सीमाशुल्क (अपील) आयुक्तका कार्यालय, अहमदाबाद
OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD
चौथी मंज़िल 4th Floor, हडको बिल्डिंग HUDCO Building, ईश्वर भुवन रोड़ Ishwar Bhuvan Road,
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009.
दूरभाष क्रमांक Tel. No. 079-26589281
DIN-20260271MN0000666CA4

क	फ़ाइल संख्या FILE NO.	F.No. S/49-460/CUS/AHD/JAN/2025-26
ख	अपीलआदेश संख्या ORDER-IN-APPEAL No. (सीमाशुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत) (UNDER SECTION 128A OF THE CUSTOMS ACT, 1962):	AHD-CUSTM-000-APP-551-25-26
ग	पारितकर्ता PASSED BY	SHRI AMIT GUPTA Commissioner of Customs (Appeals), AHMEDABAD
घ	दिनांक DATE	10.02.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER - IN - ORIGINAL NO.	O.I.O. No. 75/ADC/ACC/OIO/Aman Garg/2025-26 dated 24.12.2025 passed by the Additional Commissioner of Customs (in-charge Air Cargo Complex), Ahmedabad.
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	10.02.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	Shri. Aman Garg, P-37A, Vijay Vihar, Uttam Nagar, New Delhi – 110059.

1.	यह प्रति उस व्यक्ति के निजी उपयोग के लिए मुफ्त में दी जाती है जिनके नाम यह जारी किया गया है.
	This copy is granted free of cost for the private use of the person to whom it is issued.
2.	सीमाशुल्क अधिनियम 1962 की धारा 129 डी डी (1) (यथा संशोधित) के अधीन निम्नलिखित श्रेणियों के मामलों के सम्बन्ध में कोई व्यक्ति इस आदेश से अपने को आहत महसूस करता हो तो इस आदेश की प्राप्ति की तारीख से 3 महीने के अंदर अपर सचिव/संयुक्त सचिव (आवेदन संशोधन), वित्त मंत्रालय, (राजस्व विभाग) संसद मार्ग, नई दिल्ली को पुनरीक्षण आवेदन प्रस्तुत कर सकते है.

	Under Section 129 DD(1) of the Customs Act, 1962 (as amended), in respect of the following categories of cases, any person aggrieved by this order can prefer a Revision Application to The Additional Secretary/Joint Secretary (Revision Application), Ministry of Finance, (Department of Revenue) Parliament Street, New Delhi within 3 months from the date of communication of the order.
	निम्नलिखित सम्बन्धित आदेश/Order relating to :
(क)	**बैगेज़ के रूप में आयातित कोई माल.**
(a)	**any goods imported on baggage.**
(ख)	**भारत में आयात करने हेतु किसी वाहन में लादा गया लेकिन भारत में उनके गन्तव्य स्थान पर उतारे न गए माल या उस गन्तव्य स्थान पर उतारे जाने के लिए अपेक्षित माल उतारे न जाने पर या उस गन्तव्य स्थान पर उतारे गए माल की मात्रा में अपेक्षित माल से कमी हो.**
(b)	**Any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination.**
(ग)	**सीमाशुल्क अधिनियम, 1962 के अध्याय X तथा उसके अधीन बनाए गए नियमों के तहत शुल्क वापसी की अदायगी.**
(c)	**Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.**
3.	**पुनरीक्षण आवेदन पत्र संगत नियमावली में विनिर्दिष्ट प्रारूप में प्रस्तुत करना होगा जिसके अन्तर्गत उसकी जांच की जाएगी और उस के साथ निम्नलिखित कागजात संलग्न होने चाहिए :**
	The revision application should be in such form and shall be verified in such manner as may be specified in the relevant rules and should be accompanied by :
(क)	**कोर्ट फी एक्ट,1870 के मद सं.6 अनुसूची 1 के अधीन निर्धारित किए गए अनुसार इस आदेश की 4 प्रतियां, जिसकी एक प्रति में पचास पैसे की न्यायालय शुल्क टिकट लगा होना चाहिए.**
(a)	**4 copies of this order, bearing Court Fee Stamp of paise fifty only in one copy as prescribed under Schedule 1 item 6 of the Court Fee Act, 1870.**
(ख)	**सम्बद्ध दस्तावेज़ों के अलावा साथ मूल आदेश की 4 प्रतियां, यदि हो**
(b)	**4 copies of the Order - In - Original, in addition to relevant documents, if any**
(ग)	**पुनरीक्षण के लिए आवेदन की 4 प्रतियां**
(c)	**4 copies of the Application for Revision.**
(घ)	**पुनरीक्षण आवेदन दायर करने के लिए सीमाशुल्क अधिनियम, 1962 (यथासंशोधित) में निर्धारित फीस जोअन्य रसीद,फीस,दण्ड,जब्तीऔर विविध मदों के शीर्षके अधीन आता है में रु. 200/-(रूपए दो सौ मात्र)या रु.1000/-(रूपए एक हज़ार मात्र).जैसा भी मामला हो,से सम्बन्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दोप्रतियां. यदि शुल्क,मांगा गया ब्याज,लगाया गया दंड की राशिऔर रूपए एक लाख या उससे कम हो तो ऐसे फीस के रूप में रु.200/- और यदि एक लाख से अधिक हो तो फीस के रूप में रु.1000/-**
(d)	**The duplicate copy of the T.R.6 challan evidencing payment of Rs. 200/- (Rupees two Hundred only) or Rs. 1,000/- (Rupees one thousand only) as the case may be, under the Head of other receipts, fees, fines, forfeitures and Miscellaneous Items being the fee prescribed in the Customs Act, 1962 (as amended) for filing a Revision Application. If the amount of duty and interest demanded, fine or penalty levied is one lakh rupees or less, fees as Rs. 200/- and if it is more than one lakh rupees, the fee is Rs. 1000/-.**
4.	**मद सं. 2 के अधीन सूचित मामलों के अलावा अन्य मामलों के सम्बंन्ध में यदि कोई व्यक्ति इस आदेश से आहत महसूस करता हो तो वे सीमाशुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म सी.ए.-3 में सीमाशुल्क, केन्द्रीय उत्पाद शुल्क और सेवा कर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील कर सकते हैं**

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	In respect of cases other than these mentioned under item 2 above, any person aggrieved by this order can file an appeal under Section 129 A(1) of the Customs Act, 1962 in form C.A.-3 before the Customs, Excise and Service Tax Appellate Tribunal at the following address :	
	सीमाशुल्क, केंद्रीय उत्पाद शुल्क व सेवा कर अपीलियअधिकरण, पश्चिमी क्षेत्रीय पीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench
	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2nd Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
5.	सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (6) के अधीन, सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (1) के अधीन अपील के साथ निम्नलिखित शुल्क संलग्न होने चाहिए-	
	Under Section 129 A (6) of the Customs Act, 1962 an appeal under Section 129 A (1) of the Customs Act, 1962 shall be accompanied by a fee of -	
(क)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और ब्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए या उससे कम हो तो एक हज़ार रुपए.	
(a)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;	
(ख)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और ब्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पांच हज़ार रुपए	
(b)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees ;	
(ग)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और ब्याज तथा लगाया गया दंड की रकम पचास लाख रूपए से अधिक हो तो; दस हज़ार रुपए.	
(c)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees	
(घ)	इस आदेश के विरुद्ध अधिकरण के सामने,मांगे गए शुल्क के 10 % अदा करने पर,जहां शुल्क या शुल्क एवं दंड विवाद में हैं,या दंड के10 % अदा करने पर,जहां केवल दंड विवाद में है,अपील रखा जाएगा।	
(d)	An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute; or penalty, where penalty alone is in dispute.	
6.	उक्त अधिनियम की धारा 129 (ए) के अन्तर्गत अपील प्राधिकरण के समक्ष दायर प्रत्येक आवेदन पत्र- (क) रोक आदेश के लिए या गलतियों को सुधारने के लिए या किसी अन्य प्रयोजन के लिए किए गए अपील : - अथवा (ख) अपील या आवेदन पत्र का प्रत्यावर्तन के लिए दायर आवेदन के साथ रुपये पाँच सौ का शुल्क भी संलग्न होने चाहिए.	
	Under section 129 (a) of the said Act, every application made before the Appellate Tribunal- (a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or (b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.	

कार्यालय आयुक्त (अपील) सीमा शुल्क अहमदाबाद

ORDER-IN-APPEAL

Shri. Aman Garg, P-37A, Vijay Vihar, Uttam Nagar, New Delhi – 110059 (hereinafter referred to as 'the appellant') has filed the present appeal against Order-In-Original No. 75/ADC/ACC/OIO/Aman Garg/2025-26 dated 24.12.2025 (hereinafter referred to as 'the impugned order') passed by the Additional Commissioner of Customs (in-charge Air Cargo Complex), Ahmedabad (hereinafter referred to as 'the adjudicating authority').

2. Facts of the case, in brief, are that a case for mis-declaration and over-valuation of export goods was booked by Preventive Section of Customs Commissionerate, Ahmedabad, against M/s. Zeta Exports, Sion, Maharashtra (hereinafter referred to as 'the exporter'). The exporter was indulged in gross overvaluation of export goods in order to get undue benefit of IGST refund from Customs.

3. During Panchnama dated 22.06.2020, drawn at Air Cargo Complex, Ahmedabad, it was found that the exporter has declared the goods as electrical capacitor, various types of tools and parts thereof, etc.; whereas, on physical examination it was found that goods were electrical capacitors and metal washers. Further, there were discrepancies between declared quantity and actual quantity of many items. More importantly, the total declared value of **50 Shipping Bills** was **Rs. 4.64 crore**; whereas, the Govt. approved empaneled Valuer and Chartered Engineer estimated that the fair value of the said goods as **Rs. 1.63 lakh** only. Thus, it was observed that the goods were grossly overvalued in ordered to get undue high refund of IGST amounting to **Rs. 78.59 lakh**. The goods covered under 50 Shipping Bills filed in the name of M/s. Zeta Exports were placed under seizure vide Panchnama dated 22.06.2020 and 23.06.2020.

4. Search conducted at the declared premises of exporter revealed that no such unit in the name of M/s. Zeta Exports exists at that premises. Statements of Shri. Sumit A. Jha (G Card holder), working with M/s. Mohak Enterprises, Customs Broker, who have filed Shipping Bills on behalf of the exporter, have been recorded. Statement of Shri. Sunil Kumar Jha (G Card holder), working with M/s. Samudra Marines Pvt. Ltd. has also been recorded. From the Statements of these persons, it appeared that Shri. Aman Garg, working as a Customs Inspector at Air Cargo Complex, Ahmedabad, was involved to some extent in the activities of M/s. Zeta Exports. So, Summons were issued to Shri. Aman Garg,

but, it is alleged that he did not appear before the investigating officer citing various reasons, including COVID-19 Pandemic. Any Statement of Shri. Aman Garg has not been relied upon in the Show Cause Notice.

5. It appeared that Shri. Aman Garg, Inspector, was consciously involved in the entire scheme of illegal export planned by Shri. S. S. Ameer in the name of M/s Zeta Exports to avail undue export benefits; that Shri. Aman Garg facilitated/aided Shri. S. S. Ameer by arranging CHA; that he also used to decide where the cargo of M/s Zeta Exports was to be unloaded, that he had forwarded invoices of M/s. Zeta Exports to Customs Broker, etc. It also appeared that Shri. Aman Garg had done such acts with ulterior motive to facilitate Shri. S. S. Ameer in resorting to mis-declaration of value and quantity of export goods with intent to avail undue IGST refund. It appeared that all these acts on the part of Shri. Aman Garg, Inspector, had rendered the export goods liable for confiscation under Section 113(h) and Section 113(i) of the Customs Act, 1962, and thus, rendered himself liable to penalty under Section 114(iii) and Section 114AA of the Customs Act, 1962.

6. On conclusion of investigation, a Show Cause Notice bearing F.No. VIII/48-15/PI/ HQ/ 2020-21 dated 28.12.2020 was issued to M/s Zeta Exports, Shri. Sunil Jha, Shri. Sumit A. Jha, M/s. Mohak Enterprise and Shri. Aman Garg. Vide the said SCN, Shri. Aman Garg was called upon show case as to why penalties should not be imposed on him under the provisions of Section 114(iii) and Section 114AA of the Customs Act, 1962.

7. The aforesaid SCN was initially adjudicated by the Additional Commissioner vide O.I.O. No. 75/ADC/AKS/O&A/2021-22 dated 27.12.2021, through which penalties of Rs. 5,00,000/- under Section 114(iii) and Rs. 10,00,000/- under Section 114AA had been imposed on Shri. Aman Garg.

8. Being aggrieved, Shri. Aman Garg had filed an appeal F.No. S/49-1199/CUS/AHD/2021-22 with this office. The then Commissioner (Appeals), vide Order-In-Appeal No. AHD-CUSTM-000-APP-458-23-24 dated 28.02.2024, remanded the matter to the adjudicating authority for passing fresh order. In the said O.I.A. dated 28.02.2024, no opinion or view had been expressed on the merits of the case.

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9. In the remand proceedings, the Additional Commissioner has decided the matter vide impugned Order-In-Original No. 75/ADC/ACC/OIO/Aman Garg/2025-26 dated 24.12.2025. Gist of findings of the adjudicating authority, in the impugned order, are as follows.

10. The adjudicating authority was required to examine whether the dropping of certain charges in the departmental disciplinary proceedings against Shri Aman Garg, Inspector, had any bearing on the sustainability of penalty proceedings initiated against him under the Customs Act, 1962. In the departmental proceedings, while Articles of Charge I and Charge II were dropped, Article of Charge III relating to wilful absence from duty and deliberate avoidance of appearance before the investigating officer on false grounds of sanctioned leave, stood confirmed by the Appellate Authority. In other words, only Article Charge-III has been confirmed and Articles of Charge I and Charge II have been dropped by the Disciplinary Authority. The adjudicating authority, however, noted that the disciplinary proceedings and the proceedings under Customs Act operate in distinct and independent legal domains, governed by different standards of proof and objectives.

11. Relying upon the orders of Hon'ble Supreme Court, the adjudicating authority further observed that departmental inquiry is not akin to criminal trial. That disciplinary proceeding is not criminal trial and that standard of proof required in a disciplinary inquiry is that of preponderance of probability, and not proof beyond the reasonable doubt, which is the proof required in a criminal trial. Hence, the adjudicating authority observed that even if the Charges I and II were dropped in the disciplinary proceedings, it is to be independently decided on the basis of evidence available on record whether Shri. Aman Garg, Inspector, is required to be imposed penalty under Section 114 (iii) of the Customs Act, 1962. As regards penalty under Section 114AA, the adjudicating authority observed as under:

> *"24. I find that the Charge-III which has been confirmed against Shri Aman Garg, Inspector in the departmental proceedings is equivalent to provisions for imposing penalty under Section 114AA of the Customs Act, 1962."*

12. The adjudicating authority further observed that in their Statements, Shri Sunil Kumar Jha and Shri. Sumit A. Jha, both have affirmed that it was Shri. Aman Garg, Inspector, who had forwarded 20 invoices to them for carrying out the Customs clearance of the goods of M/s Zeta Exports. That Shri. Aman Garg has been found to be in constant touch with Shri. Sumit Jha through Whatsapp chat when these shipping bills were filed which corroborate with the facts stated by Shri. Sumit Jha. That Shri. Aman Garg, Inspector, was actively involved and connived with Shri. S. S. Ameer alias Shri. Badshah Ameer Ahmed in the name of M/s Zeta Exports, Mumbai to avail illegal refund of IGST by showing export of the over-valued goods, which were also found to be mis-declared in respect of its quantity.

13. In view of these acts of commission and omission, the adjudicating authority held that the goods were rendered liable to confiscation under Sections 113(h) and 113(i) of the Customs Act, 1962; that correspondingly, Shri. Aman Garg, Inspector, was held liable to penalties under Sections 114(iii) and 114AA of the Customs Act, 1962.

14. In view of the above findings, vide impugned order, penalty of Rs. 5,00,000/- under Section 114(iii) and penalty of Rs. 10,00,000/- under Section 114AA of the Customs Act, 1962, have been imposed on the appellant. Being aggrieved, the appellant has filed the present appeal.

ADMISSION OF APPEAL:

15. The appellant has submitted a self-certified copy of a TR-6 Challan No. 428 dated 16.06.2022 evidencing payment of Pre-deposit of Rs. 1,12,500/- for filing of appeal, as prescribed under Section 129E of the Customs Act, 1962.

16. After going through the said Challan, it has been noticed that the said TR-6 Challan was towards pre-deposit for filing appeal against OIO No. 75/ADC/AKS/O&A/2021-22 dated 27.12.2021. The said appeal F.No. S/49-1199/CUS/AHD/21-22 has already been decided vide OIA No. AHD-CUSTM-000-APP-458-23-24 dated 28.02.2024 by which the matter was remanded to adjudicating authority. Now, the adjudicating authority has decided the matter vide impugned OIO No. 75/ADC/ACC/OIO/Aman Garg/2025-26 dated 24.12.2025 and the appellant has submitted the same T.R.6 Challan No. 428 dated 13.06.2022, bank receipt dated 16.06.2022, for Rs. 1,12,500/- as pre-deposit for filing the

present appeal. In view of this position, an email dated 04.02.2026 was sent to the appellant by this office requesting to inform whether he has claimed and/or got refund of the said pre-deposit till date or not. In reply, the appellant sent a reply by email dated 04.02.2026 stating that he has not got the refund of the said pre-deposit made by me vide T.R.6 Challan No. 428 dated 13.06.2022, bank receipt dated 16.06.2022, for Rs. 1,12,500/- and the same lies with the authority with which the deposit was made. Thus, the appellant has complied with the requirement of pre-deposit as prescribed under Section 129E of the Customs Act, 1962.

17. In the Appeal Memorandum, the Date of communication of the impugned order dated 24.12.2025 has been shown as "26.12.2025". Whereas, the present appeal has been filed on 20.01.2026, i.e. within normal period of 60 days from the date of receipt of impugned order, as stipulated under Section 128(1) of the Customs Act, 1962. So, the appeal has been admitted and being taken up for disposal on merits.

18. One set of the appeal memorandum has been sent to the adjudicating authority vide this office letter dated 28.01.2026 for comments on this appeal. However, no reply thereof has been received. So, I proceed to the decide the appeal on the basis of documents submitted by the appellant and available on record.

GIST OF GROUNDS OF APPEAL:

19. The appellant submitted that the SCN and the subsequent OIO are not based on any material evidence or proof. That the allegations are unconvincing, lacking a proper legal foothold, and failing to provide any positive, credible evidence of the appellant's active involvement in fraudulent activity. That the findings rely solely on the statements of two Customs House Agents (CHAs), Shri. Sunil Kumar Jha and Shri. Sumit A. Jha, without any corroborating documents. That opportunity of cross-examination was deliberately not granted to him. That it is a settled principle of law that suspicion, however strong, cannot take the place of fact, and penalties require proof of active involvement.

20. **Contesting Reliability of CHA Statements**

The appellant argued that the investigation and OIO rely on 'manufactured' versions of events provided by the CHAs.

- **Contradictory Narratives:** The statements of the CHAs are inconsistent, non-corroborated, and contradictory.
- **Orchestrated Gameship:** The appellant alleged that the CHAs engaged in an "orchestrated gameship" to shift blame and "inoculate" themselves by framing the appellant.
- **Coercion and Bargaining:** The appellant suggested the CHAs may have been coerced or offered a 'bargain' by the investigating authorities to direct the investigation toward him in exchange for their own freedom.

21. Absence of Connection to the Subject Goods and Transactions

The appellant asserts that he has neither any relation to the cargo in question, nor any transaction business with the exporting firm.

- **No Involvement in Customs Chain:** At the material time, the appellant was posted at the Air Cargo Complex, Ahmedabad. The Customs Broker took help of some other officer to clear the cargo (examination report of the shipping bills readily available on *'https://enquiry.icegate.gov.in/')*. The appellant has no skin in the affairs of M/s. Zeta Exports. The records available on ICEGATE show that the appellant did not impart in customs clearance, including examination, valuation, IGST refund for the subject cargo.
- **Lack of Gain:** There is no evidence suggesting the appellant gained anything from the clearance of the cargo.
- **Exclusion of Key Stakeholders:** The appellant points out that the investigation ignored the "mastermind," Shri. S. S. Ameer, and his financial dealings with the Customs Brokers /CHAs.

22. Rebuttal of Digital Evidence (WhatsApp Chats)

A significant portion of the SCN relies on WhatsApp chats allegedly between Sumit Jha and the appellant. The appellant denies these chats belong to him on the following grounds:

- **Non-identification of Mobile Number:** Throughout the investigation and four separate statements from Sh. Sumit Jha, the appellant's mobile number was never brought on record or verified.

- **Fabrication Potential:** Since the chats were submitted by Sh. Sumit Jha, he maintained full control over the contact names saved in his phone. The appellant argues that saving a number under a specific name does not prove the identity of the user without verifying the actual mobile number.
- **Deliberate Omission:** The appellant asserts that the investigating authority had 'cleverly hidden' the mobile number because the chats do not pertain to the Appellant.

23. **Statutory Defence against Penalties**

- **Section 114(iii):** The appellant argues that this Section is inapplicable as he did not attempt to export goods, has no relation to the goods, and there is no proof of his abetment.
- **Section 114AA:** This section applies only to those who "knowingly or intentionally" use false documents in the transaction of business. The appellant maintains that he had no business transactions with the firm and did not sign or use any false declarations.

24. In view of the above submissions, the appellant submitted that the investigation was biased, overlooked essential facts (such as the officer who actually granted clearance), and relied on a 'mis-information campaign' to tarnish his image. He requested that the penalties be dropped in the interest of justice.

25. In view of the above, the appellant has requested to set aside the impugned order and allow the appeal with consequential relief.

Application for early hearing

26. The appellant has submitted an application dated 21.01.2026 for early hearing stating *inter alia* that the matter has already been rotate twice without proper justification; that all other persons who have filed appeal have been left scot free except him i.e. the appellant. The appellant further submitted that he is facing issues in including departmental proceedings, financial loss, societal pressure and mental burden. So, he has requested to grant an early hearing in this matter to avoid further delay in justice.

PERSONAL HEARING:

27. Personal Hearing in this matter was held on 04.02.2026, which was attended by the Appellant, Shri. Aman Garg. He reiterated the written submissions made at the time of filing of appeal.

DISCUSSION AND FINDINGS:

28. I have carefully gone through the facts of the case and written as well as oral submissions made by the appellant Shri. Aman Garg. The issue, which is to be decided in the present appeal, is whether penalties of Rs. 5,00,000/- and Rs. 10,00,000/- imposed on the appellant under the provisions of Section 114(iii) and Section 114AA of the Customs Act, 1962, are sustainable or not.

29. Before starting discussion on sustainability of penalties imposed on the appellant under Section 114(iii) and Section 114AA vide the impugned order, I reproduce the said statutory provisions, which are as follows.

> *"114. Penalty for attempt to export goods improperly, etc.*
>
> *Any person who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 113, or abets the doing or omission of such an act shall be liable-*
>
> *... ... ...*
>
> *(iii) in case of any other good, to a penalty not exceeding the value of goods, as declared by the exporter or the value as determined under this Act, whichever is the greater."*

> *'114AA. Penalty for use of false and incorrect material*
>
> *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 purpose of this Act, shall be liable to a penalty not exceeding five times the value of goods."*

30. At the outset, I observe that the adjudicating authority has reaffirmed that the first adjudication order, unaffected by the outcome of disciplinary proceedings under service rules, i.e. CCS (CCA) Rules, 1965. As mentioned in the impugned order dated

24.12.2025, three Articles of Charge have been framed against Shri. Aman Garg, Inspector, under the provisions of CCS (CCA) Rules, 1965.

- **Article of Charge-I** was regarding connivance, facilitation and monitoring of grossly overvalued and mis-declared export goods.
- **Article of Charge-II** was regarding involvement of private business activities of M/s. Zeta Exports from Air Cargo Complex and attempt/abatement in export of grossly overvalued and mis-declared goods.
- **Article of Charge-III** was regarding failure of the appellant to appear before the investigating officer, wilful absent from duty citing false grounds that he was on leave; and thus failure to maintain discipline in discharge of his duties.

31. As mentioned in Para 16.3 of the impugned order, the Disciplinary Authority had earlier passed Order-In-Original No. 02/Commissioner/2023-24 dated 04.10.2023 by which the Articles of **Charge-I and Charge-II have been dropped.** However, the **Charge-III** was held to be **proved** and the Disciplinary Authority has imposed a major penalty of reduction to a lower stage in time-scale pay by two stages, for a period of one year, as per the provisions of Rule 11(v) of the CCS (CCA) Rules, 1965. The appeal filed by the Charged Officer against the said O.I.O. dated 04.10.2023 has been rejected by the Appellate Authority, i.e. Principal Chief Commissioner, vide Order-in-Appeal No. 03/Pr. Chief Commissioner/2023-24 dated 19.03.2024. Further, vide Order-in-Revision No. 01/2023-24 dated 28.03.2024, the appellate authority has remitted the case to the Disciplinary Authority to decide the case afresh to the extent of Articles of Charge-I and Charge-II.

32. As mentioned in Para 18 of the impugned order, the IO submitted his report dated 14.08.2024 that on the basis of contradictory Statements of Shri Sunil Jha and Shri. Sumit Jha, reply submitted by the CO, and evidences available on records, it was <u>difficult to establish the charges against the CO even if standard of proof, i.e. principle of Preponderance of Probability, is applied.</u> Thus, the IO concluded that the Articles of Charge-I and Charge-II cannot be proved against Shri. Aman Gard. Further, as mentioned in Para 19 & 20 of the impugned order, the Disciplinary Authority has passed Order-In-Original No. 01/Commissioner/2024-25 dated 21.11.2024 by which, again, the **Charge-I and Charge-II have been again dropped as not proved.** The adjudicating authority has

further mentioned that letters have been issued to the Disciplinary Authority and other officers of Department seeking the current/review status of the said O.I.O. 01/Commissioner/2024-25 dated 21.11.2024; however, no response has been received. So, in view of the time-limit for completion of adjudication, as prescribed under Section 28(9), the adjudicating authority has decided to conclude the adjudication proceedings without further awaiting response – particularly from the Disciplinary Authority, which passed the said O.I.O. 01/Commissioner/2024-25 dated 21.11.2024 (Para 20 of the impugned order refers).

33. From the impugned order, I find that the major two Articles of Charge-I and Charge-II under the provisions of the CCS (CCA) Rules, 1965, have been dropped by the Disciplinary Authority. The Article of Charge-III regarding absent from duty and failure to maintain discipline in discharge of duty (which has been upheld by the Disciplinary Authority), is not relevant in the present matter regarding imposition of penalty under the provisions of Section 114(iii) and Section 114AA of the Customs Act, 1962. I am of the considered view that penalty under the said provisions of Customs Act cannot be imposed on the appellant merely on the basis of Article of Charge-III.

34. I am of that view the Customs Act, 1962, is not the appropriate statute to punish a Customs Officer for administrative lapses or negligence, where no mens rea or abetment is proved. As held by the Hon'ble CESTAT, Mumbai, in the case of *Shri C.S. Prasad, Shri Yogendra Singh Vs. Additional Director General-Mumbai Adj.* [2022 (11) TMI 1237 - CESTAT Mumbai], charges of dereliction of duty cannot be adjudicated in terms of the provisions of the Customs Act, 1962, and must be considered as per CCS Rules. It has been further held that the 'Appellant 1' had been exonerated of the charge of abetting by the disciplinary authority; that being so, in the impugned order which hold the 'Appellant 1' guilty of abetting, for imposition of penalty under Section 112 (a) cannot stand in view of the decisions relied upon therein.

35. On this issue, I also placed reliance on the Order dated 11.03.2013 passed by Hon'ble CESTAT, New Delhi in the case of *CC, Amritsar Vs. Shri Parminder Jit Singh, Inspector and others* [2013 (7) TMI 377 - CESTAT NEW DELHI = 2013 (293) ELT 241 (Tri.-Del.)]. Para 6 of the said Order is as follows (underline supplied):

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"6. We find that disciplinary proceedings had been initiated against all these respondents under CCS (CCA) Rules on the charge of abetting the smuggling activities. However, on completion of the inquiry and on considering the inquiry of such report, the charges against all these respondents have been dropped by the department. While the charges against Shri Sunil Behal, Inspector, Shri Parminder Jit Singh, Inspector, Shri V.S. Sekhon, Inspector, Shri Kewal Singh, Inspector and Shri R.K. Sharma - Inspector (now Superintendent) have been dropped vide order-in-original dated 4-4-2006 by the Commissioner, the proceedings against Shri Rajan Choudhary, Assistant Commissioner (now Deputy Commissioner) have been dropped vide memorandum No. C-1401138/98-Ad. V, dated 17-6-2009 of the Government of India. <u>In view of this, when the disciplinary proceedings against the respondents under CCS (CCA) Rules have been dropped, the proceedings for imposition of penalty against them under Section 112(a) of Customs Act, 1962 which are based on the same charges and the same evidence, would also not survive</u>. Therefore, there is no infirmity in the impugned order. The Revenue's appeals are accordingly dismissed. The Cross Objections No. 91, 108 and 92 of 2007 filed by the respondents also stand disposed of."

Similar views have been taken by Hon'ble CESTAT in following cases:

- Suraj Prakash Versus Commissioner of Customs, New Delhi - 2015 (8) TMI 1282 - CESTAT NEW DELHI
- Shri R. Yellaiah Versus The Commissioner of Central Excise, Bangalore - 2017 (11) TMI 51 - CESTAT BANGALORE
- Commissioner of Customs Versus Shri Dharminder Kumar, Inspector and Shri Prem Nath, Superintendent - 2018 (4) TMI 1114 - CESTAT CHANDIGARH

In view of the above-mentioned Orders of Hon'ble CESTAT, it is settled that when disciplinary proceedings under CCS (CCA) Rules, 1995 are dropped, the imposition of penalty under Section 112 on same charge and same evidence cannot survive.

36. The provisions of Section 112 are regarding penalty for improper importation of goods; whereas, the provisions of Section 114 are regarding penalty for improper exportation of goods. Therefore, the ratio aforesaid case law relating to penalty under

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Section 112, can be very much applied to the present case, which is related to penalty under Section 114 of the Customs Act, 1962.

37. Further, I note that in this matter, proceedings under the provisions of the Customs Broker Licensing Regulations, 2018 ('CBLR, 2018') have been initiated against M/s. Mohak Enterprise, Customs Broker. The Commissioner of Customs, Ahmedabad, vide Order-in-Original No. AHM-CUSTM-000-COM-004-22-23 dated 27.04.2022, dropped the proceedings against the said Customs Broker for revocation of Customs Broker License and forfeiture of security deposit; however, imposed a penalty of Rs. 50,000/- under Regulation 18 of CBLR, 2018. Against the said order, the Customs Broker had filed a Customs Appeal No. 10345 of 2022-DB with CESTAT, Ahmedabad, which has been allowed vide Final Order No. A/12637/2023 dated 20.11.2023 [*Mohak Enterprise Vs. Commissioner of Customs, Ahmedabad* – 2024 (2) TMI 1262 – CESTAT Ahmedabad]. In the said Final Order, Hon'ble CESTAT has observed, inter alia, that there is no case of the department that the appellants therein had colluded with the exporter knowingly about fraudulent export of goods with intension to avail the refund of GST, therefore in absence of any such evidence, merely because of some fraud was committed by the exporter, the customs broker cannot be implicated automatically even though he has not role in the offence of fraudulent export.

38. By relying upon the aforesaid Final Order dated 21.11.2023 passed by Hon'ble CESTAT, Ahmedabad, my processor Commissioner (Appeals) passed an O.I.A. No. AHD-CUSTM-000-APP-361-23-24 dated 03.01.2024 in respect of the appeal F.No. S/49-1168/CUS/AHD/2021-22 filed by M/s. Mohak Enterprise against O.I.O. No. 75/ADC/AKS/ O&A/2021-22 dated 27.12.2021 i.e. impugned order, passed by the Additional Commissioner of Customs. Vide the said O.I.A. dated 03.01.2024, penalties imposed under the provisions of Section 114(iii) and Section 114AA on M/s. Mohak Enterprise, have been set aside and the appeal filed by the said Customs Broker has been allowed.

39. I note that vide the very same O.I.O. No. 75/ADC/AKS/ O&A/2021-22 dated 27.12.2021 penalties have been imposed on Shri. Aman Garg, Shri. Mohak Enterprise and Others, under the provisions of Section 114(iii) and Section 114AA of the Customs Act, 1962. Penalties imposed on Shri. Mohak Enterprise, who is a Customs Broker, have been set aside vide O.I.A. dated 03.01.2024 as discussed hereinabove; whereas, penalties

imposed on Shri. Aman Garg, who is Inspector of Customs, have been re-affirmed vide the impugned O.I.O. No. 75/ADC/ACC/OIO/Aman Garg/2025-26 dated 24.12.2025. When the Customs Broker was allowed to go scot-free under the provisions of CBLR, 2018, as well as Customs Act, 1962, the Inspector of Customs should not be implicated with the charges of abatement and connivance with the Customs Broker.

40. I have gone through the screenshots of WhatsApp chats, which were so called to have been made by Shri. Sumit A. Jha with Shri. Aman Garg, and reproduced in the Show Cause Notice dated 28.12.2020. I find that name of one person appearing as "Aman Sir" in the said Chats, but contact number of "Aman Sir" is nowhere mentioned. I find that the displayed name "Aman Sir" is the name saved by the mobile holder, but without mention of any mobile number, it cannot be proved that "Aman Sir" was actually Shri. Aman Garg. Further, the communications in the said Chats appear to have been made in one way and there is no confirmation or reply from "Aman Sir", which leads to suggest that he was involved in the mis-declaration and overvaluation of exports by M/s. Zeta Exports. I agree with the submission of the appellant to the effect that without any investigation with reference to Mobile Phone Number of the appellant, mere appearing of the name "Aman Sir" does not lead to prove that Shri. Aman Garg has made such Chats with Shri. Sumit A. Jha. In view of this position, I am of the view that the screenshots of the said WhatsApp chat/communication cannot be considered as corroborative evidence of Statements of Shri. Sumit A. Jha.

41. I also observe that investigation in this case had not been properly conducted. Though Shri. Aman Garg was working in Customs Department, no Statement of him has been relied upon in the SCN. His contentions regarding Statements of Shri. Sumit A. Jha and Shri. Sunil Jha have not been considered during the investigation. Further, any investigation with reference to call details and/or data in Mobile Phone of Shri. Aman Garg has not been conducted and relied upon in the SCN. Penalties on Shri. Aman Garg have been imposed merely on the basis of Statements of Shri. Sumit A. Jah and Shri. Sunil Jha, which have not been corroborated with any other evidence; and no opportunity was provided to Shri. Aman Garg to refute the said Statements.

42. As regards penalty under Section 114(iii), it can be imposed on any person, in case of act of commission or omission, which render the export goods liable for confiscation.

In the case on hand, vide Order-in-Original No. 75/ADC/AKS/O&A/2021-22 dated 27.12.2021, the adjudicating authority has already held the impugned goods, covered under 50 Shipping Bills filed by M/s. Zeta Exports, were liable for confiscation under the provisions of Section 113(h) & (i) of the Customs Act, 1962. However, except Statements of Shri. Sumit A. Jha and Shri. Sunil Jha, there is no other evidence to the effect that the appellant had acted in any manner, which rendered the goods liable to confiscation. The said Statements were found to be inconsistent and contradictory on some issues. Further, no Statement of the main accused viz. Shri. Badshah Amir Ahmed (known as S. S. Ameer) has been recorded and relied upon in the SCN though his KYC was obtained from Saraswat Co-Operative Bank. Thus, any Statement of the main accused or the appellant has been recorded and relied upon, but penalties on the appellant have been imposed by relying upon the Statements of third parties, without proper corroborative evidence, which is not proper and legal. In his reply dated 19.11.2021 to the SCN, Shri. Aman Garg has sought cross-examination of Shri. Sumit A. Jha, but it was not provided. Therefore, I am of the considered view that such unclear and uncorroborated Statements of other persons/third parties cannot be relied upon for imposing penalty on the appellant, when no other evidence against the appellant is available on record; no Statement of the appellant has been recorded during the investigation and no opportunity was provided to the appellant to rebut the Statements of Shri. Sumit A. Jha and Shri. Sunil Jha, during the investigation or adjudication.

43. As regards penalty under Section 114AA, there is no allegation or evidence in this case showing that the appellant has signed or used any declaration, statement or document. No Shipping Bill bearing signature of appellant has been relied upon in the impugned order. No other document bearing signature of appellant has been relied upon. Therefore, I am of the view that the appellant is not liable to penalty under the provisions of Section 114AA of the Customs Act, 1962.

44. I do not agree with the finding of the adjudicating authority to the effect Charge-III, which has been confirmed against Shri Aman Garg, Inspector, in the departmental proceedings, is equivalent to the provisions for imposing penalty under Section 114AA of the Customs Act, 1962, because the said provisions apply in different fields. Article of Charge-III is regarding wilful absent from duty on false grounds, avoidance to appear before investigating officer and failure to maintain discipline; whereas, Section 114AA is

applicable for intentionally making signature on false documents. Therefore, I set aside the finding of the adjudication authority in Para 24 of the impugned order to the effect, *"I find that Charge-III which has been confirmed against Shri Aman Garg, Inspector in the departmental proceedings is equivalent to the provisions for imposing penalty under Section 114AA of the Customs Act, 1962".* This finding contained in the impugned order is hereby set aside as not sustainable.

45. Further, I find that the appellant working at Inspector of Customs had no power to assess Shipping Bill, to grant Let Export Order or to grant refund of IGST. The appellant had only power to examine export goods, but, in the case of hand, there is no allegation to the effect that he had examined the goods covered in any of the impugned 50 Shipping Bills. No examination report of the appellant has been relied upon in the SCN or impugned order. There is no allegation or evidence suggesting the appellant gained or was to be gained anything in respect of the impugned export goods.

46. In view of the above position, I find that imposition of penalties on the appellant under the provisions of Section 114(iii) and Section 114AA of the Customs Act, 1962, are not sustainable.

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

Order

I set aside the impugned Order-In-Original No. 75/ADC/ACC/OIO/Aman Garg/2025-26 dated 24.12.2025 passed by Additional Commissioner of Customs, In-charge: Air Cargo Complex, Ahmedabad, and allow the appeal filed by Shri. Aman Garg with consequential relief, in accordance with law.

(Amit Gupta)
Commissioner (Appeals),
Customs, Ahmedabad

F.No. S/49-460/CUS/AHD/2025-26 Date: 10.02.2026

By E-mail (As per Section 153(1)(c) of the Customs Act, 1962)

To

Shri. Aman Garg,
P-37A, Vijay Vihar, Uttam Nagar,
New Delhi – 110059.
(email: amangarg.yg@gmail.com)

Copy to:

1. The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad.
(email: ccoahm-guj@nic.in)

2. The Principal Commissioner of Customs, Custom House, Ahmedabad.
(email: cus-ahmd-guj@nic.in rra-customsahd@gov.in)

3. The Additional Commissioner of Customs, In-charge: Air Cargo Complex, Ahmedabad.
(email: cus-ahmd-adj@gov.in , aircargo-amd@gov.in)

4. The Deputy/Assistant Commissioner of Customs, Air Cargo Complex, Ahmedabad.
(email: aircargo-amd@gov.in)

5. Guard File.

* * * * *