as to why:-**

(i) the 100 Antique Indian One Rupee Silver Coins of pre-independence era totally weighing 1165 grams (11.65gramsX100) and having value of Rs.1,51,425/- (Rs.1514.25X100) (Rupees One Lakh Fifty One Thousand Four Hundred and Twenty Five only), detained under Panchanama dated 31.10.2018 and seized under Panchanama dated 17.09.2019, should not be absolutely confiscated under Section 111(b), 111(d), 111(e), 111(j), and 111(m) of the Customs Act, 1962;

(ii) Penalty should not be imposed on him under Section 112 of the Customs Act, 1962;

**22. Shri Maung Maung Than, S/o Shri N Ramanathan, Resident of House No. 57A, 124 Street, Kadawle, Yangon. is required to show cause to the Additional Commissioner of Customs, Office of the Principal Commissioner of Customs, Customs(Preventive) Commissionerate, D.No.55-17-3, C-14, Road No.2, Industrial Estate, Autonagar, Vijayawada-520007 within 30 [thirty] days of the receipt of this show cause notice as to why:-**

(i) the 120 Indian One Rupee Coins of Pre-independence era totally weighing 1398 grams (11.65gramsX120) and having value of Rs.1,81,710/- (Rs.1514.25X120) (Rupees One Lakh Eighty One Thousand Seven Hundred and Ten only), detained under Panchanama dated 31.10.2018 and seized under Panchanama dated 17.09.2019, should not be absolutely confiscated under Section 111(b), Section 111(d), Section 111(e), Section 111(j) and Section 111(m) of the Customs Act, 1962;

(ii) Penalty should not be imposed on him under Section 112 of the Customs Act, 1962;

**23. The noticees are required to produce all evidence on which they propose to rely in support of their defense along with their written reply. The noticees are also required to indicate**



in their written reply whether they wish to be heard in person, before the case is adjudicated. Otherwise, it will be presumed that they do not desire any personal hearing.

24. If no reply is received within 30 days of receipt of this notice or if the noticees do not appear before the adjudicating authority as and when the case is posted for hearing, the case will be decided based on available evidences without any further notice.

25. This show cause notice is being issued on the basis of the evidences available on record and relied upon documents as discussed in the aforesaid paras.

26. The Department reserves its right to add, alter, amend, modify to supplement this notice at any time on the basis of any evidence, material facts related to the smuggling of gold and/or Antique Indian One Rupee Silver Coins of pre-independence era by them, which may come to the notice of the department after issuance of this notice and prior to the adjudication of the case.

27. This notice is issued without prejudice to any other action that may be initiated against the concerned under any other law for the time being in force.

28. The reliance for issuance of this notice is based on the documents listed in Annexure A to this notice. Photocopies of all the records listed in Annexure A are enclosed to this notice. It may be noted that all the documents enclosed with this show cause notice are integral parts of this show cause notice.

  
(PRASAD ADELLI)

**ADDITIONAL DIRECTOR  
DIRECTORATE OF REVENUE INTELLIGENCE  
ZONAL UNIT :: HYDERABAD**

Encl: Annexure-A and documents  
As per Annexure A

To

1. Shri Muthalagu Mohana Sundaram, S/o Shri K. Muthalagu, R/o 5/219, New Number 5/95, Subrahmanya Bharati Street, Mondiamman Nagar, Redhills, Chennai, Tamilnadu-600052.
2. Shri M S Panchpeer, aged 73 years, S/o Shri Sahul Hameed D.No.36/29 Krishnappa Mudali Street, Chepauk, Triplicane, Chennai, Tamilnadu-600005.
3. Shri Maung Maung Than, S/o Shri N Ramanathan, Resident of House No. 57A, 124 Street, Kadawle, Yangoon.

Copy to

- ✓ 1. The Additional Commissioner of Customs, Office of the Principal Commissioner of Customs, Customs (Preventive) Commissionerate, D-No.55-17-3, C-14, Road No.2, Industrial Estate, Autonagar, Vijayawada-520 007.
2. The Deputy Director, Directorate of Revenue Intelligence, Visakhapatnam Regional Unit, Door No.11-3-9/1, Plot No.15, Gangapur Layout, Near Governor's Bungalow, Visakhapatnam-530003.
3. CEIB, NewDelhi
4. Notice Board of the Office Commissioner of Customs, Customs (Preventive) Commissionerate, D.No. 55-17-3, C-14, Road No-2, Industrial Estate, Autonagar, Vijayawada-520 007.
5. File Copy



<b>A.5</b>	02.11.2018 of the Superintending Archaeologist, ASI, Amaravati Circle.	1
<b>A.6</b>	Copy of letter of the Principal Commissioner of Customs (Preventive) Commissionerate, Vijayawada vide C.No.VIII/26/10/2019-Prev. Dated 12.04.2019 under Sub-section (2) of Section 110 of the Customs Act, 1962, (as amended).	1
<b>A.7</b>	Copy of letter F.No.4/50/HYD/ANT/RD(S)/2019-20 dated 14.08.2019 of the Regional Director, (South), ASI, Bengaluru communicated through the Superintending Archaeologist, ASI, Hyderabad Circle, Hyderabad letter No. ANT/Tech/2019 dated 19.08.2019.	2
<b>A.8</b>	Copy of Panchanama dated 17.09.2019 along with Assayer's Report dated 17.09.2019.	3