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
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009
दूरभाष क्रमांक Tel. No. 079-26589281

DIN-20251271MN000000CC4E

क	फ़ाइल संख्या FILE NO.	S/49- 17 to 27/CUS/KDL/2024-25 S/49- 29 to 30/CUS/KDL/2024-25 S/49-32 to 54/CUS/KDL/2024-25 S/49- 60 to 69/CUS/KDL/2024-25 S/49- 73 & 75/CUS/KDL/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)	KDL-CUS-000-APP - 24 to 71 - 25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	24.12.2025
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF Order – In - Original.	KDL/ADC/RSS/17/24-25, dated 02.08.2024
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	24.12.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. Neman Shipping INC & Others (as detailed in Table -1 of this Order)

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 है.**

	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)	**बैगेज़ 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 दस्तावेज़ों 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 हज़ार मात्र), जैसा भी मामला हो, से सम्ब न्धित 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 सम्बंन्ध 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, केंद्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ — **Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench**

	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2nd 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 हज़ार रुपए.**	
(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 हज़ार रुपए**	
(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 हज़ार रुपए.**	
(c)	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 है, या दंड के 10% अदा करने पर, जहां केवल दंड विवाद में है, अपील रखा ज एगा ।	
(d)	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

The present appeals have been filed by the Appellants (as mentioned in Table -1) under Section 128 of the Customs Act, 1962 against Order-in-Original No. KDL/ADC/RSS/17/24-25 dated 02.08.2024 (hereinafter referred to as the Impugned Order) passed by the Additional Commissioner of Customs, Kandla (hereinafter referred to as the "Adjudicating Authority"), whereby confiscation, redemption fines, duty demands and penalties were imposed on the vessel owner, vessel agent, container lines, importers and Customs Brokers.

Table-1

S.No.	Appeal No.	Name of the Appellant	Hereinafter referred to as
1	S/49-68/CUS/KDL/2024-25	M/s Neman Shipping INC	M/s Neman Shipping INC
2	S/49-69/CUS/KDL/2024-25	M/s Master Logitech Pvt. Ltd.	Vessel Agent
3	S/49-29/CUS/KDL/2024-25	M/s Omega Liners (India) Pvt. Ltd.	The Container lines
4	S/49-30/CUS/KDL/2024-25	M/s Majestic Maritime Pvt. Ltd.	
5	S/49-32/CUS/KDL/2024-25	M/s Seacross Shipping LLP.	
6	S/49-33/CUS/KDL/2024-25	M/s Navio Shipping Pvt. Ltd.	
7	S/49-36/CUS/KDL/2024-25	M/s GIL Shipping Services Pvt. Ltd.	
8	S/49-38/CUS/KDL/2024-25	M/s Bilander Logistics Pvt. Ltd.	
9	S/49-39/CUS/KDL/2024-25	M/s Hub & Links Logistics (I) Pvt. Ltd.	
10	S/49-41/CUS/KDL/2024-25	M/s Radiant Martitime India Pvt. Ltd.	
11	S/49-42/CUS/KDL/2024-25	M/s Efficient Marine Services LLP (Kerala)	
12	S/49-43/CUS/KDL/2024-25	M/s Efficient Marine Services LLP. (Gujarat)	
13	S/49-44/CUS/KDL/2024-25	M/s Econship Tech Private Ltd.	
14	S/49-45/CUS/KDL/2024-25	M/s Intergulf Shipping Line Pvt. Ltd.	
15	S/49-46/CUS/KDL/2024-25	M/s Goodrich Maritime Pvt. Ltd.	
16	S/49-47/CUS/KDL/2024-25	M/s Goodrich Logistics Pvt. Ltd.	
17	S/49-50/CUS/KDL/2024-25	M/s Hari Agro Products	The Importers
18	S/49-51/CUS/KDL/2024-25	M/s Everge Smart India Pvt. Ltd.	
19	S/49-60/CUS/KDL/2024-25	M/s Rishi Kiran Logistics Pvt. Ltd.	
20	S/49-61/CUS/KDL/2024-25	M/s Gomti International	
21	S/49-17/CUS/KDL/2024-25	M/s GWC Impex	
22	S/49-18/CUS/KDL/2024-25	M/s Neptune Petrochemicals Pvt. Ltd.	
23	S/49-19/CUS/KDL/2024-25	M/s Vardhman Trading Company	

24	S/49-20/CUS/KDL/2024-25	M/s Madhusudan Organics Pvt. Ltd.	
25	S/49-21/CUS/KDL/2024-25	M/s Catalyst Petrochem LLP	
26	S/49-22/CUS/KDL/2024-25	M/s Premium Petro Products	
27	S/49-24/CUS/KDL/2024-25	M/s Vevelon Petrochem Pvt. Ltd.	
28	S/49-25/CUS/KDL/2024-25	M/s Excellent Traders India	
29	S/49-26/CUS/KDL/2024-25	M/s Pujan Enterprise	
30	S/49-27/CUS/KDL/2024-25	M/s JK Alamdar Trading Company	
31	S/49-34/CUS/KDL/2024-25	M/s Agarwal Chemicals	
32	S/49-35/CUS/KDL/2024-25	M/s B H Enterprise	
33	S/49-40/CUS/KDL/2024-25	M/s Tinna Rubber & Infrastructure Ltd.	
34	S/49-54/CUS/KDL/2024-25	M/s Dang Enterprise	
35	S/49-62/CUS/KDL/2024-25	M/s Shanus Impex	
36	S/49-66/CUS/KDL/2024-25	M/s Radha Krishna Fruit Company	
37	S/49-37/CUS/KDL/2024-25	M/s Seaco Enterprise	
38	S/49-64/CUS/KDL/2024-25	M/s Ocean Petroleum	
39	S/49-23/CUS/KDL/2024-25	M/s ACT Infraport Ltd.	The Custom Brokers
40	S/49-48/CUS/KDL/2024-25	M/s Eiffel logistics private limited	
41	S/49-49/CUS/KDL/2024-25	M/s Swayam Shipping services	
42	S/49-52/CUS/KDL/2024-25	M/s A. D. Mehta Clearing Agency	
43	S/49-53/CUS/KDL/2024-25	M/s Purshottam C Thackar	
44	S/49-63/CUS/KDL/2024-25	M/s Jaiswal Import Cargo Ltd	
45	S/49-65/CUS/KDL/2024-25	M/s Bhavya Shipping	
46	S/49-67/CUS/KDL/2024-25	M/s Saarthee Shipping Co.	
47	S/49-73/CUS/KDL/2024-25	M/s Bright Ship Trans Pvt. Ltd.	
48	S/49-75/CUS/KDL/2024-25	M/s Daksh Shipping Services	

2. Intelligence was received by SIIB, Customs House, Kandla that the vessel MV KABUL (IMO No. 9122473), which arrived at Kandla Port as its first port of call during Voyage No. 72, had mis-declared the Port of Loading (POL) and Country of Origin (COO) of the cargo. The vessel agent, M/s. Master Logistic Pvt. Ltd., had filed IGM No. 2303229 dated 04.02.2022 declaring POL as Jebel Ali, UAE.

2.1 Based on the intelligence, officers boarded the vessel on 06.02.2022 and conducted proceedings recorded under Panchnamas dated 06.02.2022 and 07.02.2022. Scrutiny of ship's documents and statements recorded from the Master revealed that the cargo had actually been loaded at Bandar Abbas, Iran, and the vessel had not called at Jebel Ali during the said voyage.

2.2 Investigation revealed that in respect of 27 Bills of Lading, the POL was declared as Jebel Ali instead of Bandar Abbas. Out of these, 23 Bills of Lading,

covering various consignments intended for discharge at Kandla Port, were found to be mis-declared. The details of these consignments, involving multiple importers and commodities such as bitumen, base oil, carbon black, sodium silicate, etc., were enumerated in Table-2 of the Show Cause Notice.

2.3 Searches conducted at the premises of the vessel agent and various container lines on 06.02.2022 resulted in recovery of original Bills of Lading showing Bandar Abbas as POL along with corresponding switched Bills of Lading showing Jebel Ali as POL.

2.4 It was further noticed that the vessel agent had also filed an IGM at Nhava Sheva Port (IGM No. 2303158 dated 04.02.2022) covering 79 Bills of Lading and 259 containers, wherein 22 Bills of Lading were found to be similarly mis-declared. These consignments were later unloaded at Kandla Port after amendment of IGMs.

2.5 The goods covered under the above 23 Bills of Lading (Kandla) and 22 Bills of Lading (Nhava Sheva) were seized vide seizure memos dated 10.02.2022 and 11.02.2022 under Sections 111(d), 111(f) and 111(m) of the Customs Act, 1962.

2.6 The vessel MV KABUL, along with onboard tools and tackles, having an insured value of USD 5.5 million (₹41.66 crore), was seized on 10.02.2022 under Section 110(1) of the Act on the belief that it was liable to confiscation under Section 115(2). The vessel was provisionally released under Section 110A against bond and bank guarantee.

2.7 The seized goods and containers were also provisionally released to the importers and container lines respectively, subject to execution of bonds and furnishing of bank guarantees. Certain consignments and containers remained unreleased due to non-compliance by importers.

2.8 Statements were recorded from the vessel agent, container lines, importers and Customs Brokers. Statements of authorised representatives of container lines admitted that the Bills of Lading had been switched at Jebel Ali, despite their knowledge that the goods were loaded at Bandar Abbas, Iran.

2.9 Importers, in their statements, denied knowledge of the alleged switching of Bills of Lading and mis-declaration. Customs Brokers stated that they filed Bills of Entry based on documents provided by importers.

3. A common Show Cause Notice dated 08.02.2023 was issued to:

- the vessel owner M/s. Neman Shipping Inc., Panama;
- the vessel agent M/s. Master Logistic Pvt. Ltd.;
- the container lines;

- the importers; and
- the Customs Brokers, proposing confiscation of vessel, containers and goods, re-assessment of Bills of Entry, recovery of differential duty, and imposition of penalties under various provisions of the Customs Act, 1962 and SCMTR, 2018.

4. The Show Cause Notice was adjudicated by the impugned common Order-in-Original, wherein:

- the vessel was held liable to confiscation under Section 115 (2) of the Customs Act, 1962 with redemption fine under Section 125 ibid and penalty under Section 114AA ibid;
- penalties were imposed on the vessel agent under SCMTR, 2018 and Section 114AA of the Customs Act, 1962;
- containers were confiscated under Section 111(m) of the Customs Act, 1962 with redemption fines under Section 125 ibid and penalties under Section 114AA and Section 117 ibid on container lines;
- imported goods were confiscated under Section 111(m) of the Customs Act with redemption fines under Section 125 ibid;
- Bills of Entry were ordered to be re-assessed by treating Bandar Abbas, Iran as POL and Iran as COO;
- differential duty was demanded under Section 28 of the Customs Act, 1962;
- penalties were imposed on importers under Sections 112(a)(ii), 112(b)(ii) and 114AA of the Customs Act, 1962; and
- penalties were imposed on Customs Brokers under Section 117 of the Customs Act, 1962.

5. Aggrieved by the said Order-in-Original, the present appeals have been filed by the Appellant.

Submissions of the Appellants:

5.1 Appellant at Serial no. 01 of Table - 1 mainly contended as under:

- The impugned order passed by the adjudicating authority is ex facie illegal, arbitrary and unsustainable in law and is liable to be quashed and set aside. At the outset, the impugned order is vitiated by violation of the principles of natural justice, as the mandatory requirement of granting an effective personal hearing under Section 124(c) of the Customs Act, 1962 has not been complied with. Although personal hearings are shown to have

been granted on 27.06.2023 and 28.02.2024, the said hearings were conducted by two different adjudicating authorities, neither of whom passed the order. The impugned order has been passed by a different authority without granting a fresh and effective hearing, despite the earlier authorities being apparently satisfied that the show cause notice deserved to be dropped. Such an order, passed without affording the Appellant a meaningful opportunity of being heard, is liable to be set aside on this ground alone.

- The Appellant submits that the entire foundation of the show cause notice rests on the alleged mis-declaration of port of loading and the issuance of "switch Bills of Lading", which, as borne out from the record, was entirely within the control of the container line and its agents. Statements recorded under Section 108 of the Customs Act from the representatives of the container line agents categorically admit that the Import General Manifest was filed by the vessel agent strictly on the basis of information supplied by them; that the original Bill of Lading was issued at Bandar Abbas, Iran; and that the Bill of Lading was subsequently switched to show Jebel Ali as the port of loading at the instance of the container line. It is further admitted that the vessel agent was specifically instructed to file the IGM in accordance with the switched Bill of Lading. These admissions unequivocally establish that the Appellant had no role, knowledge or control over the alleged mis-declaration. Despite this, the adjudicating authority has imposed an exorbitant redemption fine of ₹4,16,62,500/- and penalty of ₹1 crore on the Appellant, while imposing only nominal penalties on the actual wrongdoers, namely the container line agents. Such a grossly disproportionate approach is arbitrary, discriminatory and violative of Article 14 of the Constitution of India.
- The adjudicating authority has further committed a grave legal error in holding that the vessel is liable to confiscation under Section 111(m) of the Customs Act on the ground of mis-declaration of port of loading or country of origin. Section 111(m) applies only to mis-declaration in the Bill of Entry filed under Section 46 of the Act and not to the Import General Manifest. Even assuming, without admitting, that there was any mis-declaration, it is only the goods which may be rendered liable to confiscation and not the vessel. The impugned order thus proceeds on a fundamental misconception of law. The authority has further failed to appreciate that load port and country of origin are distinct concepts, and the Appellant never declared the country of origin in any document. The erroneous equation of load port with country of origin vitiates the entire finding of confiscation. In this regard, reliance is placed on Kabul Textiles v. Commissioner of Central Excise, Goa, wherein it was held that the

expression "entry" in Section 111(m) refers to the Bill of Entry and not the IGM, and that an incorrect IGM does not amount to smuggling.

- Having rightly held that confiscation under Section 111(f) was not sustainable due to the absence of any allegation in the show cause notice, the adjudicating authority has nevertheless relied upon alleged "non-tariff barriers" while upholding confiscation, a ground which was never proposed in the show cause notice. Such reliance on extraneous grounds is impermissible in law and renders the impugned order unsustainable.
- The imposition of penalty under Section 114AA of the Customs Act is also wholly illegal. Section 114AA can be invoked only when a person knowingly or intentionally makes, signs or uses any declaration, statement or document which is false in a material particular. The Appellant has neither made, signed nor knowingly used any false document. All documents were received from the container line agents in the ordinary course of business. Erroneous declaration of load port based on information supplied by third parties cannot be construed as a false declaration in a "material particular". Once the vessel itself is not liable to confiscation under Section 115(2) of the Act, no penalty under Section 114AA can survive. Further, the adjudicating authority has already imposed a penalty of ₹4 crore on the vessel agent for the very same alleged acts, and imposition of an additional penalty on the Appellant amounts to impermissible double jeopardy.
- The impugned order is further vitiated by non-consideration and misapplication of binding judicial precedents. The adjudicating authority has relied upon inapplicable case laws while completely ignoring settled decisions holding that mis-declaration of country of origin or port of loading, when no preferential duty is claimed and no revenue implication arises, does not warrant confiscation or penalty. Reliance is placed on Amit Petrolubes Pvt. Ltd. v. CC, Kandla (2024), Agarwal Industrial Corporation Ltd. v. CC, Mangalore [2020 (373) ELT 280], and 2024 (17) Centax 200 (Tri.-Ahmd), wherein it has been consistently held that penalty is not sustainable in the absence of mens rea.

5.2 Appellant at Serial No. 02 of THE Table - 1 mainly contended as under:

- The impugned order is illegal, arbitrary, disproportionate, perverse and unsustainable in law and therefore liable to be quashed in its entirety. At the outset, the order is vitiated by violation of Section 124(c) of the Customs Act, 1962, as no effective and mandatory personal hearing was granted by the adjudicating authority who passed the impugned order. Though hearings were recorded on 27.06.2023 and 28.02.2024 before different authorities, neither passed any order as they were satisfied that

the show cause notice deserved to be dropped. Passing the impugned order without granting a fresh and effective hearing amounts to gross violation of principles of natural justice and renders the order void ab initio.

- The allegations, even as per the department's own evidence, are squarely against the container line agents and their foreign principals who issued "switch Bills of Lading" showing the port of loading as Jebel Ali instead of Bandar Abbas. Statements recorded under Section 108 of the Customs Act categorically admit that the vessel agent, M/s Master Logistic Pvt. Ltd., filed the Import General Manifest strictly on the basis of information supplied by container line agents, which in turn was received from their principals. It is admitted that the original Bills of Lading were issued at Bandar Abbas, Iran and were subsequently switched to show Jebel Ali as the load port, and that the vessel agent was instructed to file the IGM accordingly. Despite this, the adjudicating authority has imposed only nominal penalties on the container line agents while imposing exorbitant redemption fine and penalties upon the Appellant, which is manifestly arbitrary and violates the doctrine of proportionality.
- The finding that the vessel is liable to confiscation under Section 111(m) of the Customs Act is patently erroneous. Section 111(m) applies only to mis-declaration in the Bill of Entry filed by the importer under Section 46. Even assuming mis-declaration in the Bills of Entry, only the goods could be liable for confiscation and not the vessel. The adjudicating authority has further imposed grossly disproportionate penalties on the Appellant while imposing paltry penalties on importers, rendering the order discriminatory and arbitrary.
- Having correctly held that confiscation under Section 111(f) is unsustainable as the show cause notice was silent on such grounds, the adjudicating authority has nevertheless relied upon alleged "non-tariff barriers" not proposed in the notice and has equated mis-declaration of load port with mis-declaration of country of origin, though the Appellant has not declared the country of origin in any document. This approach is directly contrary to the decision in Kabul Textiles v. Commissioner of Central Excise, Goa, wherein it was categorically held that the term "entry" under Section 111(m) refers only to the Bill of Entry and not to the IGM, and that an incorrect IGM does not amount to smuggling or attract confiscation.
- Once confiscation under Section 111(m) fails, penalty under Section 114AA cannot survive. Section 114AA applies only where a person knowingly or intentionally makes or signs a false declaration in a material particular. The Appellant has neither filed nor signed any such document. Mere declaration of load port based on documents supplied by container

line agents cannot constitute a "material particular". Hence, the penalty imposed under Section 114AA is wholly unsustainable.

- The adjudicating authority has relied upon inapplicable case laws while ignoring binding precedents of the Tribunal. Further, reliance on Section 148 for imposing penalty under Section 114AA is misconceived, particularly when substantial redemption fine and penalty have already been imposed on the vessel owner, M/s Neyman Shipping LLC, for the same alleged offence. The penalty imposed on the Appellant thus amounts to impermissible double jeopardy.
- The Appellant has fully cooperated during investigation and furnished all documents establishing that the vessel was given on time charter to M/s Lubeck Shipping LLC, Dubai. The finding that the vessel agent was appointed by the Appellant is contrary to record. The statement of Shri Rajubha Sodha of M/s Master Logistic Pvt. Ltd. under Section 108 clearly establishes that Master Logistic acted exclusively for M/s Lubeck Shipping LLC and merely compiled IGM data based on documents supplied by container line agents. These statements are exculpatory and fully absolve the Appellant.
- The statement of the Master of the vessel is also exculpatory. The Master correctly declared Bandar Abbas as the last port of call while filing Entry Inwards and vessel particulars. In the absence of personal knowledge or intent, no penalty can be imposed, and there can be no vicarious liability upon the vessel owner. Reliance is placed on Commissioner of Central Excise, Hyderabad v. SAB-NIFE Power Systems Ltd.
- There is admittedly no revenue loss in the present case. Whether the goods originated from Iran or Jebel Ali, the rate of customs duty remains the same, and the importers have paid freight for the voyage from Bandar Abbas to Kandla. In the absence of revenue implication, confiscation under Section 111(m) is impermissible, as held in Phil Corporation v. Commissioner of Central Excise, Goa.
- The Appellant has derived no monetary benefit whatsoever. Separate "service Bills of Lading" issued at Bandar Abbas show the container lines (NVOCCs) as shippers and their Indian counterparts as consignees, clearly establishing that documentation was controlled by container lines. Section 111(m) and Section 114AA cannot be invoked against the Appellant for acts attributable, if at all, to importers or container line agents.
- The standard of proof for establishing absence of knowledge or connivance is preponderance of probability, which the Appellant has fully discharged, as held in CIT v. Patna Timber Works (1977) 106 ITR 452. The Tribunal in Amit Petrolubes Pvt. Ltd. v. Commissioner of Customs, Kandla (2024) 21 Centax 549, Agarwal Industrial Corporation Ltd. v. Commissioner of

Customs, Mangalore, 2020 (373) ELT 280, and 2024 (17) Centax 200 (Tri.-Ahmd) has consistently held that mis-declaration of country of origin, without any preferential duty claim or revenue implication, cannot attract confiscation or penalty under Sections 112 or 114AA. The same principle has been affirmed by the Hon'ble Bombay High Court in Oriental Containers Ltd. v. Union of India.

- It is settled law that penalty under Section 114AA can be imposed only upon strict proof of mens rea and mala fides. No such intent, knowledge or connivance has been alleged or established against the Appellant. Without prejudice, even if any lapse is assumed, the maximum penalty, if at all leviable, could only be ₹50,000/- under the Sea Cargo Manifest and Transhipment Regulations, 2018.

5.3 The Appellants from Serial No. 03 to 10 of the Table - 1 mainly contended as under:

- The Appellants submit that they are shipping line agents operating at the port of discharge and were acting purely on behalf of their overseas principal, M/s Navio Shipping LLC, Dubai. The Appellants had no role whatsoever in the commercial arrangements between the foreign supplier and the Indian importers and were not involved in negotiations, fixation of price, receipt or remittance of payment, selection of port of loading, or issuance of Bills of Entry. The Appellants merely filed the Import General Manifest on the basis of Switch Bills of Lading received from their foreign principal in the ordinary course of maritime business. The Appellants neither interacted with the exporters nor with the importers or Customs Brokers and had no means, authority, or obligation to verify the origin of goods, port of loading, or stuffing details, all of which are determined at the load port and communicated through shipping documents issued by the overseas principal.
- It is submitted that the issuance of Switch Bills of Lading is a globally recognised and legitimate commercial practice in maritime trade, commonly adopted for reasons such as facilitation of third-party payments, change in commercial parties, or routing through intermediary ports. Standard maritime literature and international shipping guidelines recognise that switch bills may replace original bills with altered port or shipper details. In the present case, the use of switch bills was necessitated due to Iran-related banking and forex restrictions, compelling suppliers to route transactions through Dubai. Importers have duly confirmed that payments were made to suppliers in Dubai, establishing that the switch bills were issued for commercial convenience and not for

any fraudulent purpose. The Appellants derived no monetary or other benefit from such issuance or filing of documents.

- The Appellants submit that confiscation of containers under Section 111(m) of the Customs Act is wholly unsustainable, as containers are merely conveyances for carriage of goods and are not the subject matter of alleged mis-declaration. CBIC Circular No. 31/2005 dated 25.07.2005 clearly provides that containers are not liable to confiscation and cannot be detained beyond a reasonable period. There is no allegation against the Appellants of mis-declaration of description, quantity, or value of goods. The alleged mis-declaration pertains only to port of loading and country of origin, which were declared by importers in their Bills of Entry and not by the Appellants.
- It is further submitted that penalty under Section 114AA of the Customs Act requires clear proof of knowledge and intentional use of false or incorrect documents. In the present case, the Appellants filed the IGM bona fide on the basis of documents supplied by their overseas principal. The show cause notice and the impugned order fail to establish that the Appellants had knowledge of the alleged actual port of loading or that they knowingly used false documents. Section 114AA was enacted to deal with fraudulent paper transactions, particularly in export incentive frauds, and is not attracted to genuine import transactions involving bonafide intermediaries. Reliance is placed on decisions such as Access World Wide Cargo, Interglobe Aviation Ltd., and Sri Krishna Sounds & Lightings, wherein it has been consistently held that Section 114AA is inapplicable in the absence of mens rea and deliberate falsification.
- The invocation of Section 117 is equally unsustainable, as the provision can be applied only where there is deliberate or contumacious violation of statutory obligations. The Appellants acted strictly within the scope of their role as shipping agents and complied with all procedural requirements. Mere filing of IGM based on documents received from the principal cannot attract penal consequences. There is no evidence on record to suggest conspiracy, collusion, or aiding and abetting of alleged mis-declaration by the importers. Judicial precedents such as Trans Asian Shipping Services Pvt. Ltd., JKG Infralogistics Pvt. Ltd., Chakiat Agencies, MS Exim Services, and Jeena & Co. have categorically held that shipping agents or customs intermediaries cannot be penalised in the absence of positive evidence establishing knowledge or involvement in the alleged offence.
- The Appellants further rely on international jurisprudence, including the judgments in BNP Paribas v. Bandung Shipping Pte Ltd. and Wollongong Coal Ltd. v. PCL (Shipping) Pte Ltd., wherein courts have recognised the

legality and commercial necessity of switch bills of lading, including changes in port of loading, as an accepted maritime practice.

- It is submitted that the penalties and redemption fines imposed are grossly disproportionate and mechanically imposed without examining the element of mens rea or the margin of profit, thereby reflecting non-application of mind. The settled law laid down by the Hon'ble Supreme Court in Hindustan Steel Ltd. v. State of Orissa clearly holds that penalty is not automatic and cannot be imposed for technical or venial breaches without dishonest intent. The enforcement of bank guarantees equal to the penalty amount further demonstrates a pre-determined approach, violating principles of natural justice.
- The Appellants submit that they have already deposited the prescribed pre-deposit against the impugned demand and, in the absence of any evidence of knowledge, intent, or complicity, the confiscation of containers, imposition of redemption fine, and penalties under Sections 111(m), 114AA, and 117 of the Customs Act are wholly unsustainable and liable to be set aside.

5.4 The Appellants from Serial No. 11 to 16 of the Table - 1 mainly contended as under:

- The Appellants are companies incorporated under the Indian Companies Act, 1956 and operate as independent legal entities. They were appointed as agents by their disclosed principal, Baltic Lines, only for limited purposes relating to handling of import and export containers in India. The Appellants acted strictly within the scope of their agency and had no involvement in overseas activities such as container booking, freight collection, issuance of Bills of Lading, fixation of commercial terms, or dealings between exporters and importers. The adjudicating authority has passed the impugned Order-in-Original without application of mind by mechanically adopting and copy-pasting the defence filed by other NVOCC operators, without appreciating that the Appellants' defence was distinct and fact-specific. The findings recorded against the Appellants are therefore erroneous, arbitrary, and unsustainable.
- It is submitted that the adjudicating authority has failed to establish any nexus between the Appellants and the alleged offences. The alleged contraventions, even if assumed, essentially pertain to statutory obligations under Section 30 (filing of Import General Manifest) and Section 46 (filing of Bill of Entry) of the Customs Act, 1962. These obligations rest upon the person-in-charge of the vessel or its agent for filing the IGM, and upon the importer for filing the Bill of Entry. In the present case, the vessel agent, M/s Master Logistics, was responsible for

filing the IGM, while the respective importers, through their CHAs, filed the Bills of Entry declaring the port of loading as Jebel Ali. The Appellants had neither statutory duty nor authority under the Act to make or verify such declarations.

- The adjudicating authority itself has recorded that the last port of loading was Bandar Abbas, Iran and that Kandla was the first port of call thereafter. Despite this, the authority failed to appreciate that the vessel operator or its agent had already filed mandatory export/entry-out manifest at Bandar Abbas using the Iranian EPL (Electronic Port Logistics) system, wherein all original Bills of Lading correctly reflected Bandar Abbas as the port of loading. Thus, the vessel operator and its agent had complete and accurate information regarding the actual port of loading and yet allegedly misdeclared the same while filing the IGM in India. The responsibility for such misdeclaration, therefore, squarely lies with the agent of the conveyance and not with the Appellants.
- Without prejudice, it is submitted that the Appellants were not even aware of the existence of switch Bills of Lading. These documents were neither generated nor issued by the Appellants, nor did the Appellants receive any remuneration in respect thereof. The Appellants acted in good faith on the basis of documents provided by their overseas principal and merely handled containers as delivery agents. The finding that the Appellants deliberately issued forged Bills of Lading is factually incorrect, as the Appellants have not issued any Bill of Lading at any stage.
- The authority further failed to appreciate that the statutory Bills of Entry under Section 46 were filed by the importers through their CHAs. Importers, being in direct commercial dealings with exporters, had complete prior knowledge of origin, port of loading, CIF price, foreign exchange remittance, PSIC, and certificates of origin. Any revenue implication, therefore, arises due to acts or omissions of the importers and not the Appellants. The reliance placed solely on statements recorded under Section 108 of the Customs Act, without independent corroboration, is legally unsustainable. Reliance is placed on Union of India v. Kisan Ratan Singh, 2020 SCC OnLine Bom 39, wherein the Hon'ble Bombay High Court held that statements under Section 108 cannot be treated as gospel truth without corroboration.

The invocation of Section 111(m) against the Appellants is wholly misconceived, as the provision applies only to goods which do not correspond with the entry made under the Act. The term "entry" under Section 2(16) refers to a Bill of Entry, shipping bill, or bill of export. In the present case, entries were made by the importers through CHAs and not by the Appellants. Reliance is placed on Ocean Shipping Services v.

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Commissioner of Customs, Ahmedabad, 2005 (191) E.L.T. 890 (Tri-Mumbai), wherein it was held that Section 111(m) refers to misdeclaration in Bills of Entry or postal declarations and cannot be applied to shipping agents.

- The imposition of redemption fine under Section 125 of the Customs Act upon the Appellants is also illegal, as the provision applies only to the owner of the goods or, where the owner is unknown, to the person from whose possession the goods were seized. The Appellants are neither the owners of the goods nor the persons from whose possession the goods were seized. Reliance is placed on Indian Overseas Bank v. Collector of Customs, 1984 Tax L.R. 2427 (Mad.), wherein it was held that the term "owner" under Section 125 cannot be extended to third parties.
- The penalties imposed under Sections 114AA and 117 are equally unsustainable. Section 114AA applies only where a person knowingly or intentionally uses false documents. The provision was introduced primarily to address cases of bogus or fraudulent exports where export incentives are availed without export of goods, as explained in the 27th Report of the Standing Committee on Finance. It has no application to bona fide import transactions such as the present case. Further, Section 117 can be invoked only when there is a failure to comply with a statutory duty. The Appellants neither contravened nor abetted any contravention of the Customs Act and no mens rea has been established.
- The attempt to invoke Section 147 against the Appellants is legally flawed, as the provision applies only to agents of owners, importers, or exporters of goods. The Appellants are not agents of the importers or exporters but merely agents of a disclosed NVOCC principal. Reliance is placed on Elecon Engineering Co. Ltd. v. Commissioner of Customs, 1999 (111) E.L.T. 509 (Tri.), wherein it was held that Section 147 applies only where the statute requires the owner to perform an act. In fact, liability of agents of conveyance is governed by Section 148, which applies to the vessel operator's agent and not to the Appellants.
- The adjudicating authority has also ignored Section 230 of the Indian Contract Act, 1872, under which an agent of a disclosed principal cannot be personally liable. The show cause notice itself was vague, based on conjectures and copy-pasted statements, and the impugned order has been passed mechanically, without addressing the legal submissions and documents placed on record. The Order-in-Original is therefore illegal, arbitrary, and unsustainable in law and deserves to be set aside in toto insofar as it relates to the Appellants.

5.5 The Appellants from Serial No. 17 to 20 of the Table - 1 mainly contended as under

- The impugned order is liable to be quashed and set aside on the following, amongst other, grounds, each taken independently and without prejudice to one another.
- The Appellants submit that the learned Adjudicating Authority has gravely erred in imposing penalty under Section 114AA of the Customs Act, 1962 on mere assumptions and presumptions, without establishing the mandatory requirement of mens rea. Penalty under Section 114AA can be imposed only when it is proved that the person knowingly or intentionally made, signed, used or caused to be used any false or incorrect declaration or document. In the present case, the penalty has been imposed merely on the allegation in the show cause notice that the Appellants had not exercised due diligence or were allegedly in collusion with the shipper, coupled with a vague observation in the impugned order that willful misstatement by the importer in collusion with the supplier and shipping agent "cannot be ruled out". Such conjectural observations fall far short of the legal threshold required for invoking Section 114AA. In the absence of any cogent evidence establishing knowledge or intentional misstatement on the part of the Appellants, the penalty imposed under Section 114AA is unsustainable in law. For the same reasons, penalty under Section 112(b)(ii) is also not imposable.
- The Appellants further submit that the learned Adjudicating Authority has nowhere recorded any finding that the Appellants had paid or agreed to pay any amount over and above the CNF price declared in the invoice issued by the overseas supplier. In the absence of any allegation or evidence of extra consideration, flow-back of funds, or suppression of actual price, there was no legal basis for rejecting the declared transaction value under Section 14 of the Customs Act and the Customs Valuation Rules. Consequently, the enhancement of assessable value by loading an additional element of freight and the resulting demand of differential duty and interest are wholly unjustified and unsustainable in law.
- The Appellants submit that the Bills of Entry were filed strictly on the basis of particulars contained in the import documents received from the overseas supplier. The Appellants had no role in preparation of shipping documents by the shipping line, and there is no allegation, much less evidence, of any collusion between the Appellants, the overseas supplier and the shipping line. In the absence of any deliberate or conscious mis-declaration by the Appellants, the provisions of Section 111(m) of the Customs Act are not attracted. Consequently, the Appellants cannot be

held liable to penalty under Sections 112(a) or 112(b) of the Customs Act, 1962.

- Without prejudice to the Appellants' contention that Section 114AA itself is not applicable, it is submitted that the quantum of penalty imposed under the said provision is grossly disproportionate to the alleged offence, if any. No positive evidence has been brought on record to establish prior knowledge of the Appellants regarding the actual port of loading or the country of origin of the goods. In the absence of such evidence, imposition of a severe and disproportionate penalty is contrary to the settled principles of law governing proportionality of punishment and is therefore liable to be set aside.

5.6 The Appellants from Serial No. 21 to 30 of the Table – 1 mainly contended as under.

- The Appellants contend that the impugned order suffers from violation of principles of natural justice as none of the detailed submissions made in reply to the SCN were dealt with. It is specifically contended that the transaction value declared under Section 14 of the Customs Act was never rejected in accordance with the Customs Valuation Rules, and there was no allegation or evidence of extra consideration, flow-back of funds, contemporaneous imports at higher prices, or manipulation of value by the Appellants.
- The Appellants submit that the contract price was CIF, and no separate or additional freight was paid for transportation from Iran. Even assuming the goods were loaded at Bandar Abbas, no notional freight could be added when the CIF price already included freight up to the port of import. Reliance is placed on Eicher Tractors Ltd., Ispat Industries Ltd., Southern Petrochemical Industries Ltd. (LB) and other settled precedents holding that freight already included in CIF value cannot be loaded again.
- It is further contended that the Appellants had no role in preparation or manipulation of shipping documents and had no knowledge of any alleged discrepancy in port of loading or country of origin. The Appellants did not claim any preferential rate of duty on the basis of country of origin, and the description, quantity and value of the goods were correctly declared.
- The Appellants rely upon consistent Tribunal decisions in Agarwal Industrial Corporation Ltd., Aspam Petronergy Pvt. Ltd., and Rajkamal Industrial Pvt. Ltd., wherein it was held that mere technical mis-declaration of country of origin or port of loading, without any benefit to the importer or evidence of importer's involvement, does not justify confiscation or penalty.

- The Appellants further submit that the entire case of the Revenue is based on statements recorded during investigation, which were relied upon without examination of the makers of the statements as witnesses and without granting cross-examination, in violation of Section 138B of the Customs Act. Reliance is placed on Jindal Drugs Pvt. Ltd., G-Tech Industries, J&K Cigarettes Ltd., Dhariwal Industries Ltd., and several CESTAT decisions holding that such statements are inadmissible without compliance with Section 138B and denial of cross-examination vitiates adjudication.
- On confiscation and penalties, the Appellants submit that none of the statutory ingredients of Sections 111(m), 112(a), 112(b) or 114AA are satisfied, as there is no evidence of knowledge, intention, mens rea or conscious involvement. The penalty imposed is stated to be grossly disproportionate to the alleged duty demand, contrary to the doctrine of proportionality laid down in Ashiana Cargo Services, GSP Shipping, Kunal Travels, H.B. Cargo Services, and Mukul Kumar Choudhuri.

5.7 The Appellants at Serial No. 38 of the Table - 1 mainly contended as under

- The Appellant submits that the impugned order dated 02.08.2024 is bad in law, arbitrary and liable to be set aside as the Respondent has imposed penalty on wholly erroneous grounds without proper appreciation of the factual and legal aspects of the case. The impugned order is non-speaking, cryptic and violative of the principles of natural justice, as it neither records reasons nor deals with the detailed submissions made by the Appellant.
- A bare perusal of the impugned order reveals that none of the contentions raised by the Appellant in its detailed reply dated 12.07.2023 have been examined or rebutted. The Respondent has confirmed allegations of mis-declaration of port of load and imposed penalties without recording any findings or reasons for rejecting the submissions of the Appellant or for non-applicability of the judgments relied upon, including the decision of the Hon'ble CESTAT, Bengaluru in Agarwal Industrial Corporation Ltd. v. Commissioner of Customs, Mangalore, which involved identical facts. It is settled law that quasi-judicial orders must be reasoned orders, and failure to do so renders the order unsustainable. Reliance in this regard is placed on Gunnebo India Pvt. Ltd. v. Commissioner of Service Tax, 2019 (31) GSTL 34 (Bom), Padmavati Tubes, 2017 (351) E.L.T. 38 (Guj.), and Sri Ramakrishna Mills, 2001 (132) E.L.T. 453 (Tri.-Chennai).
- The Appellant further submits that the confiscation of goods under Section 111(m) of the Customs Act is wholly unjustified. Section 111(m) applies

only where the goods do not correspond in respect of value or any other material particular with the declaration made under the Act. In the present case, there is no dispute regarding description, quantity or value of the goods. The allegation pertains only to the port of load and country of origin, which were declared strictly on the basis of documents such as Bill of Lading, Commercial Invoice, Packing List and Certificate of Origin supplied by the UAE-based supplier. No evidence has been produced by the Respondent to establish deliberate mis-declaration or involvement of the Appellant. In similar circumstances, the Tribunal in Agarwal Industrial Corporation Ltd., 2020 (373) E.L.T. 280 (Tri.-Bang.) held that confiscation under Sections 111(d) and 111(m) was not sustainable where the importer acted on the basis of documents supplied by the foreign supplier and no mala fide was established.

- It is further submitted that even assuming goods were loaded from Iran, there is no prohibition on import of such goods under the Customs Act, Foreign Trade Policy or any other law. The goods are not prohibited goods and no preferential duty benefit was claimed. None of the co-noticees have alleged any role of the Appellant in the alleged mis-declaration. Hence, confiscation of goods and penal consequences are wholly unwarranted. Reliance is placed on Callmate India Pvt. Ltd. v. Commissioner of Customs, 2022 (4) TMI 144 (CESTAT-Del.).
- The demand of differential duty of ₹78,791/- is also challenged as erroneous. The Appellant submits that the goods were imported on C&F basis and the transaction value included cost of cargo and freight as per the Proforma Invoice. Once the transaction value is accepted and the entire consideration is paid, the Appellant has no control over the freight calculation between different ports. The Respondent has demanded differential duty purely on assumptions without furnishing any working or computation, contrary to Section 14 of the Act. No evidence has been produced to show that any additional consideration was paid over and above the declared value. In the absence of cogent evidence, undervaluation cannot be alleged.
- The Appellant submits that no evidence whatsoever has been produced to establish that the Appellant had knowledge of any alleged mis-declaration of port of load or country of origin. The Respondent himself alleges manipulation of documents by the UAE-based supplier, yet proceeds to penalise the Appellant without establishing knowledge, intention or abetment. There was no revenue benefit to the Appellant in declaring UAE instead of Iran, as no preferential duty was claimed. The Appellant acted bona fide on the basis of documents received from the supplier.

- The imposition of penalties under Sections 112(a)(ii) and 112(b)(ii) is wholly unsustainable as mens rea or conscious knowledge is a sine qua non for penalising an alleged abettor. In the absence of evidence showing active involvement or knowledge, penalty cannot be imposed. Reliance is placed on Trinetra Impex Pvt. Ltd., 2020 (372) E.L.T. 332 (Del.), Suresh Rajaram Newagi, 2008 (228) E.L.T. 211, and several Supreme Court and Tribunal decisions holding that penalty for abetment cannot be sustained without proof of mens rea. Further, a single penalty under both clauses (a) and (b) of Section 112 is legally impermissible, as held in Amit Ghosh v. Commissioner of Customs, 2023 (2) TMI 620 (CESTAT-Kolkata).
- The penalty imposed under Section 114AA of the Act is also unsustainable. Section 114AA requires proof of knowledge and use of false or incorrect material particulars. In the present case, the Appellant merely filed documents supplied by the supplier, which the Respondent himself alleges were manipulated by the supplier. No evidence has been produced to show that the Appellant knowingly used false documents. The burden of proof squarely lies on the Department, which has not been discharged. Reliance is placed on Abhinav Malhotra, 2018 (363) E.L.T. 751 (Tri.-Del.) and Trans Asian Shipping Services Pvt. Ltd., 2018 (363) E.L.T. 635 (Tri.-All.).
- Without prejudice, it is submitted that penalty under Section 114AA can be imposed only on natural persons and not on artificial entities such as companies, as the act of making or using a false declaration can only be attributed to a natural person. This position stands supported by Apple Sponge and Power Ltd., 2018 (362) E.L.T. 894 (Tri.-Mumbai) and T.R. Venkatadari, 2018 (10) G.S.T.L. 483 (Tri.). Further, the legislative intent behind Section 114AA, as reflected in the Taxation Laws (Amendment) Bill, 2005, shows that the provision was introduced to deal with cases of paper exports involving fraudulent claims without actual movement of goods, which is not the situation in the present case. This view has been affirmed in Commissioner of Customs v. Sri Krishna Sounds and Lightings, 2019 (370) E.L.T. 594 (Tri.).

5.8 The Appellants from Serial No. 31 to 34 of the Table - 1 mainly contended as under:

- The impugned order is wholly erroneous, unsustainable in law and liable to be set aside, as no penalty or redemption fine can be imposed upon the Appellants in the absence of any violation of the provisions of the Customs Act, 1962. The Appellants have acted throughout under a bona fide belief and in the normal course of business on the basis of documents issued by third parties, namely the foreign supplier/shipper, vessel owner, vessel agent and container line. The Appellants had neither issued nor fabricated

any of the alleged forged documents, nor had any authority, control or means to verify the actual Port of Loading of the goods. All relevant facts were duly disclosed during investigation and full cooperation was extended to the department. Even as recorded in the Show Cause Notice, the alleged mis-declaration of Port of Loading was attributable, if at all, to the vessel owner, vessel agent and container line; however, the Ld. Adjudicating Authority has, without any evidence, passed a vague and omnibus order penalising all noticees including the Appellants merely on assumptions of lack of due diligence.

- It is a settled position of law that penalty cannot be imposed in the absence of corroborative and independent evidence establishing knowledge, intent or collusion. In the present case, the department has failed to produce a single piece of evidence to show that the Appellants were directly or indirectly involved in the alleged mis-declaration or forgery. The entire case against the Appellants is based on conjectures and presumptions. The Hon'ble Tribunal in Aspam Petronergy v. CC, Kandla (21.03.2024) held that mis-declaration of country of origin, when based on supplier documents and without any revenue implication or claim of preferential duty, cannot attract penalty upon the importer. Similar views were expressed in Agarwal Industrial Corporation Ltd. v. CC (CESTAT, Bangalore), wherein it was held that when the importer relied upon supplier documents, claimed no preferential duty and no mala fide was established, penalties under Sections 111, 112 and 114AA were not sustainable. Reliance was also placed on Oriental Containers Ltd. v. Union of India [2003 (157) ELT 503 (Bom.)] and Shree Ganesh International [2004 (174) ELT 171 (Tri-Del.)], wherein it was held that an importer acting on the basis of documents supplied by foreign sellers cannot be penalised for fraud committed by third parties and that such declarations constitute bona fide claims rather than mis-declaration.
- Further, it is well settled that redemption fine cannot be imposed when the goods are not available for confiscation. The Hon'ble Tribunal in Ram Khazana Electronics v. CC, Air Cargo, relying upon Shiwalya Spinning, Chinku Exports, Prudential Pharmaceuticals and Universal Steel Agencies, categorically held that redemption fine imposed in such circumstances is beyond the scope of law and liable to be set aside.
- The penalties imposed under Section 114AA of the Customs Act are also wholly unsustainable. Section 114AA can be invoked only when a person knowingly or intentionally makes, signs or uses false or incorrect documents. In the present case, the Appellants neither prepared nor knowingly used any forged or incorrect document. The Hon'ble Tribunal in Nidhi Exports v. CC (2022) held that penalty under Section 114AA is

not sustainable in the absence of evidence of knowledge or intention. Similar views were expressed in Suketu Jhaveri v. CC, Nhava Sheva [2014 (314) ELT 828 (Tri-Mumbai)] and reaffirmed in Omega Packwell Pvt. Ltd. v. CC, Noida (2024), wherein penalties under Section 114AA were set aside due to lack of mens rea.

- The Appellants further rely upon Asra Enterprises (CESTAT, 08.02.2024) and CJ Shah & Co. v. CC, Mumbai (2023), wherein the Tribunal held that penalties cannot be imposed without examination of the specific role of the importer and that penal action without evidence amounts to executive overreach. The department has also failed to discharge its burden of proof, which squarely lies upon it. The Hon'ble Supreme Court in Commissioner v. Jagdamba Petroleum Pvt. Ltd. [2007 (212) ELT A112 (SC)] and the Tribunal in Rina Dyeing v. CCE [2007 (209) ELT 190], Popular Rubber Industry v. CCE [2004 (167) ELT 469] and Uma Trading Co. v. CC, Patna (2012) have consistently held that allegations unsupported by cogent evidence cannot sustain penal consequences.
- The Appellants further submit that having acted under bona fide belief, no penalty can be imposed, as held in Oriental Containers Ltd., Shree Ganesh International, Kirti Sales Corporation [2008 (232) ELT 151], Trishla Steel Engineering Co. [2014 (313) ELT 443], D. Navinchandra v. UOI [1987 (29) ELT 492 (SC)] and Akbar Badruddin Jiwani v. CC [1990 (47) ELT 161 (SC)]. Additionally, the Show Cause Notice itself is vague and devoid of specific allegations against the Appellants. The Hon'ble Supreme Court in CCE v. Vrindhavan Beverages [2007 (213) ELT 487 (SC)] held that vague and ambiguous show cause notices vitiate the entire proceedings.

5.9 The Appellants at Serial No. 35 & 36 of the Table - 1 mainly contended as under

- The impugned order is patently illegal, contrary to the facts on record, unjust, erroneous and passed with complete non-application of mind, and if permitted to stand, would result in grave miscarriage of justice. The Appellants submit that the allegations levelled by the Respondent are false, frivolous, baseless and unsupported by any cogent or independent evidence.
- The Appellants were never aware of any alleged forgery or manipulation of documents said to have been carried out by the container lines in collusion with the vessel agent. All shipment-related documents were received by the Appellants from the vessel agent/supplier and were relied upon in good faith while filing the Bills of Entry before the Customs authorities. The Appellants neither knowingly nor intentionally made, signed or used any false or incorrect declaration. In the absence of mens rea, the essential

ingredients of Section 114AA of the Customs Act, 1962 are not satisfied. The said provision applies only where there is a wilful and conscious act to deceive or mislead the authorities, which is completely absent in the present case. Any discrepancy in documentation is solely attributable to the acts of the container lines and/or vessel agents, and therefore the penalties imposed under Section 114AA are wholly unsustainable and liable to be set aside.

- The demand of differential duty confirmed against the Appellants is also erroneous and without authority of law. The goods were imported on a CIF (Cost, Insurance and Freight) basis, under which the transaction value already includes freight and insurance irrespective of the port of loading. Whether the goods were loaded from Bandar Abbas, Iran, or Jebel Ali, Dubai, has no impact on the CIF value or the customs duty payable. The impugned demand, based merely on an alleged mis-declaration of the port of loading, is thus fundamentally flawed, contrary to settled principles of valuation and fair assessment, and cannot be sustained.
- It is further submitted that the Appellants negotiated the purchase of goods with the overseas supplier, M/s Farmers Pride Fruits and Vegetables Trading LLC, Dubai, who manipulated the shipping documents and furnished misleading information regarding the port of loading. The differential duty demand, being founded entirely on such incorrect and manipulated documents, lacks any legal basis. The Appellants acted bona fide on the basis of information supplied by the supplier and cannot be penalized for misrepresentations attributable solely to third parties.
- The Appellants had no reasonable means or legal obligation to independently verify the correctness of the port of loading or other shipping particulars provided by the overseas supplier. It is neither customary nor practicable for importers to conduct independent investigations into the authenticity of shipping documents. Accordingly, penalties imposed under Sections 112(a)(ii) and 112(b)(ii) of the Customs Act, which require conscious knowledge or intentional mis-declaration, are wholly inapplicable to the Appellants.
- The impugned order is further liable to be set aside as having been passed without jurisdiction. It is vitiated by the absence of independent corroborative evidence and is based entirely on assumptions, presumptions and conjectures. The order has been passed in a mechanical, biased and unfair manner, without proper appreciation of facts or settled legal position, and reflects a predetermined approach rather than a reasoned adjudication.
- The Appellants have a strong prima facie case on merits, the balance of convenience lies in their favour, and irreparable prejudice would be caused

if the impugned order is allowed to operate. The order is contrary to settled law laid down in a catena of judicial pronouncements on the issues involved and is otherwise arbitrary, vague and perverse. All the above grounds are taken without prejudice to one another, and the Appellants crave leave of the Hon'ble Commissioner (Appeals) to add, amend, alter or modify these grounds at the time of hearing.

5.10 The Appellants from Serial No. 39 to 48 of the Table - 1 mainly contended as under:

- The impugned order dated 02.08.2024 is erroneous, unsustainable and liable to be quashed and set aside, as the Respondent has imposed penalty on the Appellants on wholly fallacious grounds without proper appreciation of the facts and settled legal position. The finding that the Appellants deliberately and knowingly indulged in clearance of imported goods by mis-declaring the port of loading is unsupported by evidence and contrary to law. Consequently, the imposition of penalty of ₹2,00,000/- under Section 117 of the Customs Act, 1962 is unsustainable.
- Section 117 of the Customs Act provides for imposition of penalty only where a person contravenes any provision of the Act or abets such contravention in cases where no specific penalty is provided elsewhere. Abetment, as understood in law and as defined under Section 107 of the Indian Penal Code, necessarily requires instigation, conspiracy or intentional aiding of the offence. In the present case, the Respondent has failed to bring on record any evidence whatsoever to establish that the Appellants have either contravened any provision of the Customs Act or abetted any such contravention. The impugned order proceeds entirely on assumptions and conjectures, without satisfying the essential ingredients of Section 117.
- The Appellants acted strictly in their capacity as Customs Brokers, pursuant to valid authorisations issued by the importers. The role of the Appellants commenced only upon arrival of the vessel and receipt of documents for assessment and clearance. The Bills of Entry were filed solely on the basis of documents provided by the importers, namely the Bill of Lading, Commercial Invoice, Packing List, Country of Origin Certificate and Analysis Report, all of which uniformly declared the port of loading as Jebel Ali, UAE. These documents were duly stamped and signed by the overseas supplier, and there was no reason for the Appellants to doubt their genuineness. The Appellants exercised due diligence in accordance with standard trade practices and cannot be faulted for relying upon documents furnished by the importers.

- The Respondent has wrongly invoked obligations under the Customs Broker Licensing Regulations, 2018. Regulation 10 of the CBLR requires a Customs Broker to advise clients to comply with the law and to exercise due diligence in relation to information imparted to the client. The said regulation does not mandate verification of the genuineness of commercial documents or conducting a background investigation into the transaction or shipment. A Customs Broker is not an investigating authority and cannot be expected to ascertain the actual port of loading in the absence of any contrary material in the import documents. The Respondent has completely misconstrued the scope of Regulation 10(e), which relates to correctness of information imparted by the broker to the client, and not verification of documents supplied by the client.
- The settled legal position is that a Customs Broker cannot be penalised merely for filing documents on the basis of information provided by the importer, unless there is positive evidence of knowledge, collusion or intentional facilitation of mis-declaration. The Hon'ble Delhi High Court in Kunal Travels (Cargo) v. CC, 2017 (354) E.L.T. 447 (Del.), has categorically held that it would be far too onerous to expect a CHA to verify the genuineness of documents or conduct background checks of clients, and that in the absence of knowledge or mens rea, penalty is not sustainable. Similar views have been consistently taken by the Tribunal in J.M. Baxi & Co. v. CC, 2016 (337) E.L.T. 268 (Tri.-Ahmd.), V. Arjoon v. PC, 2023 (6) Centax 34 (Tri.-Bom), and M.J. Joshy v. CC, 2010 (258) E.L.T. 460 (Tri.-Chennai), wherein penalties under Section 117 were set aside due to absence of evidence of abetment or knowledge.
- In the present case, no evidence has been produced to show that the Appellants were aware of the alleged mis-declaration of port of loading or that the Appellants facilitated or aided such mis-declaration. None of the co-noticees have stated that the Appellants had any prior knowledge of the alleged irregularity. On the contrary, all documents examined by the Customs authorities themselves reflected Jebel Ali as the port of loading, and even the Department did not initially find any discrepancy. In such circumstances, alleging lack of due diligence against the Appellants is wholly unjustified.
- The Tribunal has consistently held that mere negligence or procedural lapse, even if assumed, cannot attract penalty under Section 117 in the absence of mala fide intent or abetment. Reliance in this regard is placed on Jeena & Co. v. CC, 2021 (378) E.L.T. 528, Sai Shipping Services, 2009 (239) E.L.T. 104, Sindhu Cargo Services, 2008 (226) E.L.T. 282, Success Engineering, 2007 (215) E.L.T. 220, and Prime Forwarders, 2008 (222) E.L.T. 137. The Hon'ble Tribunal in Hazel Mercantile Ltd., 2011-TIOL-

1167-CESTAT-AHM, has further held that in the absence of evidence of mala fide intention, penalty under Section 117 is liable to be dropped.

- The Appellants neither facilitated nor intentionally aided the alleged mis-declaration. This position stands fortified by the decision in Syndicate Shipping Services (P) Ltd., 2003 (154) E.L.T. 756 (CEGAT-Chennai), wherein it was held that failure to carry out duties by itself does not justify penalty unless mala fide intention is established. Similar protection was extended in Yogesh Kumar v. CC, 2016 (344) E.L.T. 1042 (Tri.-Del.), holding that human or clerical errors cannot be equated with abetment.
- The Respondent has also acted in complete disregard of Advisory No. 1/ADJ/2024-Mundra dated 22.05.2024 issued by the Principal Commissioner of Customs, Mundra, and Instruction No. 20/2024-Customs dated 03.09.2024 issued by the CBIC, which clearly caution against routine implication of Customs Brokers without establishing specific acts of omission or commission amounting to abetment. In view of Section 151A of the Customs Act, such instructions are binding on the Department, as held by the Hon'ble Supreme Court in Ratan Melting & Wire Industries, 2008 (231) E.L.T. 22 (S.C.), and other decisions.
- In the absence of any documentary or oral evidence establishing knowledge, collusion, facilitation or abetment on the part of the Appellants, the imposition of penalty under Section 117 of the Customs Act is wholly arbitrary and unsustainable. Accordingly, the impugned order dated 02.08.2024 deserves to be set aside in toto, with consequential relief to the Appellants.

5.11 The Appellant at Serial No. 37 of the Table - 1 mainly contended as under:

- The impugned order is patently illegal, contrary to the facts on record and settled law, and has been passed without application of mind. The rejection of the declared transaction value and re-determination of freight is wholly unsustainable, as the imports were admittedly on CFR/CIF basis and there is no evidence whatsoever of any extra consideration or under-valuation. It is settled law that transaction value cannot be rejected on assumptions or presumptions and must be accepted unless the conditions of Section 14 of the Customs Act, 1962 are satisfied, as held by the Hon'ble Supreme Court in Eicher Tractors Ltd. v. CC [2000 (122) ELT 321 (SC)]. Where freight is already included in CIF/CFR contracts, no further addition can be made, as held in Ispat Industries Ltd. v. CC [2006 (202) ELT 561 (SC)]. The differential duty confirmed on hypothetical re-computation of freight is therefore without authority of law, as reiterated in Jupiter Dychem Pvt. Ltd. [2023 (5) TMI 670 (CESTAT)].

- The allegation regarding mis-declaration of the port of loading is misconceived and legally irrelevant. There is no prohibition under Section 11 of the Customs Act, 1962 or under the Foreign Trade Policy on import of the subject goods from Iran, and customs authorities cannot import foreign sanction regimes or presume intent to circumvent the same. In absence of any prohibition under Indian law, such findings are without jurisdiction, as held by the Hon'ble Bombay High Court in Global Ace Shipping Lines Inc. [2020 (12) TMI 379 (Bom.)].
- Further, the impugned order travels far beyond the allegations contained in the Show Cause Notice by branding the Appellants as "main beneficiaries", which was never alleged in the SCN. It is a settled principle that adjudication cannot go beyond the scope of the Show Cause Notice, as held in Toyo Engineering India Ltd. [2006 (201) ELT 513 (SC)], Ballarpur Industries Ltd. [2007 (215) ELT 489 (SC)] and Champdany Industries Ltd. [2009 (241) ELT 481 (SC)]. Such adjudication in excess of the SCN violates the principles of natural justice as laid down in Maneka Gandhi [(1978) 1 SCC 248], Dharampal Satyapal Ltd. [2015 (320) ELT 3 (SC)] and Hanil Era Textiles Ltd. [2017 (349) ELT 384 (SC)].
- The confiscation of goods under Section 111(m) of the Customs Act is equally untenable, as there is no finding of any intention to mis-declare, no exemption benefit claimed, no preferential rate of duty availed, and no revenue loss caused. In such circumstances, confiscation cannot be sustained, as consistently held in Aspam Petronergy Pvt. Ltd. [2024 (389) ELT 103], Amit Petrolubes Pvt. Ltd. [2023 (12) TMI 796], Oriental Containers Ltd. [2003 (157) ELT 503 (Bom.)], Bosch Chassis Systems India Ltd. [2015 (325) ELT 372], Phil Corporation Ltd. [2001 (134) ELT 206], Kirti Sales Corporation [2008 (232) ELT 151] and Shree Ganesh International [2004 (174) ELT 171]. Consequently, the redemption fine imposed under Section 125, being purely consequential, is also liable to be set aside and is otherwise grossly disproportionate.
- The impugned order further proceeds on the erroneous assumption that the Appellants were required to independently verify foreign shipping operations and the conduct of overseas shipping lines, which is an impossibility in law and in fact. The law does not compel a person to do the impossible (lex non cogit ad impossibilia), as held in State of MP v. Narmada Bachao Andolan [(2011) 7 SCC 639], LIC v. CIT [(1996) 219 ITR 410 (SC)] and Faizabad Ayodhya Development Authority [(2022) SCC OnLine 879]. Long-standing commercial relationships further establish bona fide belief, as recognized in Shree Ganesh International (supra).
- The penalties imposed under Sections 112 and 114AA of the Customs Act are wholly unwarranted in absence of any evidence of conscious

knowledge, deliberate involvement or intentional use of false documents. Penalty under Section 112 cannot be imposed merely on suspicion or association, as held in Amglo Resources Pvt. Ltd. [2024 (3) TMI 360], Akbar Badruddin Jiwani [1990 (47) ELT 161 (SC)] and Trinetra Impex Pvt. Ltd. [2020 (372) ELT 332 (Del.)]. Section 114AA specifically requires wilful and knowing use of false documents, which is absent in the present case. The legislative intent behind Section 114AA, as reflected in the 27th Report of the Standing Committee on Finance (2005-06), was to curb fraudulent exports, and the provision has been held inapplicable in similar circumstances in Louis Dreyfus Co. India Pvt. Ltd. [2024 (388) ELT 507] and Interglobe Aviation Ltd. [2022 (379) ELT 235].

- Without prejudice, the alleged differential duty involved is negligible and attracts the doctrine of lex non curat de minimis, and therefore cannot form the basis for harsh action such as confiscation and penalties, as held by the Hon'ble Gujarat High Court in Banian & Berry Bearing Pvt. Ltd. [SCA No. 6497 of 2002]. For all the aforesaid reasons, the impugned order is arbitrary, perverse, without jurisdiction and contrary to settled law, and therefore deserves to be set aside in toto with all consequential reliefs to the Appellants.

6. Record of Personal Hearings:

In accordance with the principles of audi alteram partem, all Appellants were afforded the opportunity of personal hearing. The hearings were attended as under:

- **10.12.2025:** Appellants at Serial Nos. 1–2 were represented by Ms. Prutha Bhavsar, Advocate; Serial Nos. 17–20 by Shri Vikas Mehta, Consultant; Serial No. 37 by Ms. Sanjana Jain, Consultant, Shri Aqeel Sheerazi, Advocate, and Shri Krishan Kumar, Advocate; Serial Nos. 38–48 by Ms. Shweta Garge, Advocate.
- **16.12.2025:** Appellants at Serial Nos. 21–30 were represented by Shri Amal Dave, Advocate.
- **17.12.2025:** Appellants at Serial Nos. 3–10 were represented by Shri Santosh Upadhyay and Smt. Deepti Upadhyay, Advocates; Serial Nos. 11–16 by Shri Biju Joseph, Advocate; Serial Nos. 31–34 by Shri Aanan Singal, Advocate; Serial Nos. 35–36 by Shri Sambhav Jain, Advocate.

7. Discussion and Findings:

7.1 I have carefully perused the impugned Order-in-Original dated 02.08.2024, the records of the case, and the submissions advanced by the appellants during Personal Hearing as well as in appeal memorandum. The following issues are posed for determination in the present appeals:

I. Whether the declaration of Port of Loading as Jebel Ali, UAE and Country of Origin as UAE/other than Iran in the IGMs, Bills of Lading and Bills of Entry was liable to be rejected and treated as mis-declaration under the Customs Act, 1962.

II. Whether the vessel MV KABUL was liable to confiscation under Section 115(2) of the Customs Act, 1962 and whether the redemption fine and penalty imposed on the vessel owner were sustainable.

III. Whether the imported goods and containers were liable to confiscation under Sections 111(d), 111(f) and 111(m) of the Customs Act, 1962.

IV. Whether the Bills of Entry were liable to re-assessment by treating Bandar Abbas, Iran as the Port of Loading and Iran as the Country of Origin.

V. Whether the differential customs duty demanded under Section 28 of the Customs Act, 1962 from the importers was legally sustainable.

VI. Whether penalties imposed on:

a. vessel owner and vessel agent under Section 114AA;
b. container lines under Sections 114AA and 117;
c. importers under Sections 112(a), 112(b) and 114AA; and
d. Customs Brokers under Section 117

were justified in the facts and circumstances of the case.

VII. Whether enforcement of bonds and bank guarantees furnished at the time of provisional release was in accordance with law.

7.2 It is noted that the appellants had placed detailed reliance on several judicial precedents while contesting the proposals in the show cause notice, particularly on issues relating to confiscation, imposition of penalties, applicability of Sections 111, 112, 114AA and 117 of the Customs Act, valuation under CIF contracts, requirement of mens rea, and the role and liability of intermediaries such as shipping lines, vessel agents and Custom Brokers.

7.3 On examination of the impugned order, it is observed that although the adjudicating authority has referred to certain judicial decisions, the specific case laws relied upon by the appellants during adjudication have not been examined, discussed or distinguished. The appellants had cited several decisions of the Hon'ble Tribunal and High Courts which, according to them, directly covered the issues involved in the present matter. However, the impugned order does not contain any findings with respect to the applicability or non-applicability of those authorities.

7.4 It is further noted that the appellants had raised legal submissions regarding the scope of Section 111(m); the distinction between Import General

Manifest and Bills of Entry, the requirement of knowledge or intent for invoking penal provisions, and the absence of revenue implication where no preferential duty benefit was claimed. These submissions were supported by judicial precedents placed on record. The impugned order, however, does not record any specific reasoning while dealing with these submissions.

7.5 I also observe that certain findings in the impugned order appear to be based on considerations which were not specifically proposed in the show cause notice. The appellants had objected to this aspect during adjudication and had relied upon settled legal principles that the adjudication should remain within the scope of the show cause notice. These objections and the supporting case laws do not appear to have been specifically addressed in the impugned order.

7.6 Further, the appellants had also raised issues concerning proportionality of penalties, absence of mens rea, and parity of treatment among similarly placed parties, relying upon judicial precedents. While penalties and fines have been imposed in the impugned order, the reasoning with respect to these aspects, in the context of the cited case laws, is not clearly discernible.

7.7 It is a settled principle that when judicial precedents are specifically relied upon by a noticee, the adjudicating authority is expected to consider the same and record reasons if such precedents are found to be inapplicable. Non-consideration of such submissions may result in an incomplete appreciation of the issues involved.

7.8 In the facts and circumstances of the case, and without expressing any opinion on the merits of the allegations or defences raised by the appellants, I am of the view that the matter would benefit from a fresh examination by the adjudicating authority. The interests of justice would be met if the adjudicating authority re-examines the case after duly considering the judicial precedents relied upon by the appellants, affords them an effective opportunity of personal hearing, and passes a reasoned and speaking order in accordance with law.

8. Accordingly, the impugned Order in respect of the Appellants as detailed in Table -1 is remanded to the adjudicating authority for de novo adjudication, with a direction to reconsider the submissions and case laws relied upon by the appellants and to pass a fresh order after granting due opportunity of hearing.

सत्यापित/ATTESTED
अधीक्षक/SUPRERINTENDENT
सीमा शुल्क (अपील्स), अहमदाबाद.
CUSTOMS (APPEALS), AHMEDABAD

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

F. No. S/49- 17 to 27, 29, 30, 32 to 54, 60 to 69, 73, 75/CUS/KDL/2024-25

Date: 24.12.2025

By Registered post A.D/E-Mail 5200
To,

1. M/s Neman Shipping INC
C/o Master Logistic Pvt. Ltd.,
Office No. 342, Plot No. 272, Friends Square,
Ward-6, Behind Osia Mall,
Gandhidham, Kutch, Gujarat-370201

2. M/s Master Logistic Pvt. Ltd. (Vessel Agent)
Office No. R-1 & R-2, 2nd Floor,
Plot No. 233, Ward-12B,
Near Kutch Kala, Opp. Atmaram Circle,
Gandhidham, Kutch, Gujarat-370201

Container Lines

3. M/s Omega Liners (India) Pvt. Ltd.
Office No. 04, 1st Floor, Kesar Arcade,
Plot No. 51, Sector-8,
Gandhidham (Kutch)-370201

4. M/s Majestic Maritime Pvt. Ltd.
Meridian House, G-02, Plot No. 50,
Sector-8, Gandhidham,
Kutch, Gujarat-370201

5. M/s Seacross Shipping LLP
Ratnakar Arcade, Office No. 14, Ground Floor,
Plot No. 62, Near Patidar Bhavan, Sector-8,
Gandhidham, Kutch-370201

6. M/s Navio Shipping Pvt. Ltd.
311, V-Times Square,
Sector-15, CBD Belapur,
Navi Mumbai-400614

7. M/s GIL Shipping Services Pvt. Ltd.
Sunshine Arcade-II, Suite No. 101, First Floor,
Plot No. 37, Sector-8, Near D-Mart,
Gandhidham, Kutch, Gujarat-370201

8. M/s Bilander Logistics Pvt. Ltd.
Office No. 206, 2nd Floor, Ridhi Sidhi Arcade-III,
Plot No. 95, Sector-8,
Gandhidham, Kutch, Gujarat-370201

9. M/s Hub & Links Logistics (I) Pvt. Ltd.
Suite No. 101, "Rishabh Arcade",
Plot No. 83, Sector-8,
Gandhidham, Kutch, Gujarat-370201

10. M/s Radiant Maritime India Pvt. Ltd.
Office No. 313, 2nd Floor, Sunder Park,
Plot No. 95, Sector-8,
Gandhidham, Kutch, Gujarat-370201



11. M/s Efficient Marine Services LLP (Kerala)
61/1791, 5th Floor, BAB Towers,
M.G. Road, Kochi,
Ernakulam, Kerala-682015

12. M/s Efficient Marine Services LLP (Gujarat)
Second Floor, Plot No. 133,
Sector-8 (BOMGIM Complex),
Gandhidham, Kutch-370201

13. M/s Econship Tech Pvt. Ltd.
617 & 618, A-1, Rupa Solitaire Building,
MBP, Sector-1, Mahape,
Navi Mumbai-400710

14. M/s Intergulf Shipping Line Pvt. Ltd.
506, B-Wing, Kohinoor City Commercial Complex,
Kirol Road, Off L.B.S. Marg,
Kurla (West), Mumbai-400070

15. M/s Goodrich Maritime Pvt. Ltd.
Goodrich House, Plot No. 174, Sector-1A,
Rabindranath Tagore Road,
Gandhidham, Kutch, Gujarat-370201

16. M/s Goodrich Logistics Pvt. Ltd.
Golden Arcade, Office No. 106,
Plot No. 141, Sector-8, Oslo Road,
Gandhidham, Kutch, Gujarat-370201

17. M/s Hari Agro Products
RZ-92, Shiv Nagar, New Roshan Pura, Najafgarh, New Delhi-110043

18. M/s Everge Smart India Pvt. Ltd.
Plot No. 750, 2nd Floor, Udyog Vihar, Phase-V, Gurgaon, Haryana-122016

20. M/s Gomti International
37/35, West Punjabi Bagh, New Delhi-110026

21. M/s GWC Impex
Anil Plaza, Block-II, 1st Floor, G.S. Road, Christian Basti, Guwahati-781005

22. M/s Neptune Petrochemicals Pvt. Ltd.
B-606, Mondeal Heights, Near Wide Angle Cinema,
Iscon Cross Roads, S.G. Highway, Ahmedabad-380015

23. M/s Vardhman Trading Company
Near Electric Sub-Station, Industrial Area, Gangyal, Jammu-Tavi-180010

24. M/s Madhusudan Organics Pvt. Ltd.
5, Gopal Doctor Road, Andaman Dock, Khidirpur,
Kolkata, West Bengal-700023

25. M/s Catalyst Petrochem LLP
Block KD-197, Pitampura, Near Kohat Metro Station,
Delhi-110034

26. M/s Premium Petro Products
1/3, Hathroi Market, Opp. Gopal Bari, Ajmer Road,
Jaipur, Rajasthan-302001

27. M/s Vevelon Petrochem Pvt. Ltd.
Office No. 915-D, 9th Floor, The Capital, G-Block,
A-Wing, Bandra Kurla Complex, Bandra (E), Mumbai-400051

28. M/s Excellent Traders India
101, Shivlok House-II, Karampura Commercial Complex,
New Delhi-110015

29. M/s Pujan Enterprise
D-24/10, ITC Industrial Area, Turbhe MIDC,
Navi Mumbai-400703

30. M/s JK Alamdar Trading Company
Shalina Somerburg, B.K. Pora, Budgam, Pulwama,
Jammu & Kashmir-192121

31. M/s Agarwal Chemicals
40, Strand Road, 6th Floor, Room No. 633,
Kolkata, West Bengal-700001

32. M/s B H Enterprise
206-207, Damji Shamji Trade Centre,
Near Railway Station, Vidyavihar (W),
Mumbai-400086

33. M/s Tinna Rubber & Infrastructure Ltd.
Khasra No. 10, Village Rajapur,
Refinery Road, Panipat, Haryana-132103

34. M/s Dang Enterprise
F-51/52, APMC Market-I, Phase-II,
Vashi, Navi Mumbai-400705

35. M/s Shanus Impex
D-407, New Subzi Mandi, Azadpur,
Delhi-110033

36. M/s Radha Krishna Fruit Company
B-199, New Subzi Mandi, Azadpur,
Delhi-110033

37. M/s Seaco Enterprise
35, Bombay Mutual Annexe, 4th Floor,
Rustom Sidhwa Marg, Fort,
Mumbai, Maharashtra-400001

38. M/s Ocean Petroleum
Opp. Hotel Mini, Above Maruti Rewinding,
Railway Station Road, Bhavnagar,
Gujarat-364001

Customs Brokers

39. M/s ACT Infraport Ltd.
Plot No. 286, Sector-1A, Opp. Mamlatdar Office,
Gandhidham, Kutch-370201

40. M/s Eiffel Logistics Pvt. Ltd.
Office No. 57, 3rd Floor, Om Sri Sai Ram Plaza No. 75,

Thambu Chetty Street, Mannady,
Chennai, Tamil Nadu-600001

41. M/s Swayam Shipping Services
202, Rajkamal-1, 2nd Floor, Plot No. 348, Ward-12B,
Gandhidham (Kutch)-370201

42. M/s A. D. Mehta Clearing Agency
21 & 22, 1st Floor, KASEZIA Building,
KASEZ, Gandhidham, Kutch

43. M/s Purshottam C. Thackar
Office No. 4, Komal Complex, 1st Floor,
Plot No. 305, Ward-12B,
Gandhidham-370201

44. M/s Jaiswal Import Cargo Ltd.
4 & 5, Ground Floor, Plot No. 84, Sector-8,
Mani Complex, Gandhidham-370201

45. M/s Bhavya Shipping
House No. 08, Plot Nos. 368, 369 & 377,
Ward-3B, Adipur, Gandhidham-370205

46. M/s Saarthee Shipping Co.
Office No. 1, 2nd Floor, Shah Avenue-1, Plot No. 211,
Ward-12B, Gandhidham-370201

47. M/s Bright Ship Trans Pvt. Ltd.
Office No. 2, 2nd Floor, Arjan's Mall,
Plot Nos. 118-119, Sector-8,
Gandhidham-370201

48. M/s Daksh Shipping Services Pvt. Ltd.
33, Ashapura Nagar, Old Port Road,
Near Hero Showroom, Mundra,
Kutch-370421

Copy to:

1. The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad.
2. The Commissioner of Customs, Kandla.
3. The Assistant Commissioner of Customs, Tuna Port, Kandla.
4. Guard File.

