



प्रधान आयुक्त का कार्यालय, सीमा शुल्क, अहमदाबाद

“सीमा शुल्क भवन”, पहली मंजिल, पुराने हाईकोर्ट के सामने, नवरंगपुरा, अहमदाबाद – 380 009.

दूरभाष: (079) 2754 4630 E-mail: cus-ahmd-adj@gov.in फैक्स: (079) 2754 2343

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PREAMBLE

A	फाइल संख्या/ File No.	:	GEN/ADJ/ADC/1160/2025-ICD-SRT-CUS-COMMRTE-AHMEDABAD
B	कारण बताओ नोटिस संख्या-तारीख / Show Cause Notice No. and Date	:	VIII/10-02/O & A/JC/2014 dated 21.05.2014
C	मूल आदेश संख्या/ Order-In-Original No.	:	119/ADC/SR/O&A/2025-26
D	आदेश तिथि/ Date of Order-In-Original	:	09.09.2025
E	जारी करनेकी तारीख/ Date of Issue	:	09.09.2025
F	द्वारापारित/ Passed By	:	Shravan Ram, Additional Commissioner, Customs Ahmedabad.
G	आयातक का नाम औरपता / Name and Address of Importer / Passenger	:	M/S. BAL MUKUND CREATION, (PROPRIETOR - SHRI ANKIT DUDHAT), PLOT NO. 108, SHIV DARSHAN SOCIETY, DIV-I, PUNA SIMADA ROAD, PUNAGAM, NR. YOGI CHOWK, SURAT-395010
(1)	यह प्रति उन व्यक्तियों के उपयोग के लिए निःशुल्क प्रदान की जाती है जिन्हे यह जारी की गयी है।		
(2)	कोई भी व्यक्ति इस आदेश से स्वयं को असंतुष्ट पाता है तो वह इस आदेश के विरुद्ध अपील इस आदेश की प्राप्ति की तारीख के 60 दिनों के भीतर आयुक्त कार्यालय, सीमा शुल्क(अपील), चौथी मंजिल, हुड्को भवन, ईश्वर भुवन मार्ग, नवरंगपुरा, अहमदाबाद में कर सकता है।		
(3)	अपील के साथ केवल पांच (5.00) रुपये का न्यायालय शुल्क टिकिट लगा होना चाहिए और इसके साथ होना चाहिए:		
(i)	अपील की एक प्रति और;		
(ii)	इस प्रति या इस आदेश की कोई प्रति के साथ केवल पांच (5.00) रुपये का न्यायालय शुल्क टिकिट लगा होना चाहिए।		
(4)	इस आदेश के विरुद्ध अपील करने इच्छुक व्यक्ति को 7.5 % (अधिकतम 10 करोड़) शुल्क अदा करना होगा जहां शुल्क या इयूटी और जुर्माना विवाद में है या जुर्माना जहां इस तरह की दंड विवाद में है और अपील के साथ इस तरह के भुगतान का प्रमाण पेश करने में असफल रहने पर सीमा शुल्क अधिनियम, 1962 की धारा 129 के प्रावधानों का अनुपालन नहीं करने के लिए अपील को खारिज कर दिया जायेगा।		

BRIEF FACTS OF THE CASE:

The officers of the Directorate of Revenue Intelligence, Regional Unit, Surat (hereinafter referred to as DRI for the sake of brevity) received specific information to the effect that M/s. Rudrani Impex Private Ltd., (IEC No. 5206040142) 309, Union Trade Center, B/s. Apple Hospital, Udhna Darwaja, Surat (hereinafter referred to as M/s. RIPL for the sake of brevity), importer and High Seas Seller, was engaged in evasion of Customs duty by diversion of imported Computerized Embroidery Machines falling under CTH 84479020, imported from China against dummy IEC & EPCG licence holders on payment of either Zero duty or 3% concessional Customs duty EPCG Scheme under Customs Notification No. 22/2013-Cus. dated 18.04.2013 and 103/2009-Cus dated 11.09.2009 respectively. M/s. RIPL, with the connivance of other persons, obtained the IECs in the name of various dummy proprietary firms and obtained Zero duty /3% concessional duty EPCG Licences on these dummy IECs holder firms from the DGFT authorities. Further, M/s. RIPL, Imported Computerized Embroidery Machines from China and shown the said machines sold on High Sea Sale basis to these dummy/ fictitious IECs holder firms as well as to certain actual IECs holder firms and got cleared the said machines against EPCG Licences of these firms on payment of Nil Customs duty/ 3% concessional Customs duty and also sold the said machines in cash, to various buyers.

2. Acting on the said intelligence, office premises of M/s. RIPL, Surat situated at 309, Union Trade Center, B/s. Apple Hospital, Udhna Darwaja, Surat was searched on 29.11.2013 under Panchnama dated 29.11.2013 (**RUD-1**) in presence of independent panchas and Shri Salil Natverlal Shah and Shri Kaushal D. Shukla, both the Directors of M/s. RIPL and various incriminating documents in respect of creation of dummy/fictitious IECs, obtaining EPCG Licences from DGFT, imports and High Sea Sale (HSS) agreement of the Embroidery Machines with such dummy IEC holders, Bank-related documents including cheque-books, deposit counter foils of said created fictitious IEC holders and other loose papers containing financial transactions and machine sale details, rubber stamps of created IECs were recovered and seized under the provisions of Customs Act, 1962.

3. Simultaneously, Letter dated 29.11.2013 (**RUD-2**) was forwarded to the Customs, ICD, Sachin, Surat requesting to hold the live consignments of Embroidery Machines, wherein High sea seller was M/s. RIPL and also to forward the documents in respect of imports of Computerised embroidery machines wherein M/s. RIPL was the High Sea Seller. The Deputy Commissioner, Customs, ICD, Sachin, Surat vide letter F. No. VIII/6-3093/ICD-Sachin/2013-14 dated 29.11.2013 (**RUD-3**) informed that the consignment of Embroidery Machines wherein M/s. RIPL was High Sea Seller already cleared by Customs but pending

delivery by Custodian was put on hold. The Deputy Commissioner, Customs, ICD, Sachin, Surat vide letter dated 02.12.2013 (**RUD-4**) was requested to provide the details in respect of Embroidery machines put on hold with the custodian and they vide letter F. No.VIII/6-3093/ICD Sachin/2013-14 dated 05.12.2013 (**RUD-5**) forwarded the details of 19 Embroidery Machines lying with Custodian, ICD, Sachin, Surat. Out of the said 19 Embroidery Machines, 9 Embroidery Machines were cleared in the name of M/s. Muralidhar Creation and 1 Embroidery Machine was cleared in the name of M/s. Vency Creation and remaining 9 Embroidery Machines were cleared in the name of three firms viz. M/s. Skyline Creation (4 Embroidery Machines), M/s. Sweta Creation (1 Embroidery Machine) & M/s. Modern Creation (4 Embroidery Machines). Further, the Deputy Commissioner, Customs, ICD, Sachin, Surat vide letter F. No.VIII/6-3093/ICD Sachin/2013-14 dated 31.12.2013 (**RUD-6**) forwarded the photo copies of import documents in respect of importers wherein M/s. RIPL was the High Sea Seller.

4. During the course of investigation statement of Shri Salil Natveral Shah, Director of M/s. RIPL was recorded on 29.11.2013 (**RUD-7**) under Section 108 of the Customs Act, 1962, wherein, among other things he interalia stated that they had imported Computerised Embroidery Machines from China and sold the same on High Sea sale basis to the various buyers based in Surat; that amongst those buyers some buyers were actual buyers having their manufacturing factory; that he produced the details of the said genuine buyers where machines had been actually installed and same were verifiable; that in remaining cases, the importers to whom they had shown the Embroidery machines sold on High sea sale basis did not have the factory premises and hence the said machines had not been installed in the premises shown in the IEC and in EPCG Licences of the said importers; that the said Embroidery machines had been sold to persons other than shown in import documents on cash sale.

As regards clearance of Computerised Embroidery Machines against the said EPCG Licences of the dummy IEC firms, separate action is being initiated against M/s. RIPL and others under the Customs Act, 1962.

5. As stated by Shri Salil Natveral Shah, the Director of M/s. RIPL in his statement recorded on 29.11.2013 and scrutiny of the documents seized from the premises of M/s. RIPL and documents received from the Customs, ICD, Sachin, Surat, it was revealed that in the year 2013, out of total imports of 687 Embroidery machines valued at Rs.39.10 Crores (Approx.) and sold on High Sea sale basis to the various 70 buyers based in Surat by M/s. Rudrani Impex Private Ltd., only 19 buyers were found to be actual buyers having their manufacturing factory. Hence, the verification of the said actual buyers was undertaken.

5.1 M/s. Bal Mukund Creation, (IEC No. 5213006779), (hereinafter referred to as the Noticee for the sake of brevity), Sy.No.10, Plot No. 71, S.K. Nagar, Dumbhal,

Surat and was one out of the total 19 actual importers. M/s. Bal Mukund Creation had obtained Zero duty EPCG Licence 5230012014 dated 27.06.2013 (**RUD-8**) from DGFT, Surat, and the details are as under:-

Name of the Unit	EPCG Licence No. and date	Description of goods as per EPCG licence	Declared Branch Address in EPCG Licences	Quantity of Embroidery Machines allowed for import	Duty Forgone (in Rs.)
M/s. Bal Mukund Creation	5230012014 dated 27.06.2013	Computerized Embroidery Machine, Model#615, 6 Needle, 15 Heads, Embroidery Area: 250*500*1200, Single Sequins, without cutter	Sy.No. 10, Plot No. 71. S.K. Nagar, Dumbhal, Surat	15 Set	31,00,597/-

The Noticee had imported from China on High Sea Sale basis from M/s. RIPL and got cleared 15 Computerised Embroidery Machines falling under CTH 84479020 against above said EPCG licence No. 5230012014 dated 27.06.2013 as under:-

Bill of Entry No./ date	Description of Machine	Quantity	Ass. Value (in Rs.)	Duty Forgone (in Rs.)
3172569 dated 03.09.2013	Computerized Embroidery Machine 615, 250*500*1200, With Single Sequin	4	35,00,826/-	8,00,048/-
3172576 dated 03.09.2013		4	35,00,826/-	8,00,048/-
3172580 dated 03.09.2013		4	35,00,826/-	8,00,048/-
3172583 dated 03.09.2013		3	26,25,619/-	6,00,036/-
		15	1,31,28,097/-	30,00,180/-

The above Computerized Embroidery Machines were imported by the Noticee on High Sea Sale basis from M/s. RIPL on payment of Zero duty under Customs Notification No. 22/2013-Cus. dated 18.04.2013 through ICD, Sachin.

6. The premises shown as Branch address in IEC and EPCG licence of the Noticee situated at Plot No. 71, S.K. Nagar Industrial Estate, Dumbhal, Surat was visited on 30.12.2013 by the officers of DRI, Surat for verification of Computerized Embroidery Machines imported by the Noticee under Panchnama dated 30.12.2013 (**RUD-9**) in presence of independent panchas. During the course of verification, it was noticed that firm namely M/s. Shree Hari Fashion (proprietor Shri Prafful K. Dudhat) and M/s. Kirtan Creation (proprietor- Shri Bharatbhai J. Akbari) were functioning at the said address. During the verification of the said premises, no Computerized Embroidery Machines of M/s. Bal Mukund Creation i.e. the Noticee was found installed therein. During the panchnama proceedings, Shri Bharatbhai informed that at the said premises, no firm in the name of M/s. Bal Mukund Creation was functioning but, he knew Shri Ankit V. Dudhat. Therefore, Shri Ankit V. Dudhat, Proprietor of the Noticee firm was called at the

said premises and he informed that out of total 15 Computerized Embroidery Machines imported by them on High Seas sales basis from M/s RIPL, 2 Computerized Embroidery Machines have been installed at Plot No. 78, 3rd Floor, Uma Industrial Estate, Opp. S.K Industrial Estate, Dumbhal, Surat and 13 Computerized Embroidery Machines have been installed at Plot No. 39/40, Ambika Industrial Estate, Saroli, Surat.

7. The officers of DRI Surat visited the premises i.e. Plot No. 39/40, Ambika Industrial Estate, Saroli, Surat on 30.12.2013 for verification of 13 Computerized Embroidery Machines from M/s. RIPL Imported by the Noticee on 30.12.2013. The verification of the said imported Computerized Embroidery Machines was carried out under Panchnama dated 30.12.2013 (**RUD-10**) in presence of independent panchas and Shri Radheshyam V. Dudhat, Proprietor of M/s. Muralidhar Creation, Surat and brother of Shri Ankit Dudhat, Proprietor of the Noticee firm. During the course of verification, 25 Computerized Embroidery Machines imported by the Noticee were found installed in the said premises. Out of said 25 Computerized Embroidery Machines, 13 Computerized Embroidery Machines were imported by the Noticee and 12 Computerized Embroidery Machines were imported by M/s. Muralidhar Creation. The floor wise details of 25 Computerized Embroidery Machines found installed there were as under:-

Floor	Type Of Computerised Embroidery Machines	No. of Machines found Installed
Ground floor	615 Single Sequence	6
1 st Floor	---do---	6
2 nd Floor	---do---	6
3 rd Floor	---do---	7
Total		25

The said 13 Computerised Embroidery Machines of the Noticee and 12 Computerised Embroidery Machines of M/s. Muralidhar Creation were placed under seizure under the provisions of Section 110(1) of the Customs Act, 1962 under the panchnama dated 30.12.2013, as the same were found installed in the premises other than the declared premises in IEC & EPCG licence. The seized goods were handed over to Shri Radheshyam Dudhat, Proprietor of M/s. Muralidhar Creation and brother of Shri Ankit Dudhat, Proprietor of the Noticee firm for safe custody under Suparatnama dtd. 30.12.2013 (**RUD-11**).

As regards seizure of 12 Computerised Embroidery Machines pertaining to M/s. Muralidhar Creation, separate action is being initiated against M/s. Muralidhar Creation and others under the Customs Act, 1962.

7.1 The officers of DRI Surat also visited the premises i.e. Plot No. 78, 3rd Floor, Uma Industrial Estate, Opp. S.K Industrial Estate, Dumbhal, Surat for verification of 2 Computerized Embroidery Machines of M/s. RIPL imported by the Noticee, on 30.12.2013. The verification of the said imported Computerized Embroidery Machines was carried out under Panchnama dated 30.12.2013 (**RUD-12**) in

presence of independent panchas and Shri Ankit V. Dudhat, Proprietor of M/s. Bal Mukund Creation, Surat. During the course of verification, 2 Computerized Embroidery Machines Model 615, Single sequence imported by the Noticee were found installed therein.

The said 2 Computerised Embroidery Machines were placed under seizure under the provisions of Section 110(1) of the Customs Act, 1962 under the Panchnama dated 30.12.2013, as the same were found installed in the premises other than the declared premises in IEC & EPCG licence. The seized goods were handed over to Shri Ankit Dudhat, Proprietor of the Noticee firm for safe custody under Suparatnama dated 30.12.2013 (**RUD-13**).

8. Statement of Shri Ankit Dudhat, Proprietor of M/s. Bal Mukund Creation was recorded on 30.12.2013 (**RUD-14**) in response to the Summons dated 30.12.2013 (**RUD-15**) wherein he interalia stated that:-

(i). M/s. Muralidhar Creation was established in the year 2009 wherein his brother Shri Radheshyam Dudhat was the Proprietor and M/s. Bal Mukund Creation was started in the year 2011 wherein he was the proprietor; that both the firms were engaged in embroidery work on fabrics on job work basis; that he looked after day-to-day production work undertaken by both the above said firms which included allotting of production program, design selection/approval, etc. in respect of both the said firms; that he also looked after the financial matters i.e. maintaining bank accounts, payments etc.; that Shri Radheyshyam Dudhat was looking after the work related to marketing and was also responsible to get the embroidery work on job work basis; that in the year 2013, they decided to import new machines from China under Zero duty EPCG Licences and for said purpose they engaged the services of Shri Ranjish Das having mobile no.9825945242, having office at L-6, Underground, Tulsi Market, Ring Road Surat for obtaining IEC number and EPCG licences from DGFT, Surat, that M/s Bal Mukund Creation was allotted Import Export Code (IEC) No. 5213006779 dated 13.06.2013 (**RUD-16**) by DGFT, Surat and M/s Murlidhar Creations was allotted IEC No. 5213005390 dated 27.5.2013 by DGFT Surat; M/s Bal Mukund was holding current bank account No. 0290102000067360 with IDBI Bank, Varachha, Surat and M/s Murlidhar Creation was holding bank account current No.0290102000013138 also with IDBI Bank Varachha Surat;

(ii). In the Noticee firm, they had imported 15 computerised embroidery machines under Zero duty EPCG Licence No. 5230012014 from China on high seas sale basis from M/s RIPL and the details are as under:

Bill of Entry No. & Date	Description of Machines	Unit Price in US \$	Quantity (in Set)	Assessable Value
3172569 / 03.09.2013	Computerized Embroidery Machine 615, 250*500*1200,	6640	4	17,88,114/-

	With Single Sequin, W/O Cutter, With Standard Accessories			
3172576 / 03.09.2013	Computerized Embroidery Machine 615, 250*500*1200, With Single Sequin, W/O Cutter, With Standard Accessories	6640	4	17,88,114/-
3172580 / 03.09.2013	Computerized Embroidery Machine 615, 250*500*1200, With Single Sequin, W/O Cutter, With Standard Accessories	6665	4	17,94,846/-
3172583 / 03.09.2013	Computerized Embroidery Machine 615, 250*500*1200, With Single Sequin, W/O Cutter, With Standard Accessories	6577	3	13,28,361/-

(iii). he was shown copy of Import Export Code Certificate of the Noticee firm bearing IEC No 5213006779 dated 13.6.2013 vide DGFT file No. 52/04/130/00678/AM14; he admitted that the address of the firm declared by them in the above said IEC was Plot No.108, Shiv Darshan Society, Divn-1, Puna-Simada Road, Puna Gam, Nr. Yogi Chowk, Surat was their residential address; that the mobile number of his elder brother Shri Radheyshyam i.e. 9727359321 was declared in the said IEC; that in the said IEC the branch address of the said firm was mentioned as Sy.No.10, Plot No.71, S.K.Nagar, Dumbhal, Surat; that none of the machines imported by them under Zero duty EPCG Licence were installed either at No.108, Shiv Darshan Society, Divn-1, Puna-Simada Road, Puna Gam, Nr. Yogi Chowk, Surat (as the said premises was their residence) or at Sy.No.10, Plot No.71, S.K.Nagar, Dumbhal, Surat (the said premises was not under their possession/ownership);

(iv). he was shown Panchanama dated 29.11.2013 drawn at the office premises of M/s. RIPL under which the records/ documents related to import of Computerized Embroidery machines from China, it's High Sea sales and clearance from the Customs under Zero duty EPCG Scheme and other documents related to sale of Embroidery machines to various buyers and it's financial and banking transactions, and other documents etc. were placed under seizure as detailed in Annexure-A (**RUD-17**) to the said Panchanama; that he was also shown rent deed agreement available at Page No. 8 to 11 of File No.10 (total page 1 to 40) seized under the above referred Panchnama dated 29.11.2013 and on being asked to explain the same he stated that the said agreement was shown to have been made between Shri Ankitbhai Vinodbhai Dudhat and Shri Sanjaykumar Pragjibhai Dudhat for the premises situated at Plot No.71, S. K. Nagar, Dumbhal, Surat; that he did not know the owner of the said premises; that neither Shri Sanjaykumar Pragjibhai Dudhat was the owner of the premises situated at Plot No.71, S. K. Nagar, Dumbhal, Surat nor the said premise was taken on rental basis by them from the owner; that the said rent deed agreement was prepared by them fabricating the electricity bill and showing Shri Sanjaykumar Pragjibhai Dudhat,

their cousin brother as the owner of the said premises; that for the said purpose they had used his identity and photograph to prepare the said rent deed; that the rent deed document were got Notarized by and thereafter the same was submitted to DGFT Surat through Shri Ranjish Das and the IEC code and Zero duty EPCG licences were got issued; that he was also shown documents available at Page No.76 to 119 of File No.9 (total page 1 to 119) seized under the above referred Panchnama dated 29.11.2013 were the documents viz. Debit Note, Bill of Entries, Delivery receipts, High Sea Sale Agreement related to imports of 15 Embroidery machines by his firm M/s. Bal Mukund Creation; that the rent deed of the premises i.e. 39-40, Ambika Industrial Estate, Opp. Bhavani Industrial Estate, Saroli, Surat (**RUD-18**) placed at page nos. 57 to 61 of the said file No. 9 wherein Shri Lalitbhai Nanubhai Dobariya was shown as owner of the said premises and a rent deed with effect from 22.08.2013 entered with Shri Radheshyam V. Dudhat, Proprietor of M/s. Muralidhar Creation, Surat and Shri Ankit V. Dudhat, Proprietor of M/s. Bal Mukund Creation was not actually correct rent deed and same had not been entered with the owner of the said premises but it was created by them and the photograph of Shri Lalitbhai Nanubhai Dobariya pasted on the said rent deed was not of Shri Lalitbhai Nanubhai Dobariya; that actually, the photograph pasted on the said rent deed was of Shri Pareshkumar Babubhai Bhuva, his cousin; that the said rent deed was registered at Sl. No. 65408 dated 12.09.2013 by I.M Zala, Advocate and Notary, Government of India, Surat, Gujarat (Registration No. 5186); that the said rent deed was prepared and got registered through Shri Kaushal D. Shukla, director of M/s. RIPL, however the photographs, signature and Thumb impression of him and his brother were true and correct;

(v). that he was also shown the Panchnama dated 30.12.2013 drawn at Plot No.71, S. K. Nagar, Dumbhal, Surat; that none of the computerized embroidery machines imported by them were found installed at the said premise during the Panchnama proceedings; that he had disclosed that 2 computerized embroidery machines imported by them in the Noticee firm had been installed at 3rd Floor, Plot No. 78, Uma Industrial Estate, Dumbhal, Surat and the remaining 13 imported computerised embroidery machines had been installed at 39-40, Ambika Industrial Estate, Nr. Landmark Textile Market, Saroli Village, Surat;

(vi). that he was also shown the Panchnama dated 30.12.2013 drawn at 3rd Floor, Plot No. 78, Uma Industrial Estate, Dumbhal, Surat; that he was present throughout the Panchnama proceedings and that the 2 imported computerised embroidery machines found installed at the said premises had been imported by them in the Noticee firm under Zero duty EPCG Licence No. 5230012014; that he fully agreed with the seizure of the two imported computerised embroidery machines at the said premises under the Customs Act, 1962 as the same had been imported in contravention of the provisions of the Customs Act, 1962 and

rules/regulation made there under and liable for confiscation under the said provisions; that he had received the two seized computerised embroidery machines valued at Rs.8,50,000/- under Supratnama dated 30.12.2013 for safe custody;

(vii). that he was also shown the Panchnama dated 30.12.2013 drawn at 39-40, Ambika Industrial Estate, Nr. Landmark Textile Market, Saroli Village, Surat; that 13 computerised embroidery machines imported by them under Zero duty EPCG Licence No.5230012014 were found installed there and the same were placed under seizure under the provisions of Customs Act, 1962; that he fully agreed with the seizure of the 13 imported computerised embroidery machines at the said premises under the Customs Act, 1962 as the same had been imported in contravention of the provisions of the Customs Act, 1962 and rules/regulation made there under and liable for confiscation under the said provisions; that he confirmed that the seized 13 computerised embroidery machines were received by his elder brother Shri Radheyshyam Dudhat under Supratnama dated 30.12.2013;

(viii). that he knew that the Computerized Embroidery Machines imported under Zero duty EPCG Scheme were required to be installed and used in the premises declared in IEC and EPCG Licences for the manufacture of the embroidery fabrics and to be exported as per the conditions of the EPCG Licence but his firm had not installed the above seized 15 Computerised Embroidery Machines in declared premises and thereby violated conditions of EPCG Licence and relevant Customs Notification; that he also knew that it was an offence under the Customs Act and he accepted the said offence and agreed to pay the Customs duty leviable on the said seized imported Embroidery Machines.

9. Summons dated 15.01.2014 (**RUD-19**) was issued to Shri Lalitbhai Dobariya, owner of the premises of Plot No. 39-40, Ambika Industrial Estate, Opp. Bhavani Industrial Estate, Saroli, Surat and his statement was recorded under Section 108 of the Customs Act, 1962 on 29.01.2014 (**RUD-20**) wherein he *inter alia* stated that:-

(i). that he was the owner of the Plot No. 39-40, Ambika Industrial Estate, Opp. Bhavani Industrial Estate, Saroli, Surat and had given the said premises to Shri Radheshyam Dudhat, Proprietor of M/s. Muralidhar Creation and Shri Ankit Dudhat, Proprietor of M/s. Balmukund Creation on rent of Rs.1,45,000/- per month since July-2013 under Rent deed;

(ii). that he was shown seized File No. 9 containing 119 pages seized under the Panchanama dated 29.11.2013 drawn at the office of M/s. RIPL situated at 309, Union Trade Centre, Surat; that the page nos. 57 to 61 of the said File No. 9 was

rent deed of the premises i.e. Plot No. 39-40, Ambika Industrial Estate, Opp. Bhavani Industrial Estate, Saroli, Surat wherein he was shown as owner of the said premises and a rent deed for five years with effect from 25.08.2013 entered with Shri Radheshyam Dudhat, Proprietor of M/s. Muralidhar Creation and Shri Ankit Dudhat, Proprietor of the Noticee firm; that the said Rent deed was not correct rent deed and Photo pasted on the said rent deed was not his photo and also the signatures made on the said rent deed were not his signatures; that he gave the said premises i.e. Plot No. 39-40, Ambika Industrial Estate, Opp. Bhavani Industrial Estate, Saroli, Surat to the above both persons only for 11 months, however the said rent deed was made for 5 years; that the said rent deed was created by making forge signatures of his and by pasting photo of some other person, shown as Lalitbhai; that he did not know the person whose photo has been pasted on the said Rent deed.

10. On the basis of import documents received from the Deputy Commissioner of Customs, ICD, Sachin, Surat vide letter dated 26.02.2014 (**RUD-21**) in respect of Bill of Entry No. 3172569 dated 03.09.2013, Bill of Entry No. 3172576 dated 03.09.2013, Bill of Entry No. 3172580 dated 03.09.2013 and Bill of Entry No. 3172583 dated 03.09.2013, the details of import of Computerised Embroidery Machines imported by the Noticee under EPCG Licence Number 5230012014 dated 27.06.2013 at ICD Sachin, Surat were as under: (**RUD-22 to 25**)

B/E Number	B/E Date	Item Description	Quantity Imported (in Nos.)	Unit as per Customs assessment in USD	Exchange rate	Assessable Value in Rs.	Duty Forgone in Rs.
3172569	3/09/2013	Computerized Embroidery Machine 615, 250*500*1200, <u>With Single Sequin</u> , W/O Cutter, With Standard Accessories	4	13000.00	65.35	35,00,826/-	8,00,048/-
3172576	3/09/2013	Computerized Embroidery Machine 615, 250*500*1200, <u>With Single Sequin</u> , W/O Cutter, With Standard Accessories	4	13000.00	65.35	35,00,826/-	8,00,048/-
3172580	3/09/2013	Computerized Embroidery Machine 615, 250*500*1200, <u>With Single Sequin</u> , W/O Cutter, With Standard Accessories	4	13000.00	65.35	35,00,826/-	8,00,048/-
3172583	3/09/2013	Computerized Embroidery Machine 615, 250*500*1200, <u>With Single Sequin</u> , W/O Cutter, With Standard Accessories	3	13000.00	65.35	26,25,619/-	6,00,036/-
Total			15			1,31,28,097/-	30,00,180/-

11. On scrutiny of the documents received from the Customs, ICD, Sachin, Surat, it was noticed that the Noticee had imported above said Computerized Embroidery Machines under Export Promotion Capital Goods (EPCG) Authorisation Scheme as per the provisions of the Foreign Trade Policy-2009-14 and conditions of Notification No. 22/2013-Cus. dated 18.04.2013. They had executed a bond of Rs.79,65,000/- (**RUD-26**) along with Bank Guarantee of Rs.4,27,000/- bearing No. BG/519/2013-14 dated 21.08.2013 (**RUD-27**) issued by the Kapol Co-Operative Bank Ltd., Surat, before the Deputy Commissioner of Customs, ICD, Sachin, Surat at the time of clearance of said 15 machines in terms of para 6 of the above said notification. The main conditions of Bond given for import of goods under EPCG Licences at the port of importation were:-

1. *the obligor(s) shall fulfill all the conditions of the said notification, observe all the terms and conditions of the said notification.*
2. *the obligor (s) shall observe all the terms and conditions specified in the licence.*
3. *the obligor(s), shall fulfill the export obligation as specified in the said notification and the licence and shall produce evidence of having so fulfilled the export obligation within 30 days from the expiry of the specified export obligation period to the satisfaction of the Government.*
4. *In the event of failure to fulfill full or part of the export obligation as specified in the said notification and the licence, the obligor(s), hereby undertake to pay the Customs duty but for the exemption and also interest @ 18% per annum thereon forthwith and without any demur, to the Government.*
5. *the obligor (s), shall comply with the conditions and limitations stipulated in the said import and export policy/foreign trade policy as amended from time to time.*
6. *the obligor (s), shall not change the name and style under which the obligor(s), are doing business or change the location of the manufacturing premises except with the written permission of the Government.*

If each and everyone of the above conditions is duly complied with by the obligor(s), the above written bond shall be void and of no effect; otherwise the same shall remain in full force and effect and virtue.

It is hereby declared by the obligor(s) and the Government as follows:

1. *The above written bond is given for the performance of an act in which the public are interested.*
2. *The Government through the Commissioner of Customs or any other officer of Customs shall recover the sums due from the obligor(s) in the manner laid down in Sub-section (1) of Section 142 of the Customs Act, 1962.*

Provided always that the liability of the surety here under shall not be impaired or provided discharged by reason of any time being granted, or any forbearance, act or omission of the Government (whether with or without knowledge or the consent of the surety) in respect of or in relation to the obligation and condition to the performed or discharged by the obligor(s) nor shall it be necessary to sue the obligor(s) before suing the surety for amounts here under.”

12. Whereas, the Noticee vide letters dated 01.09.2013 addressed to the Assistant Commissioner of Customs, ICD, Sachin, Surat, available in import documents file of respective Bill of Entry, gave their No Objection for the assessment of Computerized Embroidery Machines done by the Customs Authorities and agreed with the loaded value of said imported Computerized Embroidery Machines. The Noticee also declared that they will not dispute/challenge/contest the loaded value of the goods.

13. From the foregoing facts & circumstances and material evidences, as brought during the course of investigations, it transpires that: -

- (I) Zero duty EPCG scheme under Notification No.22/2013 Customs dated 18.4.2013 is available to the imports subject to actual user condition and the goods imported cannot be transferred or sold, etc. till the fulfillment of Export Obligation, Installation and use of the imported capital goods is provided for in the Customs notifications for which certificates either from Jurisdictional Central Excise officer or Chartered Engineer has to be produced certifying its Installation and use.
- (II) The salient features of Notification No.22/2013 Customs dated 18.4.2013 are as under;

Notification no. 22/2013-Cus. Dated 18.04.2013

This Notification provide exemption from so much of duty of customs leviable thereon which is specified in the First schedule to the Customs Tariff Act, 1975 as is in excess of the amount calculated at the rate of three percent ad-valorem and the whole of the additional duty leviable thereon under Section 3 of the said Customs Tariff Act when specifically claimed by the importer subject to following conditions;

- (1) the goods imported are covered by a valid authorization issued under the EPCG scheme in terms of Chapter 5 of the Foreign Trade Policy permitting import of goods at zero customs duty;
- (2)
- (3)
- (4)
- (5) that the goods imported shall not be disposed of or transferred by sale or lease or any other manner till export obligation is complete;
- (6)
- (7)
- (8)
- (9)
- (10) that the capital goods imported, assembled or manufactured are installed in the importer's factory or premises and a certificate from the jurisdictional Deputy Commissioner of Central Excise or Assistant Commissioner of Central Excise, as the case may be, is produced confirming installation and use of capital goods in the importer's factory or premises, within six months from the date of completion of imports or within such

extended period as the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, may allow.....

Provided further that if the Importer, including an importer who is a Common Service Provider (CSP), is not registered with the Central Excise or if the importer is a service provider (other than a CSP), as the case may be, he may produce the said certificate of installation and usage issued by an independent Chartered Engineer:

(11)

(III) From the above, it is clear that Notification No. 22/2013-Cus, dated 18.04.2013 provides full exemption from payment of BCD and ACD with a condition at S. No. 2(5) of the said Notification that the goods imported shall not be disposed of or transferred by sale or lease or any other manner till export obligation is complete. From the conditions as enumerated in the above said Notification it appears that if any importer had disposed off the Capital Goods imported under the above Notification without completing Export Obligation, then duty exemption benefit of the above Notification is not available to them.

(IV) From the above, it is clear that Notification No. 22/2013-Cus. dated 18.04.2013 provides full exemption from payment of BCD and ACD with a condition at S. No. 2(10) of the said Notification that the capital goods imported, assembled or manufactured are installed in the importer's factory or premises and a certificate from the jurisdictional Deputy Commissioner of Central Excise or Assistant Commissioner of Central Excise, or by an independent Chartered Engineer, as the case may be, is produced confirming installation and use of capital goods in the importer's factory or premises, within six months from the date of completion of imports. From the conditions as enumerated in the above said Notification it appears that if any importer had not been installed the Capital Goods imported under the above Notification in their declared factory premises and had not submitted the Certificate confirming installation and use of capital goods in the importer's factory or premises within six months from the date of completion of imports, then duty exemption benefit of the above Notification is not available to them.

(V) Whereas it appears, in the instant case, such similar modus operandi has been adopted by the Noticee and the reasons for coming to conclusion are enumerated as under;

(i) The office of the DGFT, Surat on the basis of Application made by said importer issued Zero duty EPCG Authorisation No. 5230012014 dated 27.06.2013 for import of the Computerised Embroidery Machines of

description "Computerised Embroidery Machine Model 615, 6 Needles, 15 Heads, Embroidery Area: 250X500X1200, Single Sequin". It therefore appears that the importer had obtained the said EPCG license for import of Computerized Embroidery Machines to be installed at Sy.No.10, Plot No. 71, S.K. Nagar, Dumbhal, Surat.

- (ii) Further, it appears, after obtaining the Authorisations, on the basis of misrepresentation of the facts, the Noticee had filed Bill of Entry and other documents and imported the impugned goods on payment of Zero Customs duty under Customs Notification No. 22/2013-Cus. dated 18.04.2013.
- (iii) During the verification of premises declared as Branch address in IEC and EPCG licence by the Noticee i.e. Sy.No.10, Plot No. 71, S.K. Nagar, Dumbhal, Surat, it was found that the said premises was in possession of some other person & firm and no Computerised Embroidery Machines of the Noticee were found installed there. Thus, it appears that the rent deed submitted by Shri Ankit Dudhat, Proprietor of the Noticee firm in respect of said Sy.No.10, Plot No. 71, S.K. Nagar, Dumbhal, Surat to the DGFT, Surat for obtaining IEC and EPCG Licence was forged and created by the Noticee only to misuse the EPCG Scheme.
- (iv) Shri Ankit Dudhat, Proprietor of the Noticee firm in his statement recorded on 30.12.2013 under Section 108 of the Customs Act, 1962, accepted that the premises declared as Branch address before DGFT to obtain IEC & Zero duty EPCG Licence i.e. Sy.No.10, Plot No. 71, S.K. Nagar, Dumbhal, Surat was never in their possession and they had prepared the said Rent-deed by fabricating the documents and all the 15 Computerized Embroidery Machines imported by them under zero duty EPCG Scheme had been installed by them at the premises other than declared in IEC & EPCG Licence.
- (v) The exemption under related Customs Notification No.22/2013-Customs dated 18.4.2013 under the EPCG Scheme is subject to the condition that the goods imported are covered by a valid authorization issued under the Export Promotion Capital Goods (EPCG) Scheme in terms of Chapter 5 of the Foreign Trade Policy 2009-2014 and the said authorization is produced for debit by the proper officer of customs at the time of clearance. It therefore appears that the Noticee had mis-declared the same in all the documents filed before the customs authority for clearance of above machines;
- (vi) From the above, it appears that the Noticee had imported Computerized Embroidery Machines & got cleared in the name of forged/created

documents in respect of addresses of the firm by availing the Customs duty EPCG Scheme benefits. It appears that the Noticee had intentionally mis-declared the addresses of the firm before the every authority viz, the DGFT for taking the license and Customs authority with intention to avail undue benefit under the EPCG Scheme.

(vii) Further, the said imported Computerised Embroidery machines have been finally assessed by the Customs, ICD, Sachin, Surat and no appeal or protest have been filed against the assessment of the Bills of Entry filed by the Noticee. Hence, the value of the Embroidery machines imported at the port of ICD, Sachin, Surat appears to have been correctly assessed

14. Whereas, in view of the above discussion, actual Customs duty leviable on the importation of above said 15 imported Computerized Embroidery Machines by the Noticee, at the applicable rate on 03.09.2013 was worked out. The Noticee had imported 15 Computerized Embroidery Machines on payment of zero customs duty under EPCG Licence No. 5230012014 dated 27.06.2013, vide Bills of Entry No. 3172569, 3172576, 3172580 & 3172583 all dated 03.09.2013 on High sea Sale basis from M/s. RIPL for Assessable Value of Rs.1,31,28,097/- and the duty forgone for the said import comes to Rs. 30,00,180/-, as mentioned in Para 10 above.

15. From the facts discussed in forgoing paras and material evidences available on record, it appears that Shri Ankit Dudhat, Proprietor of the Noticee firm, by way of willful mis-statement and suppression of facts, fraudulently availed benefits in terms of Para 5.1 of the Policy and also contravened the provisions of Chapter 5 of the Foreign Trade Policy 2009-14, the conditions of the bond executed by the Noticee for availing zero Duty EPCG Scheme at the time of importation before the designated authority of Customs read with Notification No.22/2013-Customs dated 18.4.2013, in as much as he had obtained zero duty EPCG Authorisation by giving false declarations and by submitting forged documents to the DGFT, Surat regarding the address of the firm.

16. On the basis of such authorization the Noticee had imported 15 Computerized Embroidery Machines having total assessable value of Rs.1,31,28,097/ under Bills of Entry No. 3172569, 3172576, 3172580 & 3172583 all dated 03.09.2013 by willfully mis-declaring the address of the firm as Sy.No.10, Plot No. 71, S.K. Nagar, Dumbhal, Surat. The said address of the firm on verification was found in the possession of other firm and person, as evident from the Panchnama dated 30.12.2013 drawn at Sy.No.10, Plot No. 71, S.K. Nagar, Dumbhal, Surat and from the statement dated 30.12.2013 of Shri Ankit Dudhat, Proprietor of the Noticee firm, as discussed in paras supra.

All the said 15 Computerized Embroidery Machines imported by the Noticee were found installed at other premises than declared in IEC and EPCG Licence as evident from the Panchnama dated 30.12.2013 drawn at 39-40, Ambika Industrial Estate, Opp. Bhavani Industrial Estate, Saroli, Surat and Panchnama dated 30.12.2013 drawn at 3rd Floor, Plot No. 78, Uma Industrial Estate, Dumbhal, Surat and from the statement dated 30.12.2013 of Shri Ankit Dudhat, Proprietor of the Noticee firm, as discussed in paras supra. Thus, all the 15 imported Computerized Embroidery Machines having total assessable value of Rs. 1,31,28,097/- imported under zero duty EPCG Scheme appears to be not covered under the valid EPCG license as the said EPCG license was obtained by the Noticee by furnishing forged documents in respect of address of the firm from the licensing authority i.e. DGFT, Surat. Thus, it appears that these imports involve violation of the provisions of Para 5.1 of the Foreign Trade Policy and Notification No.22/2013-Customs dated 18.4.2013. As a result, it appears that Customs duty exemption under relevant Notification No.22/2013-Customs dated 18.4.2013 is also not available to impugned machines and therefore the same are liable for full rate of Customs duties. Therefore, there appears to be violation of the provisions of Rule 14 of the Foreign Trade (Regulations) Rules, 1993 read with Section 11 of the Foreign Trade (Development and Regulations) Act, 1992. Thus, it appears that the said imports involve violation of the provisions of Para 5.1 of the Foreign Trade Policy and conditions of Notification No.22/2013-Customs dated 18.4.2013, whose benefit they had availed, which violations have rendered the goods i.e. 15 imported "Computerized Embroidery Machines" valued at Rs. 1,31,28,097/- liable to confiscation under Section 111 (o) of the Customs Act, 1962.

17. that M/s. Bal Mukund Creation (Proprietor Shri Ankit Dudhat), had deliberately mis-declared the address of the firm by willful mis-statement and suppression of facts and in contravention to the various provisions of Foreign Trade Policy and the Customs Act and Rules made there under and they had not installed the Capital Goods i.e. 15 (Fifteen) Computerized Embroidery Machines imported under the above Notification No. 22/2013-Cus. dated 18.04.2013 in their declared factory premises and had not submitted the Certificate confirming installation and use of capital goods in the importer's factory or premises within six months from the date of completion of imports. All the 15 imported "Computerized Embroidery Machines" having total assessable value of Rs. 1,31,28,097/- imported under Bills of Entry No. 3172569, 3172576, 3172580 & 3172583 all dated 03.09.2013 by the Noticee under zero duty EPCG Scheme appears to be not covered under the valid EPCG licenses which they had obtained from the licensing authority i.e. DGFT. As a result Customs duty exemption under relevant Notification No.22/2013-Customs dated 18.4.2013 appears not available to impugned machines and therefore liable for full rate of Customs duties. The Customs duty amounting to Rs. 30,00,180/- (as mentioned in Para 10 above) was

liable to be recovered from the Noticee under proviso to Section 28(4) of the Customs Act 1962 by invoking the extended period read with Notification No.22/2013-Customs dated 18.4.2013 along with interest at applicable rate under the said Notification in terms of Bond executed by them. The said acts of omission and commission on the part of the Noticee appear to have rendered them liable for penal action under the provisions of Section 114A of the Customs Act, 1962.

17.1. Further, it appears that the Noticee knowingly submitted false and incorrect Rent Deeds prepared on the basis of forged Electricity Bills and Identity Proofs, before the DGFT, Surat to obtain IEC & EPCG Licence and before Customs at the time of registration of the said EPCG Licence in order to misuse the EPCG Scheme and to evade payment of Customs duty. The said facts have been accepted by Shri Ankit Dudhat, Proprietor of the Noticee firm in his statements dated 30.12.2013 that they had prepared and submitted false rent deeds to the DGFT, Surat for obtaining IEC and EPCG Licences, by forging electricity Bills and identity Proofs, which is corroborated by statement dated 29.01.2014 of Shri Lalitbhai Dobariya, owner of the premises of Plot No. 39 40, Ambika Industrial Estate, Opp. Bhavani Industrial Estate, Saroli, Surat. The said acts of commission on the part of the Noticee through its proprietor Shri Ankit Dudhat appears to have rendered themselves liable for penal action under the provisions of Section 114AA of the Customs Act, 1962, which reads as follows:

“If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.”

18. In the view of the above, **M/s. Bal Mukund Creation** (IEC No. 5213006779), Plot No. 108, Shiv Darshan Society, Div-I, Puna Simada Road, Punagam, Nr. Yogi Chowk, Surat (Proprietor- Shri Ankit Dudhat) was issued a show cause notice No. VIII/10-02/O & A/JC/2014 dated 21.05.2014 by the Joint Commissioner of Customs, Surat as to why:-

- (i) The benefit of Zero Duty EPCG Scheme under Notification No.22/2013-Customs dated 18.4.2013 on seized 15 Computerized Embroidery Machines should not be denied;
- (ii) The seized goods i.e. 15 Computerized Embroidery Machines totally valued at **Rs. 1,31,28,097/- (A.V.) (Rupees One Crore, Thirty One Lakhs, Twenty Eight Thousand and Ninety Seven only)** should not be confiscated under Section 111(o) of the Customs Act, 1962 read with

Notification No.22/2013-Customs dated 18.4.2013 and in terms of Bond executed by them.

- (iii) The Customs duty at applicable rate totally amounting to **Rs. 30,00,180/- (Rupees Thirty Lakhs, One Hundred and Eighty only)** (equal to duty foregone) should not be demanded and recovered from M/s. Bal Mukund Creation in terms of Bond executed by them, as per Notification No.22/2013-Customs dated 18.4.2013 read with proviso to Section 28(4) of the Customs Act, 1962;
- (iv) Interest at the appropriate rate should not be recovered from them on the said Customs duty as at (iii) above, in terms of Bond executed by them under Notification No.22/2013-Customs dated 18.4.2013, readwith Section 28AA of the Customs Act, 1962;
- (v) The Bond of Rs.79,65,000/- furnished by them against the above consignment imported under Zero Duty EPCG Scheme in terms of Notification No.22/2013-Customs dated 18.4.2013 should not be enforced and security in form of Bank Guarantee for Rs.4,27,000/- furnished by them should not be encashed and appropriated towards their duty liabilities, interest thereon, fine and penalties;
- (vi) Penalty should not be imposed upon them in terms of Section 114A of the Customs Act, 1962;
- (vii) Penalty should not be imposed upon Shri Ankit Dudhat, the Proprietor M/s. Bal Mukund Creation, Surat under the provisions of Section 114AA of Customs Act, 1962;

18.1 The case was adjudicated by the then adjudicating authority vide OIO No. 21/JC/SRT/O & A/2014 dt. 30.09.2014 wherein the adjudicating authority passed order as under: –

- (i) disallowed the benefit of Zero Duty EPCG Scheme under Notification No.22/2013- Customs dated 18.4.2013 on seized 15 Computerized Embroidery Machines imported vide Bill of entry no. 3172569, 3172576, 3172580, 3172583 all dated 03.09.2013;
- (ii) ordered for confiscation of impugned seized goods i.e. 15 Computerized Embroidery Machines totally valued at **Rs. 1,31,28,097/- (Rupees One Crore Thirty One Lakh Twenty Eight Thousand Ninety Seven only)**, under the provisions of Section 111(o) of the Customs Act, 1962. However, allowed the noticee an option to release the said goods on payment of redemption fine of Rs.

39,38,000/- (Rupees Thirty Nine Lakh Thirty Eight Thousand only) under Section 125 read with 111(o) of the Customs Act, 1962.

(iii) confirmed the demand of the Customs duty amounting to **Rs. 30,00,180/- (Rupees Thirty Lakh One Hundred Eighty only)** (equal to duty foregone) and ordered for recovery the same from M/s. Bal Mukund Creation, (Proprietor - Shri Ankit Dudhat), Plot No. 108, Shiv Darshan Society, Div-I, Puna Simada Road, Punagam, Nr. Yogi Chowk, Surat, Gujarat.), in terms of proviso to Section 28(4) of the Customs Act, 1962;

(iv) ordered for recovery of interest at the applicable rate from M/s. Bal Mukund Creation on the Customs duty as mentioned at (iii) above, in terms of Bond executed by them under Notification No.22/2013-Customs dated 18.4.2013, read with Section 28AA of the Customs Act, 1962;

(v) imposed penalty of Rs. 30,00,180/- upon M/s. Bal Mukund Creation, (Proprietor - Shri Ankit Dudhat), Plot No. 108, Shiv Darshan Society, Div-1, Puna Simada Road, Punagarn, Nr. Yogi Chowk, Surat, Gujarat.) under Section 114A of the Customs Act, 1962;

(vi) imposed penalty of Rs.5,00,000/- (Rupees Five Lakh only) on Shri Ankit Dudhat, the Proprietor of M/s. Bal Mukund Creation, Plot No. 108, Shiv Darshan Society, Div-I, Puna Simada Road, Punagam, Nr. Yogi Chowk Surat under the provisions of Section 114AA of Customs Act, 1962;

(vii) ordered to recover the aforesaid liabilities, including the amounts of fine and penalty imposed, if not paid forthwith by M/s Bal Mukund Creation, by enforcing/encashing the Bond for Rs.79,65,000/- and Bank Guarantee for Rs. Rs.4,27,000/- executed by M/s. Bal Mukund Creation at the time of availing the benefit of Notification No.22/2013 Customs dated 18.4.2013.

18.2. Being aggrieved with the Order in Original No. 21/JC/SRT/O & A/2014 dt. 30.09.2014 issued by the Joint Commissioner of Customs, Surat the noticee filed an appeal with the Commissioner of Customs (Appeals), Ahmedabad. The Commissioner of Customs (Appeals), Ahmedabad, vide Order-in-Appeal No. AHD-CUSTM-000-APP-441-14-15 dated 16.03.2015, upheld the order of the adjudicating authority and rejected the appeal filed by the appellant/noticee.

18.3. Being aggrieved with the Order-in-Appeal No. AHD-CUSTM-000-APP-441-14-15 dated 16.03.2015 issued by the Commissioner of Customs (Appeals), Ahmedabad, the noticee filed an appeal with Honorable CESTAT, Ahmedabad. Further, Honorable CESTAT, Ahmedabad vide final order no 11976-11977/2024 dated 04.09.2024, allowed the appeal by way of remand to the adjudicating

authority for redetermination of duty, interest and penalty considering submissions or legal authorities that may be pleaded by M/s. Bal Mukund Creation. Accordingly, as directed by the Honorable CESTAT, the case has been taken up for fresh adjudication.

DEFENSE SUBMISSION AND PERSONAL HEARING:

19. Opportunities for Personal hearing was given to the noticee on 26.12.2024, 24.02.2025, 25.03.2025 and 03.06.2025. Shri S. Suriyanarayanan, Advocate on behalf of M/s Bal Mukund Creation, attended virtual hearing on 03.06.2025 and requested for two weeks' time for submission of written reply and further sought extension of 15 days more. He further requested that EODC should be accepted by the department, which has already been submitted at ICD Sachin in 2023. Thereafter, Shri S. Suriyanarayanan, Advocate submitted written submission dated 02.07.2025, the details of their written submission is as under-

- Vide Order in Original no 21/JC/SRT/O & A/2014 dated 30.09.2014, show cause notice dated 21.05.2014 issued in respect of computerised embroidery machines cleared against EPCG license no 5230012104 dated 27.06.2013 was upheld and bank guarantee of ₹ 4,27,000/- executed by Balmukund Creation was encashed by ICD, Sachin, Customs Department
- In the meantime, fulfilment of export obligation, DGFT granted EODC dated 10.05.2023 against EPCG license no 5230012104 dated 27.06.2013 to Balmukund Creation. Photocopy of the EODC has already been submitted to proper officer in ICD Sachin by Balmukund Creation.
- Ultimately Honourable CESTAT vide its final order no 11976-11977/2024 dated 04.09.2024 allowed the appeal of Balmukund Creation. Honourable CESTAT held that the ratio in Vency Creation to the effect that diversion of machinery is of no consequence if export obligation is discharged should be considered by the adjudicating authority. The matter has been remanded to your honour to consider the submissions and legal authorities to be pleaded by Balmukund Creation.
- Accordingly the following submissions are made as per the instructions of Balmukund Creation-
- EODC has been issued by DGFT for the entire export obligation in respect of the EPCG license pertaining to Balmukund creation.
- Balmukund Creation submits that on issue of the EODC and consequent to the final order of Honorable CESTAT remanding the matter for re-adjudication, the show cause notice dated 21.05.2014 is required to be dropped as unsustainable with the consequential relief of refund of pre-deposit of total amount of ₹ 5,25,031/- with interest as per law (deposited

in three instalments of ₹ 75,005/-; ₹ 2,25,013/- and ₹ 2,25,013/- vide TR 6 challans dated 29.09.2015; 04.12.2016 and 04.12.2016). Said three TR 6 challans are already available with ICD Sachin.

- The bank guarantee amount of ₹ 4,27,000/- appropriated through OIO dated 30.09.2014 is also required to be refunded with interest as per law consequent to fulfilment of the export obligation in full by Balmukund Creation.
- No penalty on the firm Balmukund Creation or personal penalty on sole proprietor of the firm can be imposed as the export obligation has been fulfilled completely.
- In the aforesaid premises, the show cause notice dated 21.05.2014 may be dropped as unsustainable and the bank guarantee amount appropriated by the revenue and the amounts pre-deposited by Balmukund Creation (details of which are given in above) may kindly refunded with interest as per law to Balmukund Creation.

DISCUSSION AND FINDINGS:

20. I have carefully gone through the Show cause notice, order dt. 04.09.2024 of Hon'ble CESTAT, Ahmedabad, records, submissions and facts in the present case.

21. I find that in the present case a Show Cause Notice No. VIII/10-02/O&A/JC/2014 dated 21.05.2014 was issued to M/s Bal Mukund Creation (the Noticee). The Noticee had imported 15 computerised Embroidery machines covered under EPCG Licence Number 5230012014 dated 27.06.2013 vide Bill of Entry No. 3172569, Bill of Entry No. 3172576, Bill of Entry No. 3172580 and Bill of Entry No. 3172583 all dated 03.09.2013. The goods were cleared under EPCG Scheme availing exemption under Notification No. 22/2013-Cus dated 18.04.2013. On investigation, the DRI found that 15 imported machinery had been installed at a premises different from the one indicated in the EPCG license. Investigation also revealed that importers had willfully forged and fabricated the rent deeds and other documents in order to obtain the said EPCG license as also to avail the benefit of notification. Consequently, the SCN apart from seeking to deny the benefit of exemption notification to the subject goods, also proposes confiscation of the subject goods (which had been seized during the Investigation) as well as imposition of penalty on the noticee. I further find that Honorable CESTAT, Ahmedabad vide final order no 11976-11977/2024 dated 04.09.2024 has allowed the appeal of the noticee by way of remand to the adjudicating authority for redetermination of duty, interest and penalty considering the ratio in the judgement of M/s Vency Creation V/s Commissioner

of Customs, Ahmedabad reported in 2019(369) ELT 1126 (Tri- AHD) or legal authorities that may be pleaded by the noticee. In view of Hon'ble CESTAT, Ahmedabad direction, the case has been taken up for fresh adjudication. Now, the main issues for consideration before me are as follows:-

- (i) Whether the benefit of Zero Duty EPCG Scheme under Notification No.22/2013- Customs dated 18.4.2013 on 15 Computerized Embroidery Machines should be denied to the noticee or otherwise.
- (ii) Whether the noticee are liable to pay the Customs duty at applicable rate totally amounting to Rs. 30,00,180/- in terms of Bond executed by them, as per Notification No.22/2013 Customs dated 18.4.2013 read with proviso to Section 28(4) of the Customs Act, 1962.
- (iii) Whether the 15 Nos. of imported Computerized Embroidery Machines, Ass. Value- Rs.1,31,28,097/-, be confiscated under Section 111(o) of the Customs Act, 1962 read with Notification No.22/2013 Customs dated 18.4.2013 in terms of Bond executed by them or otherwise.
- (iv) whether the noticee are liable for penalty in terms of Section 114A of the Customs Act, 1962. And whether penalty is imposable on Shri Ankit Dudhat under Section 114AA of the Customs Act, 1962.

22. Now I proceed to decide whether the noticee has fulfilled the conditions of Notification No. 22/2013-Customs dated 18.4.2013 for the EPCG license issued to them. And whether the noticee are liable to pay the Customs duty at applicable rate totally amounting to Rs.30,00,180/- or otherwise.

22.1. It would be prudent to reproduce the Notification No. 22/2013-Customs dated 18.4.2013 for better understanding. The relevant portion of the Notification No. 22/2013-Customs dated 18.4.2013 is reproduced as under:-

In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts goods specified in the Table 1 annexed hereto, from,-

- (i) *the whole of the duty of customs leviable thereon under the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), and*
- (ii) *the whole of the additional duty leviable thereon under section 3 of the said Customs Tariff Act, when specifically claimed by the importer.*

The exemption under this notification is provided subject to the following conditions, namely

(1) the goods imported are covered by a valid authorization issued under the EPCCG scheme in terms of Chapter 5 of the Foreign Trade Policy permitting import of goods at zero customs duty;

(2)

(3)

(4)

(5) that the goods imported shall not be disposed of or transferred by sale or lease or any other manner till export obligation is complete;

(6) that the importer executes a bond in such form and for such sum and with such surety or security as may be specified by the Deputy Commissioner of Customs or Assistant Commissioner of Customs binding himself to comply with all the conditions of this notification as well as to fulfill export obligation on Free on Board (FOB) basis equivalent to six times the duty saved on the goods imported as may be specified on the authorisation, or for such higher sum as may be fixed or endorsed by the Regional Authority

in terms of Para 5.10 of the Handbook of Procedures Vol I, issued under para 2.4 of the Foreign Trade Policy, within a period of six years from the date of issue of Authorisation.

(7)

(8)

(9)

(10) that the capital goods imported, assembled or manufactured are installed in the importer's factory or premises and a certificate from the jurisdictional Deputy Commissioner of Central Excise or Assistant Commissioner of Central Excise, as the case may be, is produced confirming installation and use of capital goods in the Importer's factory or premises, within six months from the date of completion of imports or within such extended period as the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, may allow

Provided further that if the importer, including an importer who is a Common Service Provider (CSP), is not registered with the Central Excise or if the Importer is a service provider (other than a CSP), as the case may be, he may produce the said certificate of installation and usage issued by an independent Chartered Engineer:

(11)

22.2 It is evident that Notification No. 22/2013-Cus dated 18.04.2013 provides full exemption from payment of BCD and ACD subject to certain conditions.

Condition at S. No. 2(5) of the said Notification provides that the goods imported shall not be disposed of or transferred by sale or lease or any other manner till export obligation is complete. In other words, if any importer had disposed off the Capital Goods imported under the above Notification without completing Export Obligation, the duty exemption benefit of the above Notification is not available to them. By breaching this condition, he loses his eligibility for benefit of exemption under said Notification.

22.3 Further, condition at S. No. 2(10) of the said Notification provides that the capital goods imported, assembled or manufactured are installed in the importer's factory or premises and a certificate from the jurisdictional Deputy Commissioner of Central Excise or Assistant Commissioner of Central Excise, or by an independent Chartered Engineer, as the case may be, is required to be produced confirming installation and use of capital goods in the importer's factory or premises, within six months from the date of completion of imports.

A careful reading of the above referred conditions establish that the notification is available to "Actual Users" where the importer is bound to discharge his export obligation with the machines installed at the declared premises.

23. In the present case Noticee had imported 15 Computerised Embroidery Machines from China on High Sea Sale basis from one M/s Rudrani Impex Pvt. Ltd. (IEC No. 5206040142), 309, Union Trade Centre, B/s Apple Hospital, Udhna, Surat (importer and High Seas seller). The Noticee approached the office of the DGFT, Surat with an application enclosing the details required for issuance of licence. The DGFT, Surat, issued Zero duty EPCG Authorisation No. 5230012014 dated 27.06.2013 for import of the Computerised Embroidery Machines of description "Computerised Embroidery Machine Model 615, 6 Needles, 15 Heads, Embroidery Area: 250X500X1200 Single sequins without cutter. The Noticee had obtained the said EPCG licenses for import of Computerized Embroidery Machines declaring the name and address of the supporting manufacturer as M/s Bal Mukund Creation, Sy. No.10, Plot No. 71, S.K. Nagar, Dumbhal, Surat, Gujarat. After obtaining the Authorisations, on the basis of mis-representation of the facts, the noticee had filed Bill of Entry and other documents and imported the impugned goods availing the benefit of Zero Customs duty under Customs Notification No. 22/2013-Cus. dated 18.04.2013 at the declared branch address in IEC and EPCG as Sy. No.10, Plot No. 71, S.K. Nagar, Dumbhal, Surat, Gujarat. On visit by the officers of DRI on 30.12.2013, it was noticed that a firm namely M/s Shree Hari Fashion (Prop-Shri Prafful K. Dudhat) and M/s Kirtan Creation (Prop-Shri Bharatbhai J. Akbari) were functioning at the said address. During the Panchnama proceedings, Shri Bharatbhai informed that at the said premises, no firm in the name of the Noticee

was functioning. It is revealed here that the **rent deed submitted by Shri Ankit Dudhat, Proprietor of the noticee firm in respect of said premises i.e. Sy. No.10, Plot No. 71, S.K. Nagar, Dumbhal, Surat, Gujarat to the DGFT, Surat for obtaining IEC and EPCG Licence, were forged/created by the noticee firm** with intent to misuse the EPCG Scheme.

23.1 In addition to the above evidences in the form of Panchnamas drawn on 30.12.2013, the investigation also has corroborative evidence in the form of statement of Shri Ankit Dudhat, Proprietor of the noticee firm in his statement recorded on 30.12.2013 under Section 108 of the Customs Act, 1962, wherein he accepted that none of the 15 Machines imported by them under Zero duty EPCG Licence were installed either at No. 108, Shiv Darshan Society, Div-1, Puna-Simada Road, Puna Gam Nr. Yogi Chowk, Surat (as the said premises was their residence) or at Sy. No.10, Plot No. 71, S.K. Nagar, Dumbhal, Surat. The premises i.e. Sy. No.10, Plot No. 71, S.K. Nagar, Dumbhal, Surat, Gujarat declared as Branch address before DGFT for obtaining IEC & Zero duty EPCG Licence was never in their possession. He admitted that out of the 15 Machines imported by them, 2 Computerised Embroidery Machines have been installed at Plot No. 78, 3rd Floor, Uma Industrial Estate, opp. S.K. Indl. Estate, Dumbhal, Surat and 13 Computerised Embroidery Machines have been installed at Plot No. 39/40, Ambika Industrial Estate, Saroli, Surat, which are the premises other than the premises declared in IEC & EPCG Licence. The exemption under related Customs Notification No.22/2013-Customs dated 18.4.2013 under the EPCG Scheme is subject to the condition that the goods imported are covered by a valid authorization issued under the Export Promotion Capital Goods (EPCG) Scheme in terms of Chapter 5 of the Foreign Trade Policy 2009-2014 and the said authorization is produced for debit by the proper officer of customs at the time of clearance. I find that the Noticee had Imported Computerized Embroidery Machines and got cleared the **same on the strength of forged/created documents in respect of addresses of the firm by availing the Customs duty EPCG Scheme benefits.** The noticee had intentionally mis-declared the addresses of the firm before every authority viz. the DGFT for taking the license and Customs authorities with an intention to avail undue benefit under the EPCG Scheme. I further find that the said imported computersied Embroidery machines have been finally assessed by the Customs, ICD, Sachin, Surat and no appeal or protest have been filed against the assessment of the Bills of Entry was filed by the noticee with regard to their value. I therefore find that the value of the Embroidery machines imported at the port of ICD, Sachin, Surat was correctly assessed.

24. As provided in condition No. 6 of Notification No.22/2013-Customs dated 18.4.2013, the Noticee have executed a Bond. Main conditions of Bond executed

for import of goods under EPCG Licences at the port of importation, which are as follows:-

1. the obligor(s) shall fulfill all the conditions of the said notification. observe all the terms and conditions of the said notification.
2. the obligor (s) shall observe all the terms and conditions specified in the licence.
3. the obligor(s), shall fulfill the export obligation as specified in the said notification and the licence and shall produce evidence of having so fulfilled the export obligation within 30 days from the expiry of the specified export obligation period to the satisfaction of the Government.
4. In the event of failure to fulfill full or part of the export obligation as specified in the said notification and the licence, the obligor(s), hereby undertake to pay the Customs duty but for the exemption and also interest @ 18% per annum thereon forthwith and without any demur, to the Government.
5. the obligor (s), shall comply with the conditions and limitations stipulated in the said import and export policy/foreign trade policy as amended from time to time.
6. the obligor (s), shall not change the name and style under which the obligor(s), are doing business or change the location of the manufacturing premises except with the written permission of the Government.

24.1 The condition No. 5 & 6 of the bond are very specific, with regards to (i) adhering to the conditions of import and export policy/foreign trade policy and (ii) Not to change the location of the manufacturing premises except with the written permission of the Government. The noticee obtained the authorization bearing No. 5230012014 dated 27.06.2013 for zero duty EPCG Scheme by the Director General of Foreign Trade. The authorization mentioned above was attached with a condition sheet, marked as Annexure 'A', as per the condition No. 15, of the sheet, the name and address of the supporting manufacturer was mentioned as Bal Mukund Creation, situated at Sy. No.10, Plot No. 71, S.K. Nagar, Dumbhal, Surat. Here it is pertinent to mention the condition No. 13 of the Annexure'A', wherein it is stipulated that the "Import of capital goods under the authorization shall be subject to actual user condition".

24.2 The Government had prescribed the certain conditions so as to monitor the export obligations or any other post import obligations and more importantly to prevent the misuse of duty-free importation of goods. The noticee was not in

possession of the EPCG licence for the premises, where the subject machines were found to be installed during the course of physical verification of the imported machines. Shri Ankit Dudhat, Proprietor of the Noticee firm in his statement dated 30.12.2013 had admitted that he knew that the Computerized Embroidery Machines imported under Zero duty EPCG Scheme were required to be installed and used in the premises declared in IEC and EPCG Licences for the manufacture of the embroidery fabrics and to be exported as per the conditions of the EPCG Licence, but, his firm had not installed the above seized 15 Computerised Embroidery Machines in declared premises. They, therefore, have and thereby violated the conditions of EPCG Licence and relevant Customs Notification.

24.3. The import has been made under the EPCG Scheme, the Scheme in clear terms implies that if the importer fails to install the imported Capital goods at the premises declared with the Customs Authority's and the DGFT, the importer would no longer be eligible for the benefit of the above said Notification.

25. Now coming to the issue of whether Machines were installed at the declared address by the Noticee or otherwise, I find that DGFT granted EPCG authorization No. 5230012014 dated 27.06.2013 for import of the 15 No. computerised Embroidery Machines of Description "Computerised Embroidery Machine Model 615, 6 Needles, 15 Heads, Embroidery Area: 250X500X1200, Single Sequin" and as per the said authorization machines were to be installed at "Sy. No.10, Plot No. 71, S.K. Nagar, Dumbhal, Surat. "The Authorisation No. 5230012014 dated 27.06.2013 issued by the DGFT shows the above address as Branch/ supporting manufacturer address.

26. It is evident from the above that the Noticee has submitted a fabricated Rent Deed dated 28.05.2013 between Sh. Sanjaykumar Pragjibhai Dudhat (owner of the premises at Plot No. 71, S.K. Nagar, Dumbhal, Surat) and Shri Ankitbhai Vinodbhai Dudhat, stating that Shri Ankit Dudhat has taken the above property on rent for five years from 01.05.2013. From another fabricated rent Deed dated 21.08.2013 entered between Shri Lalitbhai Nanubhai Dobarria (owner of the premises at 39-40, Ambika Industrial Estate, Opp. Bhavani Indi. Estate, Saroli, Surat) and 1. Shri Radheshyam. V. Dudhat and 2. Shri Ankit V. Dudhat, it appears that Shri Shri Radheshyam V. Dudhat and Shri Ankit V. Dudhat have taken this property on rent for 5 years. Shri Radheshyam Dudhat (owner of M/s Muralidhar Creation) and Shri Ankit Dudhat (Proprietor of the Noticee firm) are brothers.

26.1 I find that the premises at Plot No. 71, S.K. Nagar, Dumbhal, Surat was verified by the Officers of DRI, Surat and it was noticed that a firm namely M/s. Shree Hari Fashion (proprietor- Shri Prafful K. Dudhat) and M/s. Kirtan Creation (proprietor- Shri Bharathbhai J, Akbari) were functioning at the said address. The

officers did not find any Computerized Embroidery Machines installed therein. Shri Bharatbhai, the owner of M/s. Kirtan Creation informed that at the said premises, no firm in the name of M/s. Bal Mukund Creation was functioning but he knew Shri Ankit V. Dudhat. Further, from the statement of Shri Ankit Dudhat, Proprietor of the Noticee firm, I find that he has confirmed that none of the machines imported by him are installed either at 108, Shiv Darshan Society, Div-1, Puna Simada Road, Nr. Yogi Chowk, Surat (said premises is their residence) or at Sy. No. 10, Plot No. 71, S.K. Nagar, Dumbhal, Surat, the premises declared as supporting manufacturer premises in the EOCG authorisation. **He has also stated that he does not know the owner of the premises and the rent deed was prepared by fabricating the electricity Bill and showing Shri Sanjaybhai Pragjibai Dudhat (his cousin brother) as the owner of the said premises.**

26.2 I further find that the Officers of DRI also verified the premises at 39-40, Ambika Industrial Estate, Opp. Bhavani Indl. Estate, Saroli, Surat. In the said premises, the Officers in the presence of panchas and Shri Radheshyam V. Dudhat, Proprietor of M/s Muralidhar Creation, Surat found installed total 25 Computerised Embroidery Machines of the Noticee. Shri Radheshyam V. Dudhat informed that out of the total 25 Machines, 13 Machines were imported by the M/s Bal Mukund Creation i.e. the Noticee and the rest 12 Machines belonged to M/s Muralidhar Creation. **Shri Ankit Dudhat, Proprietor of the Noticee in his statement has accepted that the rent Deed is not actually correct Rent Deed and same had not been entered with the owner of the said premises**, but it was created by them with the help of M/s Rudrani Impex Pvt. Ltd. and the photograph of Shri Lalitbhai Nanubhai Dobariya pasted on the said rent deed was not of Shri Lalitbhai Nanubhai Dobariya; that actually the photograph pasted on the rent deed was of his cousin Shri Pareshkumar Babubhai Bhuva. The Officers also verified the premises at third floor, Plot No. 78, Uma Indl. Estate in front of S.K. Indl. Estate, Dumbhal, Surat (on being informed by Shri Ankit Dudhat during the Panchnama proceedings dated 30.12.2013 at Plot No. 71. S.K. Indl. Estate) and found total three Computerised Embroidery Machines out of which one was old and was procured locally.

26.3 From the above discussion it is ample clear that the Noticee has obtained IEC No. from DGFT by submitting forged documents as address proof and also submitting the rent agreements for the premises at Sy. No. 10, Plot No. 71, S.K. Nagar, Dumbhal, Surat and 39-40, Ambika Industrial Estate, Opp. Bhavani Indl. Estate, Saroli, Surat **fraudulently by forging documents and making their relatives as owner of the said premises**. Clearly, the Noticee was not in possession of the declared premises mentioned in the EPCG licence.

27. From the three Panchnamas dated 30.12.2013 drawn at Sy. No. 10, Plot No. 71, S.K. Nagar, Dumbhal, Surat, 39-40, Ambika Industrial Estate, Opp. Bhavani

Indl. Estate, Saroli, Surat and premises at third floor, Plot No. 78, Uma Indi. Estate in front of S.K. Indi. Estate, Dumbhal, Surat as well as from the statement of Shri Lalitbhai Dobarria, owner of 39-40, Ambika Industrial Estate, Opp. Bhavani Indi. Estate, Saroli, Surat and statement dt. 30.12.2013 of Shri Ankit Dudhat, Proprietor of the noticee firm, I find that none of the imported Computerised Embroidery machines were found at the declared address. Also, confessional statements dated 30.12.2013 of Shri Ankit. Dudhat, Proprietor of the Noticee firm removes any ambiguity on the whole intention of availment of benefits of EPCG Scheme in terms of para 5.1 of the Policy by mis-statement and suppression of material facts from the Customs Department as well as DGFT.

28. As per the Notification No. 22/2013-Cus dated 18.04.2013, it is necessary and mandatory that the capital goods are required to be installed in the premises declared in the application made to the licensing authority i.e. DGFT authorities. Though the above conditions are mandatory the same has not been followed by the noticee. Thus, the mis-declaration of the premises and non-installation of the said imported goods at declared premise was unearthed by DRI and in case of Bills of Entry No. Bill of Entry No. 3172569, Bill of Entry No. 3172576, Bill of Entry No. 3172580 and Bill of Entry No. 3172583 all dated 03.09.2013 also the mis-declaration was already made and loss of revenue would have occurred had the DRI had not intervened and seized the machines. The intention of the noticee was evident from the submission of the forged documents for availment of the Notification No. 22/2013-Cus dated 18.04.2013.

29. Thus, I find that one of the conditions for extending the benefit of Notification No. 22/2013-cus dated 18.04.2013 admittedly does not stand fulfilled by the Noticee. The zero rate of duty under the notification is dependent upon the fulfillment of condition annexed thereto. I find that the language used in the said notification is clear and lead to only one fact that the imported capital goods should be installed in the factory declared in the license and not any other space. The said goods having not installed in the declared factory premises, the condition cannot be said to have been fulfilled so as to claim the benefit of the same. Thus, it is proved beyond doubt that the noticee were not entitled to claim the benefit of 'zero duty' under notification 22/2013-Cus. Dated 18.04.2013.

30. Now, coming to the contentions raised by the Noticee in their defence reply/written submission dt. 02.07.2025, I proceed to examine the same on merit:

30.1 Noticee has submitted that since the licensing authority, namely, DGFT has issued EODC for the EPCG license, confiscation, recovery of duty and imposition of redemption fine is bad in law.

30.2 They further submitted that no personal penalty on sole proprietor of the firm can be imposed separately.

31. In the instant case the Noticee has imported total 15 Computerised Embroidery Machines vide Bill of Entry No. 3172569, Bill of Entry No. 3172576, Bill of Entry No. 3172580 and Bill of Entry No. 3172583 all dated 03.09.2013 availing a zero rate of duty on the condition that the goods will be put to use for manufacture and export of certain products up to certain value within a specified period at declared premises. **They have furnished forged rent deeds and 15 Machines were found installed at premises other than declared in IEC and EPCG Licence** as evident from panchnama dated 30.12.2013 drawn at 39-40, Ambika Indl. Esatae, opp. Bhavani Indi. Esatae, Saroli, Surat and Panchnama dated 30.12.2013 at Plot No. 71, S.K. Nagar, Dumbhal, Surat and Panchnama dated 30.12.2013 at Plot No. 78, 3rd Floor, Uma Industrial Estate, opp. S.K. Indl. Estate, Dumbhal, Surat. In his statement dated 30.12.2013 recorded under Section 108 of Customs Act, 1962, Shri Ankit Dudhat has admitted to the offence committed by him. Resultantly, the duty liability has to be discharged in full without availing the benefit of the exemption.

31.1. I find that it is evident from panchnama and statements that the noticee **had made false entries in various documents and fabricated the documents.** I also find from the records and statements recorded by the investigation that the impugned imported capital goods were not found and installed at the premises declared in the EPCG authorization and documents submitted before customs authorities. The noticee has failed to appreciate that it is settled law that conditions of the exemption notifications are to be followed scrupulously.

31.2. I find that the noticee has argued that DGFT has issued EODC for fulfillment of export obligation in the present case and as such they are eligible for the benefit of Notification No. 22/2013-Cus. Dated 18.04.2013. I find that noticee has failed to appreciate that submission of EODC is only one of the ingredients of availing the Notification No. 22/2013-Cus. Dated 18.04.2013. Noticee has failed to appreciate the fact that mere submission of Export Obligation Discharge Certificate (EODC) only would not render them eligible for availment of Notification No. 22/2013-Cus. Dated 18.04.2013, specifically when the investigation done by Directorate of Revenue Intelligence (DRI) have clearly brought out **that fabricated documents were used for obtaining EPCG authorization and impugned imported capital goods were never found and installed at the premises declared in the EPCG authorization License.** DGFT is the EPCG Licence granting authority and responsibility of safeguarding customs revenue rests on the customs department in this case.

31.3 I find from the records that noticee have also raised during earlier proceedings that the plot No.39/40, Ambica Industrial Estate, premise in which

the thirteen machines imported by them were found to be installed and subsequently seized by the Customs authorities was given on rent to the Noticee by one Shri Lalithbai Dobariya, that said premises were admittedly given on rent by Shri Dobariya to them for eleven months. In this connection, I also find that that Shri Lalithbai Dobariya **vide his statement dated 29.01.2014 has confirmed that the said rent deed is not the real one and the Photo pasted on the said rent deed and the signatures are not of him.** Hence, although the 13 No. of machines were found installed at the above address, though illicitly, the same may not have been found at all, if the officers of DRI had not booked and detected the case. The Noticee on their part have not declared this premises with DGFT or the Customs authorities. Accordingly, the contention of the Noticee is not tenable.

31.4 The submission of the Noticee that that they had imported the aforesaid fifteen machines under a valid IEC and EPCG licenses and that they had furnished a proper bond alongwith Bank Guarantee at the time of clearance and hence nothing wrong has been committed. The noticee has failed to appreciate that merely furnishing of Bond and bank Guarantee does not make them eligible for fraudulently utilizing the benefits under Notification No. 22/2013-Customs dated 18.04.2013. The permission to clear the imported capital goods without payment of applicable customs duty were allowed under bonafide belief that the documents submitted by the noticee were genuine and procedure in accordance with Notification No. 22/2013-Customs dated 18.04.2013 would be followed. In the present case noticee has failed to observe both by submitting forged & fabricated documents before DGFT and Customs authorities and not installing the impugned capital goods at the declared premise in the EPCG authorization. EPCG authorization issued under Chapter V of the Foreign Trade Policy (2009-2014) read with Notification No. 22/2013-Customs dated 18.04.2013 clearly prescribes the EPCG authorization holder/ or supporting manufacturer's address where the imported capital goods are to be installed. Condition at S. No. 2(10) of the said Notification provides that the—"--- capital goods imported, assembled or manufactured are installed in the Importer's factory or premises and a certificate from the jurisdictional Deputy Commissioner of Central Excise or Assistant Commissioner of Central Excise, or by an independent Chartered Engineer, as the case may be----". Observance of this and other conditions of the exemption Notification No. 22/2013-Customs dated 18.04.2013 are sacrosanct provisions which cannot be overlooked in order to safeguard the revenue involved and to arrest the possible misuse of EPCG exemption scheme.

31.5 I also find that the Noticee in the present case has relied upon the decision of Vency Creation V/s Commissioner of Customs, Ahmedabad reported in 2019(369) ELT 1126 (Tri- AHD). I find that Hon'ble CESTAT in the case of M/s Vency Creation V/s Commissioner of Customs, Ahmedabad has observed that diversion

of machinery, other than the address declared due to termination of rent deed etc is of no consequence. Hon'ble CESTAT in the said case also observed that no investigation was conducted/no statement was recorded from the declared premise owners. Hon'ble CESTAT in the case of M/s Vency Creation V/s Commissioner of Customs, Ahmedabad has observed in Para -4 as under-:

We have gone through rival submissions. We find that an allegation has been made that the appellant had diverted the machines imported under EPCG scheme and not installed the same in the address declared in the license. The explanation of the appellant is that he had entered into an agreement with the land lord and on that basis he had applied for the license under EPCG scheme, however, when the machines were imported the land lord refused to give premise of land and as a result he had to install the machine at a different premise, nearby. In support of his claim regarding renting of the said premise, he had produced the rent agreement. Revenue has sought to disregard the rent agreement on the basis of what the land lord told the Revenue officials. However, no statements of the said land lord were recorded, nor the said land lord was confronted with the said rent agreement. In these circumstances, we are unable to uphold the charge that the appellant had not entered into the rent agreement for the said premises.

I find from above that the present case is different from the case of M/s Vency Creation V/s Commissioner of Customs, Ahmedabad in terms of facts and circumstances. In the present case a detailed investigation has been carried by the DRI. The panchanamas were drawn at declared premises and statement of proprietor of the noticee and the owner of the premises were also recorded, as detailed in above paras. The owner of premises in his statement when confronted with the rent deed submitted by Noticee have confirmed that the said rent deed is not **the real one and the Photo pasted on the said rent deed and the signatures are not of him**. From the statement of owner of the premises **it is evident that the proprietor Shri Ankit Dhudhat has forged the rent deed and obtained the EPCG licence from DGFT on the strength of forged documents**. From this it is evident that Shri Ankit Dhudhat, proprietor of the noticee firm, was not in possession of the premises where the impugned 15 machines were found installed. Thus, facts in the present case are entirely different from the facts in the case of M/s Vency Creation V/s Commissioner of Customs, Ahmedabad in terms **of element of forgery and falsification** and for this reason it cannot be relied upon to grant the benefit to the Noticee. I find that investigation has clearly revealed that impugned imported capital goods were never found and installed at the premises declared in the IEC & EPCG authorization.

31.6 The above stated position gets substantiated from the decision of Hon'ble Tribunal in the case of Sushant Minerals vs. CC vide order No. A/1120/13/CSTB/C dated 23.04.2013 wherein it is held that:

"Appellant importing machinery under the EPCG Scheme but installing the same in the mines of M/S. KJS Ahluwalia and renting out the same to them for a consideration - Zonal Joint DFGT had imposed a penalty of Rs.25 lakhs on appellant for violation of the EXIM Policy relating to EPCG Scheme this clearly showed that the appellant had violated the actual user condition and consequently condition No. 5 of Notification No. 97/2004-Cus dated 19/07/2004 automatically comes into picture and the appellant would no longer be eligible for the benefit of the said Notification duty demand of Rs.1,52,39,903/- upheld goods imported are liable to confiscation u/s 111(0) of the Customs Act, 1962 for violation of the end-use condition and the appellant is liable to penalty"

31.7 I find that the present issue is well settled in law and in the case of Ajay Paul vs Commissioner of Customs (2005 (182) ELT 417 Tri Bang), the Hon'ble Tribunal has held that:-

"We have carefully considered the submissions made by both sides and have perused the records. We notice from the Commissioner's order that the appellants had made a representation to DGFT, New Delhi, by their letter dated 12-03-1998, seeking permission to transfer the imported machinery to M/s. Finesse Prints. JDGFT had rejected their request and, therefore, the appellants

sum of Rs. 26,76,406/- in violation of the conditions laid down in para 5.4 of Chapter 5 of Handbook of Procedures 1997-2002 which prohibits the transfer, sale or otherwise of disposal of the imported goods within a period of 5 years from the date of import, except with the prior permission of DGFT".

"Therefore, the confiscation of the machinery and imposition of duty, penalty and fine is required to be upheld."

31.8 I rely upon the decision of Hon'ble High Court of Madras in the case of COMMISSIONER OF CUSTOMS (SEA), CHENNAI-1, Versus CESTAT and M/s Gaur Impex (2009 (240) E.L.T. 166 (Mad.). The issue in that case was that the importer made a false declaration for the purpose of securing an advance licence with actual user condition. The fact that the time within which he had to discharge his obligation has not come to an end, does not advance the case of the importer. Hon'ble High Court of Madras in para -30 & 31 of the said order has observed as under-

30. Now coming to the Judgment of the Division Bench of this Court in 2004 (177) ELT 57 (Mad.) we find the Judgment would apply to the facts of the present case in its entirety. In the said case the Writ Petitions were filed challenging the summons issued u/s 108 of the Customs Act. The Learned Single Judge of this Court dismissed the Writ Petition as against which the appeals were filed before the Division Bench. The Appellants placed reliance on the Judgment of the Hon'ble Supreme Court in the case of East India Commercial Company case, Sampat Raj Dugar and Titan Medical Systems (as referred above) and stated that the Customs Authorities had no jurisdiction to issue to notice u/s 108 of the Customs Act. The Division Bench of this Court after considering the law laid down by the Hon'ble Supreme Court in the case of Sheshank Sea Foods case held as follows.

“23. Though there will be no question of the binding principle as laid down by the Supreme Court being watered down, in our opinion, the observations have been made in an entirely different context. There was no question regarding the power of the Customs authorities to initiate investigation or the enquiry, as the case may be. Again, this was not a case of manufacturing licence but pertained to the import of raw materials under the exemption notifications issued under the EXIM policy. The basis issue in the proposed enquiry by the Customs Authorities appears to be as to whether there at all was a manufacturing factory or manufacturing unit for utilizing the imported stainless steel sheets and if such manufacturing unit was not there, how the imported stainless steel sheets were actually utilized. It is also true that the further question in that enquiry is going to be as to whether it was the imported material alone which was used in the manufacturing activity. Now, if there was no manufacturing unit available or any such manufacturing unit as would have the capacity to manufacture the goods worth crores of rupees, how was the imported stainless steel utilized. The question would not only be misrepresentation while getting the Advance Licence but also about the utilization of the imported material, which would squarely fall u/s 111(o) of the Customs Act. In our opinion, the decision in Titan case, cited supra, also does not help the Appellants.

29. We do not think that such an approach would be a right approach to the problem. We have already clarified that even if the redemption of the licences is completed, still there would be a power in the Customs Authorities to effect the investigation, or, as the case may be, enquiries to see that whether there was any evasion of the Customs duty. Therefore, in our opinion, the discharge of the export obligation per se cannot put an end to the whole story.

30. Insofar, as the second notification, Notification No. 30/97, is concerned, a similar provision regarding the export obligation also appears there. However, there appears to be a specific Clause added., i.e. Clause (vii), which is to the following effect: "(vii) exempt materials shall not be disposed of or utilized in any manner except for utilization in discharge of export obligation nor for replenishment of such materials and the materials so replenished shall not be

sold or transferred to any other person". Learned Senior Counsel appearing on behalf of the Department very heavily relies on this Clause and says that it is in this direction that the enquiry has to be made. We agree with the Learned Senior Counsel that there can be a scope of enquire and the summons issued u/s 108 of the Customs Act for effecting the enquiry such as these cannot be bad for the lack of jurisdiction."

31. We are entirely in agreement with the law laid down by the Division Bench of this Court as stated above, which has followed the decision of the Hon'ble Supreme Court in the case of Sheshank Sea Foods and we are inclined to accept the contention of the Appellant Department. Admittedly in the present case the misrepresentation made by the importer has not been denied while submitting the explanation to the show cause notice and the importer took a technical stand that because the licenses were seized by the DRI prior to the period of expiry, it has disabled them from discharging the export obligation. Though the past conduct of the importer is not the subject matter of the show cause notice/adjudication in question, we cannot be asked to turn a blind eye to the allegations made in the show cause notice which remains unrebutted to the following effect.

31.9 The said Judgment of the Hon'ble High court of Madras was upheld by the Apex Court reported in 2010(249) E.L.T. A28 (S.C), in case of Gaur Impex V/s Commissioner, wherein the Hon'ble Apex Court held that.

"the Madras High Court in its impugned order had held that the assessee was not the actual user as was not having manufacturing unit, and not entitled to use advance licence with actual user condition. The Court held that the basis for discharge of export obligation is existence of factory and when address given is false, the whole edifice falls. The Court further held that the Department was entitled to appropriate bank guarantee towards duty and penalty and initiate recovery proceedings for balance amount as licence obtained by adopting fraudulent method not confers any right and importer cannot plead equity".

31.10 I also rely upon the decision of the Hon'ble Supreme Court in Sheshank Sea Foods Pvt. Ltd. v. UOI, 1996 (88) E.L.T. 626 (S.C.). wherein the Hon'ble Supreme Court held that Section 111(o) of the Customs Act, provides for confiscation of exempted goods when condition of exemption is not observed. The relevant paragraphs are as follows:

9. Section 111(0) states that when goods are exempted from Customs Duty subject to a condition and the condition is not observed, the goods are liable to

confiscation. The case of the Respondent is that the goods imported by the Appellants, which availed of the said exemption subject to the condition that they would not be sold, loaned, transferred are disposed of in any other manner, had been disposed of by the Appellants. The Customs Authorities, therefore, clearly had the power to take action under the provisions of Section 111(0).

10. We do not find in the provisions of Import and Export policy or the hand book of procedure issued by the Ministry of Commerce, Government of India, anything that even remotely suggests that the aforesaid power of the Customs Authorities had been taken away or abridged or that an investigation into such alleged breach could be conducted only by the licensing authority. That the licensing authority is empowered [to] conduct such an investigation does not by itself preclude the Customs Authorities from doing so.

11. The communication of the Central Board of Excise and Customs, dated 13th May, 1969 refers to the breach of the condition of a licence and suggests that it may not be possible to take action under Section 111(0) in respect thereof. It is true that the terms of the said Exemption Notification were made part of the Appellants-licenses and, in that sense, a breach of the terms of the said Exemption Notification is also a breach of the terms of the license, entitling the licensing Authority to investigate. But the breach is not only of the terms of the licence; it is also a breach of the condition in the Exemption Notification upon which the Appellants obtained exemption from payment of customs duty and, therefore, the terms of Section 111(0) enable the Customs Authorities to investigate."

32. In this connection, a reference was also made to HQ Review Section, Customs Ahmedabad to ascertain the status of the order of Hon'ble CESTAT in the case of M/s Vency Creation V/s Commissioner of Customs, Ahmedabad reported in 2019(369) ELT 1126 (Tri- AHD) & M/s Murlidhar Creation & Bal Mukund Creation V/s Commissioner of Customs, Ahmedabad (Final Order No. 11976-11977/2024 in matter of Customs Appeal No. 11630 of 2015). HQ Review Section, Customs Ahmedabad vide email dt. 28.07.2025 & 30.07.2025 communicated that both the orders of Hon'ble CESTAT in the case of M/s Vency Creation & M/s Murlidhar Creation have been accepted on lower Monetary ground by the department.

32.1 In view of discussions in the forgoing paras, I find that the noticee are not eligible for the benefit of 'zero duty' under notification 22/2013-Cus. dated 18.04.2013. Consequently, the imported capital goods attract appropriate customs duties. Accordingly, I hold that the demand in the Show Cause Notice,

under Not. No 22/2013-Cus dated 18.04.2013 read with proviso to Section 28(4) of the Customs Act, 1962 is legal and sustainable.

33. Now I proceed to decide whether the noticee is liable for confiscation of Capital Goods and penalties as proposed in the Show Cause Notice.

33.1 On a careful perusal of Section 111(o) of the Customs Act, 1962, I find that under said Section, “if any goods exempted, subject to any condition, from duty or any prohibition in respect of the import thereof under this Act or any other law for the time being in force, in respect of which the condition is not observed unless the non-observance of the condition was sanctioned by the proper officer”, then such goods are liable to confiscation. Therefore, the commission/omission on the part of the Noticee, i.e., the failure of the Noticee to fulfill the condition of the Notification No. 22/2013-Cus dated 18.04.2013, **by not installing the goods of required value within the specified premises by way of mis-declaration, the suppression, producing forged documents and wilful mis-statement by the Noticee gets squarely covered by the eventualities mentioned under Section 111(o) of the Customs Act, 1962** which make the goods liable for confiscation. Further, I find that the Tribunal, Mumbai in the case of CC Mumbai Vs Multimetal Ltd. 2002 (144) ELT 574 (Tri-Mumbai) has held that when mis-declaration is established, goods are liable to confiscation irrespective of whether there was malafide or not. This decision has been upheld by the Apex court as reported in 2003 (151) ELT A309 (SC). In the instant case, as the mis-declaration and suppression of facts leading to contravention of the various provisions of Foreign Trade Policy and the Customs Act have been fully established, I have no hesitation to hold that the entire goods covered by the show cause notice are liable to confiscation under section 111(o) of the Customs Act, 1962.

33.2. It is settled law that if the goods have been imported at a concessional/nil rate of duty, subject to fulfillment of certain conditions and such conditions are violated, then the said duty/concession would not be available. In such an eventuality, the goods imported shall be liable to confiscation. In the instant case the Noticee imported total 15 Computerised Embroidery Machines vide Bill of Entry Nos. 3172569/03.09.2013, 3172576/03.09.2013, 3172580/03.09.2013 and 3172583/03.09.2013 availing a zero rate of duty on the condition that the goods will be put to use for manufacture and export of certain products up to certain value within a specified period at declared premises. **They have furnished forged documents** and all the 15 Machines were found installed at premises other than declared in IEC and EPCG Licence as evident from Panchnama dated 30.12.2013 drawn at 39-40, Ambika Indi. Esatae, opp. Bhavani Indi. Esatae, Saroll, Surat and Panchnama dated 30.12.2013 at 3 Floor, plot No. 78, Uma Indi. Estate, Dumbhal, Surat. Shri Ankit Dudhat in his statement dated 30.12.2013 has made admission of the offence committed by him. I therefore, uphold the

charge leveled in the notice that the importer M/s Bal Mukund Creation have by mis-declaring the address of premises in the four Bills of Entries as well as EPCG license have violated the provisions of Section 11 of the Foreign Trade Development and Regulation Act, 1992 and Rules 11 & 14 of the Foreign Trade (Regulation) Rules, 1993 and Section 46 of the Customs Act, 1962. This calls for confiscation of goods under Section 111(o) of the Customs Act, 1962.

33.3. Accordingly, I hold 15 Nos. of Computerised Embroidery Machines liable for confiscation under section 111(o) of the Customs Act, 1962 and redemption fine can also be imposed on said goods in lieu of confiscation.

34. With regards to leviability of interest in the present case, I find that the Noticee has to pay the amount of duty saved on the import, if it failed to comply with its licensing conditions and post import conditions required to be complied under Customs notification No. 22/2012-Cus dated 18.04.2013. I find that when the Noticee availed of a benefit on a solemn assurance and furnished a legal undertaking to the effect, that it shall perform certain acts necessary for the enjoyment of the benefit being extended in its favor. I form an opinion that the Noticee cannot enjoy those benefits, when the conditions, subject to which the benefit was extended, are violated. I find that noticee cannot avail of a benefit which was available subject to its performing conditions prescribed for the same, without performing such conditions. With regard to interest on the amount of duty recoverable from the Noticee, I find that as per Section 28AA, which deals with interest on delayed payment of duty, it is provided that where a person is chargeable with duty within a specified time, he shall pay, in addition to the duty, interest at such rate from the due date of payment till the date of payment of such duty. It is, thus, evident that duty determined as payable would earn interest in the event of a delay.

35. I find that Show Cause Notice proposes Penalty on the Noticee under Section 114A. The discussions in the foregoing paras leave no ambiguity that the Noticee imported the goods and mis-declared the address of the premises in the Bills of Entry and EPCG license with a view to claim benefit of exemption Notification No. 22/2013-Cus dated 18.04.2013 so as to evade payment of appropriate duties of Customs thereon. According to Section 114A of the Customs Act, 1962, "*where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under sub-section (8) of section 28 shall also be liable to pay a penalty equal to the duty or interest so determined*", In the instant case, it is apparent from the findings recorded herein above that there was suppression, act of forgery and mis-declaration by the Noticee which eventually led that the goods

are liable to confiscation. I find that Penalty is an action (in personam) on the importer while the duty and fine are (action in rem) on the goods. I am of the opinion that liability to penalty arises when a person who in relation to any goods acts or omits any act which act or omission would render the goods liable to confiscation. Any person who abets or aids the commission of an act or omits to such an act (which renders the goods liable for confiscation) is also liable to penalty. I find that, when a person acquires possession or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing or in any other way dealing in goods which he knows or has reason to believe are liable to confiscation under Section 111 is also liable to penalty under Section 114A. In the instant case the appellant imported the goods subject to a condition that the capital goods were to be installed at a specific premises mentioned in the IEC and EPCG Authorisation, but the Noticee failed to do so. Therefore, the goods became liable to confiscation under Section 111(o). Since the goods are liable to confiscation under Section 111(o), penalty under Section 114A is attracted. The investigation has clearly brought out the Involvement and active role played by Shri Ankit Dudhat, Proprietor of M/s Bal Mukund Creation/the Noticee. It is evident that Shri Ankit Dudhat in his statement dated 30.12.2013 categorically admitted acts of omission and commission rendering the imported goods liable to confiscation under Section 111(o) of the Act.

I therefore, hold that M/s Bal Mukund Creation are liable to penalty under Section 114A of the Customs Act, 1962 equal to the customs duty payable on the goods which was sought to be evaded and determined herein as payable.

36. I find that the Show cause notice also proposes penalty on Shri Ankit Dudhat, Proprietor of the Noticee firm under Section 114AA of the Customs Act, 1962. As per Section 114AA of the Customs Act, 1962:

“If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act. shall be liable to a penalty not exceeding five times the value of goods.”

In this regard, I find that Shri Ankit Dudhat has directly indulged himself in mis-declaration of the address of the firm by willful mis-statement and suppression of facts as he deliberately submitted **fabricated and forged Rent Deeds on the basis of forged electricity Bills and identity proofs** before the DGFT to obtain IEC and EPCG Licences and before Customs at the time of Registration of the said EPCG Licences with intent to misuse the EPCG Scheme and evade payment of Customs duty. He has also failed to install the 15 Nos. of imported Computerised Embroidery Machines at their declared factory premises. He has admitted to his offence detailed above in his statement dated 30.12.2013. The noticee has submitted that no personal penalty on sole proprietor of the firm can be imposed

separately. I find that the noticee has failed to appreciate that penalty has been imposed on the noticee firm under Section 114A of the Customs Act, 1962 for non payment of customs duty and penalty has been imposed upon Shri Ankit Dudhat, Proprietor of M/s. Bal Mukund Creation under Section 114AA of the Customs Act, 1962 for using and submitting false, forged and incorrect documents. Separate penalty has not been imposed on the noticee firm and the Proprietor for the same act of commission or omission and as such contention of the noticee is not justifiable. Accordingly, I find that the acts of commission on the part of Shri Ankit Dudhat, Proprietor of M/s. Bal Mukund Creation attracts penalty under the provisions of Section 114AA of the Customs Act, 1962.

37. In view of above discussion and findings, I pass the following order:

ORDER

(i) I deny the benefit of Zero Duty EPCG Scheme under Notification No.22/2013- Customs dated 18.4.2013 to 15 Computerized Embroidery Machines imported by M/s. Bal Mukund Creation (Proprietor - Shri Ankit Dudhat), Plot No. 108, Shiv Darshan Society, Div-I, Puna Simada Road, Punagam, Nr. Yogi Chowk, Surat, Gujarat.

(ii) I hold seized goods i.e. 15 Computerized Embroidery Machines totally valued at **Rs. 1,31,28,097/- (Rupees One Crore Thirty One Lakh Twenty Eight Thousands Ninety Seven only)** liable to confiscation under the provisions of Section 111(o) of the Customs Act, 1962. However, I hereby allow the Noticee an option to redeem the said goods on payment of redemption fine of **Rs. 33,00,000/- (Rupees Thirty Three Lakh only)** in lieu of confiscation under Section 125(1) of the Customs Act, 1962.

(iii) I confirm the demand of Customs duty totally amounting to **Rs. 30,00,180/- (Rupees Thirty Lakh One Hundred Eighty only)** (equal to duty foregone) on above 15 Computerized Embroidery Machines and order to recover the same from M/s. Bal Mukund Creation, (Proprietor - Shri Ankit Dudhat), Plot No. 108, Shiv Darshan Society, Div-I, Puna Simada Road, Punagam, Nr. Yogi Chowk, Surat, Gujarat in terms of proviso to Section 28(4) of the Customs Act, 1962;

(iv) I order to recover interest at the appropriate rate from M/s. Bal Mukund Creation on the Customs duty confirmed at (iii) above, in terms Section 28AA of the Customs Act, 1962 read with Notification No. 22/2013-Cus dated 18.04.2013 as amended and conditions of Bond executed and furnished by them in terms of Section 143 of the Customs Act, 1962;

(v) I impose penalty of **Rs. 30,00,180/- (Rupees Thirty Lakh One Hundred Eighty only)** on M/s. Bal Mukund Creation, (Proprietor - Shri Ankit Dudhat), Plot

No. 108, Shiv Darshan Society, Div-I, Puna Simada Road, Punagam, Nr. Yogi Chowk, Surat, Gujarat, under Section 114A of the Customs Act, 1962;

(vi) I impose Penalty of **Rs.4,00,000/- (Rupees Four Lakh only)** on Shri Ankit Dudhat, Proprietor of M/s. Bal Mukund Creation, Plot No. 108, Shiv Darshan Society, Div-I, Puna Simada Road, Punagam, Nr. Yogi Chowk, Surat, Gujarat, under Section 114AA of Customs Act, 1962;

(vii) The aforesaid liabilities, including the amounts of fine and penalty imposed, if not paid forthwith by M/s Bal Mukund Creation, shall be recovered by enforcing the Bond for Rs.79,65,000/- executed by the noticee. I order to appropriate the amount of Rs.4,27,000/- by encashment of the Bank Guarantee for Rs.4,27,000/- submitted by the Noticee. The same is required to be encashed and deposited in Government exchequer. The amount may be adjusted against the duty, interest and fine/penalty liability confirmed above.

39. The Show Cause Notice No. VIII/10-02/O&A/JC/2014 dated 21.05.2014 is disposed of in above terms.

(Shravan Ram)
Additional Commissioner
Customs Ahmedabad

DIN: 20250971MN0000717213

F. No. GEN/ADJ/ADC/1160/2025-ICD-SRT-CUS-COMMRTE-AHMEDABAD Dated: 09.09.2025

By Speed Post A.D./E-mail /Hand Delivery/Through Notice Board

To,

**M/S. BAL MUKUND CREATION,
(PROPRIETOR - SHRI ANKIT DUDHAT),
PLOT NO. 108, SHIV DARSHAN SOCIETY,
DIV-I, PUNA SIMADA ROAD,
PUNAGAM, NR. YOGI CHOWK,
SURAT-395010, GUJARAT.**

Copy to:-

1. The Principal Commissioner, Customs, Ahmedabad.
2. The Deputy Commissioner of Customs, ICD-Sachin, Surat.
3. The System In-Charge, Customs HQ, Ahmedabad for uploading on the official website i.e. <http://www.ahmedabadcustoms.gov.in>
4. The Joint Director General, DGFT, 6th Floor, Resham Bhavan Lal Darwaja, Surat-395003 for information and necessary action.
5. The Assistant Director, DRI, Surat, Regional Unit, Surat.
5. Guard File/Office copy.
6. Notice Board