



सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद

OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD,

चौथी मंज़िल 4th Floor, हडको भवन HUDCO Bhawan, ईश्वर भुवन रोड़ Ishwar Bhuvan Road  
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DIN - 20260171MN000000A0FA

क	फ़ाइल संख्या FILE NO.	S/49-226/CUS/MUN/2024-25
ख	अपील आदेश संख्या ORDER-IN- APPEAL NO. (सीमा शुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962)	MUN-CUSTM-000-APP-660-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	27.01.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN- ORIGINAL NO.	MCH/ADC/AK/129/ 2024-25 dated 28.08.2024
	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	27.01.2026
	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. Kalpana Exim, Office No. B-11, Hotel Indraprasth, Near Shakti Nagar Circle, Adani Port Road, Mundra (K) - 370 421.



1	यह प्रति उस व्यक्ति के निजी उपयोग के लिए मुफ्त में दी जाती है जिनके नाम यह जारी किया गया है.
	This copy is granted free of cost for the private use of the person to whom it is issued.
2.	सीमाशुल्क अधिनियम 1962 की धारा 129 डी डी (1) (यथा संशोधित) के अधीन निम्नलिखित श्रेणियों के मामलों के सम्बन्ध में कोई व्यक्ति इस आदेश से अपने को आहत महसूस करता हो तो इस आदेश की प्राप्ति की तारीख से 3 महीने के अंदर अपर सचिव/संयुक्त सचिव (आवेदन संशोधन), वित्त मंत्रालय, (राजस्व विभाग) संसद मार्ग, नई दिल्ली को पुनरीक्षण आवेदन प्रस्तुत कर सकते हैं.
	Under Section 129 DD(1) of the Customs Act, 1962 (as amended), in respect of the following categories of cases, any person aggrieved by this order can prefer a Revision Application to The Additional Secretary/Joint Secretary (Revision Application), Ministry of Finance, (Department of Revenue) Parliament Street, New Delhi within 3 months from the date of communication of the order.
	निम्नलिखित सम्बन्धित आदेश/Order relating to :
(क)	बैगेज के रूप में आयातित कोई माल.
(a)	any goods exported
(ख)	भारत में आयात करने हेतु किसी वाहन में लादा गया लेकिन भारत में उनके गन्तव्य स्थान पर उतारे न गए माल या उस गन्तव्य स्थान पर उतारे जाने के लिए अपेक्षित माल उतारे न जाने पर या उस गन्तव्य स्थान पर उतारे गए माल की मात्रा में अपेक्षित माल से कमी हो.
(b)	any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination.
(ग)	सीमाशुल्क अधिनियम, 1962 के अध्याय X तथा उसके अधीन बनाए गए नियमों के तहत शुल्क वापसी की अदायगी.
(c)	Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.
3.	पुनरीक्षण आवेदन पत्र संगत नियमावली में विनिर्दिष्ट प्रारूप में प्रस्तुत करना होगा जिसके अन्तर्गत उसकी जांच की जाएगी और उस के साथ निम्नलिखित कागजात संलग्न होने चाहिए :
	The revision application should be in such form and shall be verified in such manner as may be specified in the relevant rules and should be accompanied by :
(क)	कोर्ट फी एक्ट, 1870 के मद सं.6 अनुसूची 1 के अधीन निर्धारित किए गए अनुसार इस आदेश की 4 प्रतियां, जिसकी एक प्रति में पचास पैसे की न्यायालय शुल्क टिकट लगा होना चाहिए.
(a)	4 copies of this order, bearing Court Fee Stamp of paise fifty only in one copy as prescribed under Schedule 1 item 6 of the Court Fee Act, 1870.
(ख)	सम्बद्ध दस्तावेजों के अलावा साथ मूल आदेश की 4 प्रतियां, यदि हो
(b)	4 copies of the Order-in-Original, in addition to relevant documents, if any
(ग)	पुनरीक्षण के लिए आवेदन की 4 प्रतियां
(c)	4 copies of the Application for Revision.
(घ)	पुनरीक्षण आवेदन दायर करने के लिए सीमाशुल्क अधिनियम, 1962 (यथा संशोधित) में निर्धारित फीस जो अन्य रसीद, फीस, दण्ड, जब्ती और विविध मदों के शीर्ष के अधीन आता है में रु. 200/- (रूपए दो सौ मात्र) या रु. 1000/- (रूपए एक हजार मात्र), जैसा भी मामला हो, से सम्बन्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दो प्रतियां. यदि शुल्क, मांगा गया ब्याज, लगाया गया दंड की राशि और रूपए एक लाख या उससे कम हो तो ऐसे फीस के रूप में रु. 200/- और यदि एक लाख से अधिक हो तो फीस के रूप में रु. 1000/-
(d)	The duplicate copy of the T.R.6 challan evidencing payment of Rs.200/- (Rupees two Hundred only) or Rs.1,000/- (Rupees one thousand only) as the case may be, under the Head of other receipts, fees, fines, forfeitures and Miscellaneous Items being the fee prescribed in the Customs Act, 1962 (as amended) for filing a Revision Application. If the

	amount of duty and interest demanded, fine or penalty levied is one lakh rupees or less, fees as Rs.200/- and if it is more than one lakh rupees, the fee is Rs.1000/-.
4.	मद सं. 2 के अधीन सूचित मामलों के अलावा अन्य मामलों के सम्बन्ध में यदि कोई व्यक्ति इस आदेश से आहत महसूस करता हो तो वे सीमाशुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म सी.ए.-3 में सीमाशुल्क, केन्द्रीय उत्पाद शुल्क और सेवा कर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील कर सकते हैं
	In respect of cases other than these mentioned under item 2 above, any person aggrieved by this order can file an appeal under Section 129 A(1) of the Customs Act, 1962 in form C.A.-3 before the Customs, Excise and Service Tax Appellate Tribunal at the following address :
	सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ
	<b>Customs, Excise &amp; Service Tax Appellate Tribunal, West Zonal Bench</b>
	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016
	2 <sup>nd</sup> Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
5.	सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (6) के अधीन, सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (1) के अधीन अपील के साथ निम्नलिखित शुल्क संलग्न होने चाहिए-
	Under Section 129 A (6) of the Customs Act, 1962 an appeal under Section 129 A (1) of the Customs Act, 1962 shall be accompanied by a fee of -
(क)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए या उससे कम हो तो एक हजार रूपए.
(a)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;
(ख)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पांच हजार रूपए
(b)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees ;
(ग)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रूपए से अधिक हो तो; दस हजार रूपए.
	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees
(घ)	इस आदेश के विरुद्ध अधिकरण के सामने, मांगे गए शुल्क के 10% अदा करने पर, जहां शुल्क या शुल्क एवं दंड विवाद में हैं, या दंड के 10% अदा करने पर, जहां केवल दंड विवाद में है, अपील रखा जाएगा।
(द)	An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.
6.	उक्त अधिनियम की धारा 129 (ए) के अन्तर्गत अपील प्राधिकरण के समक्ष दायर प्रत्येक आवेदन पत्र- (क) रोक आदेश के लिए या गलतियों को सुधारने के लिए या किसी अन्य प्रयोजन के लिए किए गए अपील : - अथवा (ख) अपील या आवेदन पत्र का प्रत्यावर्तन के लिए दायर आवेदन के साथ रुपये पाँच सौ का शुल्क भी संलग्न होने चाहिए.
	Under section 129 (a) of the said Act, every application made before the Appellate Tribunal-
	(a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or
	(b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.

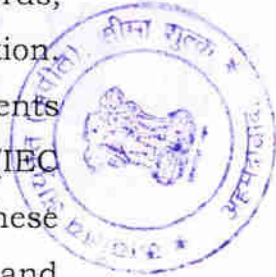


**ORDER-IN-APPEAL**

Appeal has been filed by M/s. Kalpana Exim, Office No. B-11, Hotel Indraprasth, Near Shakti Nagar Circle, Adani Port Road, Mundra (K) – 370 421, (hereinafter referred to as the 'Appellant') in terms of Section 128 of the Customs Act, 1962, challenging the Order-in-Original no. MCH/ADC/AK/129/ 2024-25 dated 28.08.2024 (hereinafter referred to as 'the impugned order') issued by the Additional Commissioner, Customs, Mundra (hereinafter referred to as 'the adjudicating authority').

2. Facts of the case, in brief, are that the present matter originated from specific, actionable intelligence gathered by the Directorate of Revenue Intelligence (DRI), Gandhidham Regional Unit. The intelligence indicated the operation of a high-level, organized smuggling cartel involving a common set of individuals who utilized multiple dummy entities and front firms to facilitate the illegal importation of restricted and prohibited goods. Initial enforcement actions were triggered on September 1, 2022, by the interception of vehicle No. GJ12BV0610 near Palsana Chokdi, Surat. This vehicle was found to be carrying a consignment of 823 cartons cleared from Mundra Port (Container No. TLLU4615592). Upon detailed inspection at ICD Sachin, officers discovered a massive concealment of foreign-brand E-cigarettes of the "Yuotto" brand, totaling 85,600 pieces in various flavors such as Strawberry Watermelon and Blueberry Ice. These items were hidden behind a "cover" of declared household goods to deceive visual inspections.

2.1 Subsequent analysis of the Customs system data, combined with extensive field investigations and the recovery of incriminating digital records, revealed that this interception was merely the tip of a much larger operation. The syndicate had successfully imported at least 18 different consignments across eight separate importers, including M/s. Aditi Trading Company (IEC No. AZHPR0377B). The current proceedings specifically focus on two of these import consignments involving Container Nos. TEMU6643503 and BMOU6923481, which were purportedly used to facilitate the clandestine entry of mis-declared and prohibited goods through the Mundra Special Economic Zone (SEZ) under the guise of miscellaneous low-value items.



2.2 Detailed physical examinations of the subject containers were conducted under various panchnamas in September 2022, unearthing systemic and gross mis-declarations regarding the nature, quantity, and assessable value of the imported merchandise. The methodology employed by the cartel involved "stuffing" the rear of the containers with high-value or prohibited contraband while placing low-value "cover goods" near the container doors to mislead preventive officers during routine checks.

2.3 For Container No. TEMU6643503, the importer had filed Bill of Entry No. 2013050 dated August 30, 2022, declaring items such as "Vegetable Slicers," "Foot Pumps," and "Mobile Holders." However, actual physical examination revealed that these goods were merely a facade for 30,000 pieces of undeclared toys, including the "Dancing Cactus" and "Card Early Education" devices. These items are strictly regulated and require mandatory Bureau of Indian Standards (BIS) compliance under Policy Condition 2 of Chapter 95 of the Customs Tariff (specifically IS: 9873). The failure to provide these certificates posed significant consumer safety risks, as the quality and toxicity levels of the plastic and electronic components were unverified.

2.4 For Container No. BMOU6923481, the importer refrained from filing a Bill of Entry entirely. Investigators interpreted this as a tactical move to avoid interception once the DRI began seizing other containers linked to the cartel. Examination of this "orphaned" container revealed further concealed quantities of 17,258 toys, including robot cars and folding quadcopters, alongside mis-declared items like egg poachers and study books. The concealment was so thorough that even the quantity of the cover goods did not match the packing lists provided in the initial Import General Manifest (IGM).

Collectively, the goods were found to be grossly undervalued. For example, while thousands of pieces were recovered, the declared invoices reflected only a fraction of the actual quantity, and the unit prices were significantly lower than the fair market value. To bridge this gap, a Government-approved Chartered Engineer, Shri Kunal Ajay Kumar, was engaged to provide an independent valuation report, which ultimately served as the basis for re-calculating the evaded duty.

2.6 The investigation exposed a sophisticated conspiracy characterized by the use of "paper firms" and dummy Import Export Codes (IECs). Shri Asif Sathi was identified as the mastermind behind the entire



racket, orchestrating the illegal imports from behind the scenes to maintain plausible deniability. He orchestrated the illegal imports by arranging IECs from various individuals—such as Shri Narayan Gourayya Rajkar (Proprietor of M/s. Aditi Trading Company)—in exchange for fixed monetary benefits ranging from ₹15,000 to ₹50,000 per consignment. Sathi managed the logistical movement of these goods to specialized warehouses in Bhiwandi, Maharashtra, and coordinated with a network of associates to offload the contraband to domestic buyers like "Raju Bhai" and "Sohail Bhai."

2.7 The cartel utilized a WhatsApp group named "Mm" to share incriminating documents, coordinate the loading of "copy" or counterfeit goods, and discuss strategies to avoid tracking by enforcement agencies. Shri Baldevsinh Vala of M/s. Kalpana Exim played a critical role by forging and manipulating shipping documents (Invoices, Packing Lists, and Bills of Lading) provided by foreign suppliers. These manipulated documents were then used by the Customs Broker to file false declarations. To fund these operations, Sathi would deposit cash collected from domestic sales into the bank accounts of these dummy firms, which were then used to remit payments to overseas suppliers, thereby laundering the proceeds of the smuggling operation through seemingly legitimate banking channels.

2.8 The scheme was further aided by the failure of critical regulatory safeguards and the active or passive cooperation of certain professionals. Shri Samir Sharma, the G-Card holder for the Customs Broker firm M/s. Al Cargo Services, failed to perform mandatory due diligence or verify the genuineness of the IEC holders. Despite being a licensed professional, he never met the proprietors in person and relied solely on documents provided by the "forwarder," Shri Baldevsinh Vala. Sharma further assisted the cartel by submitting E-way bills containing names of unrelated parties to facilitate the "crossing" of containers and avoid detection by state tax authorities.

2.9 Furthermore, the investigation highlighted the negligence of the then Preventive Officer, Shri Vipin Sharma. Despite specific system directions to "check goods, inspect the lot, and check description/quantity," the officer submitted a generic examination report without actually de-stuffing the container or verifying the contents. This dereliction of duty facilitated the "Out of Charge" (OOC) status for consignments that contained massive quantities of concealed, restricted toys. The lack of a thorough 100% examination, as



required for suspicious cargo, allowed the cartel to move prohibited goods into the Domestic Tariff Area (DTA) with official clearance.

2.10 Reports submitted by the Chartered Engineer confirmed that the declared transaction values were not at arm's length and did not reflect the true transaction value under Section 14 of the Customs Act, 1962. The investigation found that the declared values were suppressed by as much as 70-80% of the actual market rate. Consequently, the declared values were rejected under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, on the grounds of significant mis-declaration of parameters such as description, quality, and quantity. The assessable values were re-determined under Rule 9 (Residual Method) using reasonable means consistent with the principles of the valuation rules.

2.11 By knowingly concerning themselves with the removal, concealment, and dealing of prohibited and mis-declared goods, the noticees violated multiple sections of the Customs Act, including:

- Section 111(d), (f), and (m): For importing goods contrary to prohibitions (such as the BIS mandate for toys) and for filing entries that did not correspond to the actual value or description of the goods.
- Section 112(a) and (b): For acts of omission and commission—including the failure to examine goods and the facilitation of fraudulent clearances—that rendered the goods liable for confiscation.
- Section 114AA: For the deliberate use of false and fraudulent documents, including forged invoices and manipulated packing lists, in the transaction of business with Customs.

2.12 The investigation concluded that the entire operation was a deliberate attempt to defraud the government exchequer of legitimate revenue and bypass essential quality standards intended for consumer safety. The cumulative evidence, including WhatsApp chats, voluntary statements under Section 108, and the physical recovery of contraband, established a "preponderance of probability" that the syndicate operated with full knowledge of the illegal nature of their trade.

2.13 On the basis of the investigation, Show Cause Notice was issued to M/s. Aditi Trading Company and other persons involved. Consequently, the Adjudicating Authority confirmed the liability of the goods for confiscation and the imposition of significant personal penalties on M/s. Aditi Trading Company



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and other accomplices under Sections 112 and 114 of the Customs Act, 1962, for their roles in a "well-hatched conspiracy" to defraud the national exchequer. Vide impugned order, following penalties were imposed on the appellant :-

(A) IN RESPECT OF DUTIABLE GOODS WHERE BILLS OF ENTRY FILED FOR DTA CLEARANCE:

- (i) He imposed penalty of Rs. 50,000/- on the appellant under section 112(a)(ii) of the Customs Act, 1962.

(B) IN RESPECT OF DUTIABLE GOODS WHERE BILL OF ENTRY NOT FILED FOR DTA CLEARANCE:

- (i) He imposed penalty of Rs. 5,000/- on the appellant under section 112(a)(ii) of the Customs Act, 1962.

(C) IN RESPECT OF OFFENDING GOODS I.E. TOYS, IMPORTED WITHOUT MANDATORY BIS:

- (i) He imposed penalty of Rs. 2,00,000/- on the appellant under section 112(a)(i) of the Customs Act, 1962.

(D) IMPOSITION OF PENALTY UNDER SECTION 114(AA) OF THE CUSTOMS ACT, 1962:

- (i) He imposed penalty of Rs. 1,00,000/- upon appellant under Section 114(AA) of the Customs Act, 1962.

**SUBMISSIONS OF THE APPELLANT:**

3. Being aggrieved with the impugned order, the Appellant has filed the present appeal against the order passed by the Additional Commissioner, Customs, Mundra. The Grounds of Appeal are not reproduced in detail for sake of brevity, as the copy of the same is available with the Appellant as well Respondent. However, the same have been examined and the brief is as under:

3.1 The appellant contends that the impugned order is a non-speaking order because the Adjudicating Authority failed to address all the grounds and



submissions advanced during the adjudication process. Furthermore, the appellant argues that the principles of natural justice were violated because their request for the cross-examination of key individuals—including Shri Asif Sathi, Shri Baldevsinh Vala, and Shri Samir Sharma—was brushed aside without any findings. The appellant also points out that the entire investigation was conducted "behind his back," as the Directorate of Revenue Intelligence (DRI) never recorded his personal statement before leveling allegations against him.

3.2 A central ground of the appeal is that the Adjudicating Authority failed to establish any direct involvement of the appellant in the import or clearance activities. The appellant asserts that there is no evidence, such as participation in WhatsApp groups, to suggest he had any occasion to deal with the goods or the beneficial owners. It is argued that the business was being managed by an authorized signatory, Shri Baldevsinh Vala, due to the appellant's personal family disturbances, and that the appellant had never met the importer or the beneficial owner.

3.3 The appellant submits that there is no evidence to prove he had prior knowledge of the actual nature or description of the goods imported by M/s. Aditi Trading Company. Regarding the allegation of preparing invoices, the appellant maintains that he acted without knowledge of any mis-declaration or concealment. Consequently, the appellant argues that since no "omission or commission" can be attributed to him that rendered the goods liable for confiscation under Section 111, he should not be held liable for penalties under Section 112(a), 112(b), or Section 114AA of the Customs Act, 1962.

**PERSONAL HEARING:**

4. Personal hearing was granted to the Appellant on 07.11.2025 following the principles of natural justice wherein Shri Vikas Mehta Consultant, appeared for the hearing and re-iterated the submissions made at the time of filing the appeal. He also submitted that he will file additional submissions in a week's time but has not filed the same.

**DISCUSSION AND FINDINGS:**

5. I have carefully gone through the case records, impugned order passed by the Additional Commissioner, Customs, Mundra and the defense put forth by the Appellant in their appeal.

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5.1 The primary defense raised by the Appellant is that the Proprietor, Shri Abhalsinh Vala, was personally uninvolved in the day-to-day operations and that the alleged illegalities were committed by the "Authorized Signatory," Shri Baldevsinh Vala, without his knowledge. This contention seeks to bifurcate the legal identity of the proprietary concern from that of the proprietor and his chosen agent, which is fundamentally flawed under Indian Law. It is a well-settled legal principle that a sole proprietary concern is not a legal entity distinct from its proprietor. A proprietary concern is nothing but an individual trading under a trade name. Therefore, any liability—civil or penal—arising out of the business activities conducted under the name "M/s. Kalpana Exim" is the direct and personal liability of its proprietor, Shri Abhalsinh Vala.

5.2 In the context of Customs law, if a proprietor delegates the entire management of the firm to an authorized signatory, he implicitly accepts responsibility for all acts performed by that agent in the name of the firm. The Adjudicating Authority found that Shri Baldevsinh Vala was the "Authorized Signatory" who interacted with the Customs Broker and the mastermind, Shri Asif Sathi. By providing Shri Baldevsinh Vala with the authority to represent the firm, M/s. Kalpana Exim (and its proprietor) became vicariously liable for his actions. The claim of "no knowledge" does not absolve the proprietor. The appellant's argument that no statement of the Proprietor was recorded by DRI is irrelevant. The culpability is established through the acts of the firm as a whole. The records show that the "firm" was the entity used to generate fabricated documents and coordinate with the cartel. Under Section 112 of the Customs Act, the term "any person" includes a proprietary firm. The failure of the Proprietor to exercise due diligence over his authorized representative constitutes "culpable negligence," if not direct connivance, rendering him liable for the penalty. The plea that he was "not attending day-to-day business" is a self-incriminating admission of gross neglect of his statutory obligations as an operator in the Customs area.

5.3 The investigation has unearthed a systematic and orchestrated modus operandi involving the Appellant firm. The core of the offense lies in the "Double Invoicing" and document fabrication process. As per the statement of Shri Asif Sathi (the mastermind) recorded under Section 108, M/s. Kalpana Exim was not merely a logistics provider but a key facilitator in the manipulation of import documents. Shri Sathi categorically stated that Shri Baldevsinh Vala of M/s. Kalpana Exim used to receive the original, genuine invoices from



overseas suppliers via email and then "process" them to create a new set of fabricated invoices and Packing Lists. These fabricated documents replaced restricted/prohibited items like "e-cigarettes" and "BIS-regulated toys" with innocuous items such as "Vegetable Slicers" or "Plastic Household articles." This fabrication was essential for the Customs Broker (Shri Samir Sharma) to file incorrect Bills of Entry. The fabrication of documents with the intent to evade prohibitions and duties is a serious offense under Section 114AA of the Customs Act. The fact that the Appellant's email address (kalpanaeximdoc@gmail.com) was used to receive these original documents and then transmit the fabricated versions to the Customs Broker provides a direct, traceable link to the illegal act.

5.4 The digital evidence recovered from the mobile phone of Shri Mohammed Tahir Menn, specifically the WhatsApp group "Mm," provides incriminating real-time evidence of the Appellant's involvement. In these chats, Shri Baldevsinh Vala is seen discussing the "stuffing" of containers and providing instructions on how to handle specific cargo that lacked mandatory compliance (like toys without BIS). The chats reveal a high level of technical and logistical coordination that goes far beyond the duties of a simple transporter. For instance, discussions regarding "crossing" show that the Appellant was fully aware of the smuggling nature of the operation.

5.5 Under the Indian Evidence Act, as adapted to Customs proceedings, these WhatsApp chats are admissible as electronic records. In this case, the chats were recovered from a co-conspirator's phone and corroborated the statements of the mastermind. Furthermore, the financial aspect of the transaction confirms the "premium" nature of the services provided by M/s. Kalpana Exim. The investigation revealed that for containers involving e-cigarettes, the "clearance package" cost as much as Rs. 17 Lakhs per container. Shri Baldevsinh Vala handled these financial settlements on behalf of the firm. It is a logical inference that such exorbitant amounts are not paid for legitimate forwarding services but are "risk premiums" shared among the members of a smuggling cartel.

5.6 The Appellant's contention that they were "unaware" of the contents of the containers is belied by the physical examination results. When Container Nos. TEMU6643503 and BMOU6923481 were opened, the goods found (Toys, Branded Shoes, E-cigarettes) were exactly the items being discussed in the "Mm" WhatsApp group as requiring "special handling." This perfect alignment between the "intent" captured in digital chats and the "physical reality" of the smuggled goods leaves no room for the defense of "innocent carriage." The Appellant's role



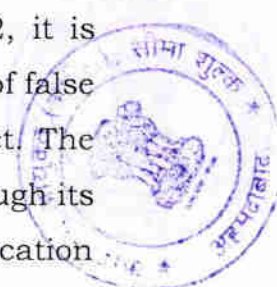
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as an "abettor" is clearly defined under Section 112(a), as they knowingly facilitated the entry of goods that they knew were liable to confiscation under Section 111.

5.7 The Appellant claims they were merely a forwarder with no knowledge of the cargo. However, a forwarder's role in the Customs ecosystem is not a passive one. They have a duty of care to ensure that the goods they handle are legal and correctly declared. In this case, the evidence shows that the Appellant didn't just handle cargo; they actively facilitated the mis-declaration of that cargo. The charging of a "hefty sum" of Rs. 17 lakh per container for e-cigarette consignments is a clear indicator of the "extra-legal" nature of the service being provided. Normal transportation charges do not reach such levels unless they include a "premium for risk" associated with illegal activities.

5.8 The Appellant relies on the claim that the Proprietor's statement was not recorded. However, the law is well-settled. In **Naresh Kumar Sukhwani vs. Union of India [1996 (83) ELT 285 (SC)]**, the Hon'ble Supreme Court held that a statement made under Section 108 of the Customs Act is a material piece of evidence and can be used as substantive evidence. The statements of Shri Baldevsinh Vala, Shri Asif Sathi, and Shri Tahir Menn consistently incriminate M/s. Kalpana Exim. These statements were voluntary and not retracted for a significant period. The subsequent attempt by Shri Baldevsinh Vala during cross-examination to claim he was forced to sign is a classic afterthought. As noted by the Adjudicating Authority, he did not lodge any complaint or retract the statement for 1.5 years.

5.9 The goods were liable for confiscation under Section 111(d), (f), and (m) due to mis-declaration and violation of prohibitions (BIS for toys). The Appellant's role in facilitating this import makes them liable for penalty. Regarding the penalty under Section 114AA of the Customs Act, 1962, it is observed that this section was specifically introduced to penalize the use of false and incorrect material in connection with any transaction under the Act. The evidence on record conclusively establishes that M/s. Kalpana Exim, through its authorized signatory Shri Baldevsinh Vala, was instrumental in the fabrication of documents. The mastermind, Shri Asif Sathi, confirmed that the Appellant firm received original invoices from overseas suppliers via their official email and subsequently generated manipulated invoices and packing lists. These fraudulent documents, which mis-declared restricted items as innocuous household goods, were then provided to the Customs Broker to facilitate the filing of false Bills of Entry. This deliberate act of creating and utilizing 'forged'



or 'incorrect' documents with the specific intent to bypass statutory prohibitions (such as BIS compliance for toys) and to evade applicable duties squarely attracts the provisions of Section 114AA. The use of the firm's logistical infrastructure to facilitate this documentation fraud demonstrates a high degree of premeditation and professional abetment. Therefore, the imposition of a separate penalty under Section 114AA is not only legally justified but is necessary given the gravity of the fraudulent conduct which strikes at the very root of the self-assessment regime under the Customs Act.

5.10 In light of the exhaustive examination of the evidence and the legal framework, it is concluded that the Appellant, M/s. Kalpana Exim, was not a mere passive participant but a pivotal actor in a sophisticated smuggling operation. The defense of "lack of knowledge" or "limited involvement" is fundamentally dismantled by the direct digital evidence recovered from the WhatsApp chats and the voluntary statements of the cartel members, including the firm's own Authorized Signatory. The deliberate act of intercepting genuine overseas invoices and replacing them with fabricated documents—specifically designed to bypass mandatory safety regulations like BIS constitutes a grave violation of statutory trust. The proprietor's claim of being uninvolved in day-to-day operations further reinforces a finding of "culpable negligence," as the law does not permit a person to profit from a business platform while abdicating all responsibility for its lawful conduct.

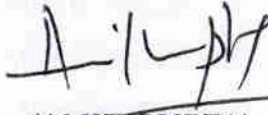
5.11 The systematic use of "dummy" entities and the orchestration of logistics to evade Customs detection demonstrate a clear "mens rea" or criminal intent. Such organized smuggling activities not only cause significant loss to the national exchequer but also undermine the integrity of the border control mechanisms and pose a direct risk to public welfare by facilitating the entry of unverified and prohibited products. The penalties imposed under Section 112 and Section 114AA are not only legally sound but are essentially required to deter such organized economic offenses. The Adjudicating Authority has followed the principles of natural justice and reached a conclusion that is supported by a "preponderance of probability" and substantial corroborative evidence. Consequently, there is no justification for any interference with the impugned order.

6. In view of the above discussions and findings, I find no merit in the appeal filed by M/s. Kalpana Exim. The findings of the Adjudicating Authority in

Order-in-Original No. MCH/ADC/AK/129/2024-25 dated 28.08.2024 are legal, proper, and based on sound evidence.

7. The appeal filed by M/s. Kalpana Exim is hereby rejected

सत्यापित/ATTESTED  
  
अधीक्षक/SUPREINTENDENT  
सीमा शुल्क (अपील), अहमदाबाद.  
CUSTOMS (APPEALS), AHMEDABAD

  
(AMRIT GUPTA)  
Commissioner (Appeals),  
Customs, Ahmedabad

F. No. S/49-226/CUS/MUN/2024-25  
5633

Date:27.01.2026

By Speed post/E-Mail

To,  
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Near Shakti Nagar Circle,  
Adani Port Road,  
Mundra (K) – 370 421.



Copy to:

1. The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad.
2. The Principal Commissioner of Customs, Custom House, Mundra.
3. The Additional Commissioner of Customs, Custom House, Mundra.
4. Guard File.