सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद

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

चौथी मंज़िल **4th Floor,** हडको भवन **HUDCO Bhawan,** ईश्वर भुवन रोड़ **Ishwar Bhuvan Road**
नवरंगपुरा **Navrangpura,** अहमदाबाद **Ahmedabad – 380 009**
दूरभाष क्रमांक **Tel. No. 079-26589281**

DIN - 20260371MN00008187E7

क	फ़ाइल संख्या FILE NO.	S/49-411/CUS/MUN/2024-25
ख	अपील आदेश संख्या ORDER-IN-APPEAL NO. (सीमा शुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962)	MUN-CUSTM-000-APP-904-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	30.03.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Order-in-Original no. MCH/ADC/AKM/209/2024-25 dated 02.12.2024
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	30.03.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	Shri Baldevsinh N. Vala, 74, Pratapsinh Devubha Pati, Near Nagbai Mataji Mandir, At Gadhethad, Upleta, Dist Rajkot- 360 460.

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

	amount of duty and interest demanded, fine or penalty levied is one lakh rupees or less, fees as Rs.200/- and if it is more than one lakh rupees, the fee is Rs.1000/-.	
4.	मद सं. **2** के अधीन सूचित मामलों के अलावा अन्य मामलों के सम्बंन्ध में यदि कोई व्यक्ति इस आदेश से आहत महसूस करता हो तो वे सीमाशुल्क अधिनियम **1962** की धारा **129** ए **(1)** के अधीन फॉर्म सी.ए.**-3** में सीमाशुल्क, केन्द्रीय उत्पाद शुल्क और सेवा कर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील कर सकते हैं	
	In respect of cases other than these mentioned under item 2 above, any person aggrieved by this order can file an appeal under Section 129 A(1) of the Customs Act, 1962 in form C.A.-3 before the Customs, Excise and Service Tax Appellate Tribunal at the following address :	
	सीमाशुल्क, केंद्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	**Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench**
	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
5.	सीमाशुल्क अधिनियम, **1962** की धारा **129** ए **(6)** के अधीन, सीमाशुल्क अधिनियम, **1962** की धारा **129** ए (1) के अधीन अपील के साथ निम्नलिखित शुल्क संलग्न होने चाहिए-	
	Under Section 129 A (6) of the Customs Act, 1962 an appeal under Section 129 A (1) of the Customs Act, 1962 shall be accompanied by a fee of -	
(क)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए या उससे कम हो तो एक हज़ार रुपए.	
(a)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;	
(ख)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पांच हज़ार रुपए	
(b)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees ;	
(ग)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रूपए से अधिक हो तो; दस हज़ार रुपए.	
(c)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees	
(घ)	इस आदेश के विरुद्ध अधिकरण के सामने, मांगे गए शुल्क के 10% अदा करने पर, जहां शुल्क या शुल्क एवं दंड विवाद में है, या दंड के 10% अदा करने पर, जहां केवल दंड विवाद में है, अपील रखा 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

Appeal has been filed by Shri Baldevsinh N. Vala, 74, Pratapsinh Devubha Pati, Near Nagbai Mataji Mandir, At Gadhethad, Upleta, Dist Rajkot-360 460, (hereinafter referred to as the 'Appellant') in terms of Section 128 of the Customs Act, 1962, challenging the Order-in-Original no. MCH/ADC/AKM/209/2024-25 dated 02.12.2024 (hereinafter referred to as 'the impugned order') issued by the Additional Commissioner, Customs, Mundra (hereinafter referred to as 'the adjudicating authority').

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

2.1 Subsequent analysis of the Customs system data, combined with extensive field investigations and the recovery of incriminating digital records, revealed that this interception was merely the tip of a much larger operation. Investigations revealed that this was part of a larger operation involving 18 containers imported under the names of eight different dummy entities, including M/s. J.H. Enterprises.

2.2 The specific focus of this proceeding pertains to a high-value consignment imported in the name of M/s. J.H. Enterprises (IEC: AQIPH7863E) via Container No. TGBU5160748 under Bill of Lading No. YMLUS226013593. The investigation into this specific container highlighted the syndicate's agility in attempting to evade detection once an enforcement action was initiated. As the DRI began intercepting related shipments, the importers, in connivance with the overseas shipper (M/s. Yiwu Surui Imp and Exp Co. Ltd.) and the shipping line (M/s. Huan Ming/Yang Ming Line), attempted a desperate "Change of Destination" (COD) while the vessel was still in transit to Mundra. They sought to divert the container to Jebel Ali, UAE, by manipulating the manifest and preparing two parallel sets of Bills of Lading—one declaring "Floor Clean MOP" for Mundra and another declaring "Household Items" for Jebel Ali. This fraudulent maneuver was intended to erase the shipment's connection to the Indian port and escape the jurisdiction of Indian Customs. Despite these elaborate attempts to divert the cargo, the DRI successfully placed the container on hold, and it was examined at Mundra Port under Panchnama dated September 16/17, 2022.

2.3 The physical examination of Container No. TGBU5160748 yielded an inventory of highly offending and prohibited goods that vastly differed from the manifest. While the documents declared 754 cartons of "Floor Clean MOP," the search actually recovered 200,400 pieces of foreign-brand E-cigarettes and 80,000 pieces of silicon "pop-up" toys. Additionally, the consignment contained 14,000 LCD writing pads and 2,500 head massagers that were used as structural concealment. The E-cigarettes, falling under HS Code 8543, are strictly prohibited for import into India under DGFT Notification No. 20/2015-2020 dated September 26, 2019, and the Prohibition of Electronic Cigarettes Act, 2019. The 80,000 toys were also classified as offending goods due to a total lack of mandatory Bureau of Indian Standards (BIS) compliance as required under Policy Condition 2 of Chapter 95 of the Customs Tariff (specifically IS: 9873 parts 1, 2, 3, 4, 7, and 9). The syndicate's failure to provide safety certifications and the deliberate concealment behind "Floor Clean MOPs" underscored a clear intent to bypass public health regulations and safety standards, posing a significant risk to the domestic market.

2.4 The investigation into the culpability of the parties involved established Shri Mohammad Asif Sathi as the central mastermind and "beneficial owner" of the cartel. He orchestrated the racket by acquiring IECs from dummy firms; in this specific instance, he utilized the services of Shri Tahir Menn to create the firm M/s. J.H. Enterprises by fraudulently using the identity documents of Shri Juma Hamir Halepotra, a caretaker of Asif's bungalow in Bhuj who had no knowledge of the business. The cartel's modus operandi involved a professional division of labor: Shri Baldevsinh Vala of M/s.

Kalpana Exim managed the logistics of "crossing" containers—a process where cleared goods were moved between vehicles or containers at secret locations to evade e-way bill tracking and enforcement checkpoints between Mundra and Bhiwandi. Meanwhile, Shri Samir Sharma, a G-Card holder of a Customs Broker firm, was implicated in submitting manipulated documents to the authorities, often on the instructions of the forwarders rather than the actual IEC holders, whom he had never met.

2.5 Granular details of the coordination were recovered from the "Mm" WhatsApp group, where members discussed the "stuffing" of prohibited items in the containers. Chat logs showed Baldevsinh Vala advising other members to stack E-cigarettes away from the container doors to avoid detection during partial Customs examinations and suggesting that "crossing" was necessary to prevent the DRI from tracking the containers via electronic surveillance. Shri Asif Sathi admitted in his statement that he paid hefty sums—up to ₹17 Lakh per container—for the successful clearance of these prohibited consignments. The investigation also unearthed a financial circuit where cash was collected from domestic buyers like "Raju Bhai" or "Sohail Bhai" and deposited into the bank accounts of the dummy firms to facilitate formal remittances to the foreign suppliers in China, thereby giving the illicit trade a veneer of legitimate commerce.

2.6 The legal and financial implications of the seizure are substantial. Under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, the transaction values declared in the documents were rejected due to gross mis-declaration and the absence of any credible price data. Consequently, the value was re-determined sequentially through Rules 4 to 9. Given the absence of identical or similar goods in the valuation database, the value was arrived at using Rule 9 (the residual method) based on a comprehensive market survey and a report from a Government-approved Chartered Engineer. The market price of the seized E-cigarettes alone was estimated at approximately ₹2,400 per piece, totaling ₹48,09,60,000. Combined with the mis-declared toys and electronics, the total value of the offending goods in this single container approached ₹50 Crore.

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

Section 111(d), (f), and (m): For importing goods contrary to prohibitions and for filing entries that did not correspond to the actual value or description of the goods.

Section 112(a) and (b): For acts of omission and commission—including the failure to examine goods and the facilitation of fraudulent clearances—that rendered the goods liable for confiscation.

Section 114AA: For the deliberate use of false and fraudulent documents, including forged invoices and manipulated packing lists, in the transaction of business with Customs.

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

2.9 On the basis of the investigation, Show Cause Notice was issued to M/s. J.H. Enterprises and other persons involved. Consequently, the Adjudicating Authority confirmed the liability of the goods for confiscation and the imposition of significant personal penalties on M/s. J.H. Enterprises and other accomplices under Sections 112 and 114 of the Customs Act, 1962, for their roles in a "well-hatched conspiracy" to defraud the national exchequer. The Adjudicating Authority passed the following order in respect of the appellant.

(A) In respect of offending goods i.e E-Cigarettes and toys :-

(I) He imposed penalty of Rs. 8,00,000/- upon the appellant under Section 112(a)(i) of the Customs Act, 1962.

(B) In respect of dutiable goods where bills of Entry not filed :-

(I) He imposed penalty of Rs. 5,000/- upon the appellant under Section 112(a)(ii) of the Customs Act, 1962.

SUBMISSIONS OF THE APPELLANT:

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

3.1 The appellant contends that the impugned order is "non-speaking" because it fails to address all grounds raised during adjudication.

3.2 Reliance placed on the statement dated 24.09.2022 of Shri Mohammad Tahir Menn, Proprietor of M/s. M. M. Enterprise is misplaced inasmuch as the impugned notice is issued with reference to goods imported by M/s. JH and not M/s. M. M Enterprise. Similarly, reliance placed on the statement dated 02.09.2022 of Shri Parvez Alam, statement dated 01/02.09.2023 of Shri Chajju Ram, owner of M/s. Prince Logistics and statement dated 18.08.2023 of Shri Dirgesh Dedhia is also misplaced inasmuch as these statements does not deal with the container imported by M/s. JH.

3.3 The appellant hereby says and submit that unlike Shri Samir Sharma, who is a custom broker and hence, well versed with Customs clearance procedures, the appellant was engaged by Shri Asif for transportation and had no knowledge about Custom clearance procedures, valuation and requirement of BIS compliance for toys. It is a matter of record that the appellant had engaged Shri Samir Sharma, Customs Broker for Customs clearance related work. The appellant had only passed over the messages received from Shri Samir Sharma, Custom Broker to Shri Asif Sathi and documents received from Shri Asif Sathi to Shri Samir Sharma. The appellant had acted on the assurance given by Customs Broker Shri Samir Sharma. On this basis, it is submitted that the appellant has not rendered the goods imported by M/s. JH liable to confiscation under Section 111 (d), 111 (f) and 111 (m) of Customs Act, 1962 Hence, the appellant is not liable for penalty under Section 112 (a), 112 (b) and 114AA of Customs Act, 1962.

3.4 All documents like invoice, Packing List, COO, Bill of Lading, etc. were in possession of Shri Mohammad Asif Sathi and were received from him for passing them over to Shri Samir Sharma, Custom Broker for preparing Bill(s) of Entry The appellant had no means to verify whether these were false or incorrect in any material particular Hence, it is submitted that the appellant is not liable for penalty under Section 112 (a) and 112 (b) Customs Act, 1962

3.5 Without prejudice to above, it is submitted that whatsapp chat cannot be read as evidence without mandatory certificate under Section 138C of Customs Act, 1962, as duly held in the following amongst decisions:

(i) Arun Kumar v/s Commissioner of Customs, Mundra, 2024 (6) TMI 259-CESTAT AHMEDABAD

(ii) Dell International Services India Private Limited, 2024 LiveLaw (Del) 749.

Hence, reliance placed on stray whatsapp chat without pinpointing any specific document forged or manipulated by the appellant is misplaced. As such, the appellant is not liable to penalty under Section 112 (a) and 112 (b) Customs Act, 1962. Moreover, it is duly recorded in the notice that a few accused had deleted whatsapp messages and no attempt is made to retrieve the same. Thus, impugned order is passed on investigation which is not only incomplete but has wrongly implicated the appellant on the basis of such tampered whatsapp chat.

3.6 It is an admitted position that no bill of entry was filed in respect of goods imported in the name of M/s. JH Moreover, there is no evidence to show that the appellant had received any documents from Shri Mohmad Asif for passing them over to Shri Samir Sharma for preparing bill of entry, in respect of goods imported by M/s. JH. Therefore, on this ground also, the impugned order is not tenable in the eyes of law insofar as appellant is concerned.

PERSONAL HEARING:

4. Personal hearing was granted to the Appellant on 10.12.2025 following the principles of natural justice wherein Shri Vikas Mehta, Consultant, appeared for the hearing and re-iterated the submissions made at the time of filing the appeal.

DISCUSSION AND FINDINGS:

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

5.1 The core of this dispute lies in the nature of the goods seized and the statutory prohibitions attached to them. I have examined the classification and the legal restrictions governing the import of E-Cigarettes and Toys in detail. The investigation confirmed the presence of 2,00,400 pieces of E-Cigarettes. Under the Prohibition of Electronic Cigarettes (Production, Manufacture, Import, Export, Transport, Sale, Distribution, Storage and Advertisement) Act, 2019, the import of electronic cigarettes is strictly prohibited in India. This is further reinforced by DGFT Notification No. 20/2015-2020 dated 26.09.2019, which amended the Import Policy to categorize E-Cigarettes under the 'Prohibited' category.

5.2 The legislative intent behind this prohibition is rooted in public health safety, aimed at protecting the population, particularly the youth, from the harmful effects of nicotine delivery systems. Consequently, any import of such goods constitutes a direct violation of Section 11 of the Customs Act, 1962, read with the aforementioned Special Act. The container also held 80,000 pieces of Toys. As per Policy Condition 2 of Chapter 95 of the ITC (HS), 2022, the import of toys is subject to mandatory compliance with Bureau of Indian Standards (BIS) specifications. Specifically, they must conform to IS 9873 and IS 15644. The importer is required to provide a Certificate of Conformance (CoC) from the manufacturer, verified by an independent laboratory.

5.3 In the instant case, no such certification was available, nor was any attempt made to follow the legal import channel. The toys were imported as "un-manifested" or concealed cargo. Such "Restricted" goods imported without meeting the prescribed policy conditions are liable to confiscation under Section 111(d) of the Customs Act. The Appellant argues that the goods should have been allowed for redemption on payment of a fine. I find this argument legally untenable. Section 125 of the Customs Act, 1962, provides that whenever confiscation is authorized, the adjudicating officer may give the owner an option to pay a fine in lieu of confiscation. However, the use of the word "may" confers discretionary power. It is a well-settled judicial principle that for "Prohibited Goods," the authority is not bound to offer redemption.

5.4 Given that E-Cigarettes are prohibited by a specific social welfare legislation (The PECA Act, 2019), the scale of the attempt (over 2 lakh pieces worth Rs. 48 Crore) indicates a massive commercial smuggling racket, the concealment was deliberate, using dummy IECs and non-existent addresses, I hold that the Adjudicating Authority was perfectly justified in ordering absolute confiscation. Redemption of such goods would facilitate their entry into the black market, thereby defeating the very purpose of the prohibition.

5.5 The Appellant argues that the statements of co-accused cannot be used against him. However, it is a well-settled principle of law that a statement made before a Customs Officer under Section 108 of the Customs Act is a material piece of evidence. In **Naresh Kumar Sukhwani v. Union of India [1996 (83) E.L.T. 258 (S.C.)]**, the Hon'ble Supreme Court held that the statement made before the Customs officials under Section 108 of the Act is a material piece of evidence. It can be used as substantive evidence in connecting the applicant with the contravention of the provisions of the Customs Act.

5.6 In the present case, the statements of Shri Mohammad Asif Sathi, Shri Tahir Menn, and the Appellant himself provide a consistent narrative of a well-orchestrated smuggling operation. The Appellant's own admission regarding his role in logistics and the "premium" charged for clearance directly incriminates him.

5.7 The Appellant seeks to distance himself from the smuggling racket by characterizing his role as a mere "transporter" or "logistics provider" who was simply following instructions without knowledge of the contraband. I find this defense to be a gross misrepresentation of the facts established during the investigation. A "mere transporter" moves goods from point A to point B based on documentation provided. However, the evidence in the form of WhatsApp chats from the group "Mm" reveals that Shri Baldevsinh Vala was a strategic consultant for the smuggling operation.

5.8 The Appellant explicitly advised the mastermind, Shri Asif Sathi, on the "loading pattern" to evade detection. He suggested that E-cigarette cartons should be placed in the middle or rear of the container, surrounded by low-value "cover goods", so that a cursory check at the container gate would not reveal the contraband. He advised the "crossing of containers"—a sophisticated smuggling technique where goods are transferred between vehicles in transit to break the trail of E-way bills and GPS tracking.

5.9 The standard freight and forwarding charges for a container from Mundra to its destination are well-documented industry standards. The investigation revealed that the Appellant was receiving a "premium" of Rs. 17 Lakh per container for the specific consignment of M/s J.H. Enterprises. No legitimate logistics service justifies such an exorbitant fee. This payment was clearly "blood money" for facilitating the entry of prohibited goods and "managing" the risks associated with Customs clearance.

5.10 Section 112 of the Customs Act, 1962, provides for penalties on 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, or abets the doing or omission of such an act. The Appellant's actions—advising on concealment, managing dummy IEC documents, and charging a risk premium—clearly constitute "instigation" and "intentional aid" in the commission of the offence.

5.11 The Appellant's claim that he was "unaware" of BIS requirements for toys is belied by his long-standing experience in the Mundra port ecosystem. As a professional facilitator for multiple import-export firms, it is inconceivable that he was ignorant of fundamental import policy conditions. His role in providing "G-Card" holders to sign documents further indicates his deep involvement in the regulatory side of the business, which he exploited to bypass checks. Therefore, I conclude that the Appellant was a conscious and willing partner in the smuggling syndicate. His expertise was the "engine" that allowed the mastermind to attempt the import of Rs. 48 Crore worth of contraband. His role fits perfectly within the definition of an abettor and a person "concerned in the fraudulent evasion of duty/prohibition."

5.12 The Appellant argues that since no Bill of Entry was filed, no "misdeclaration" occurred in the transaction of business. This is a flawed legal argument. Section 111(d) and (f) cover goods "attempted to be imported" or "not mentioned in the import manifest." The fact that the syndicate attempted to divert the container to UAE after realizing the DRI was onto them confirms the mens rea. An attempt to divert contraband after it has entered Indian Customs Waters does not negate the initial illegal act of bringing prohibited goods into the country under false cover.

5.13 The evidence on record depicts a high-stakes, organized smuggling operation where the Appellant was not a bystander but a critical functional component. He used his expertise in customs procedures to advise the cartel on how to evade detection. His actions squarely fall under the ambit of "abetment" and "being concerned with prohibited goods." The Adjudicating Authority has correctly analyzed the roles of all parties. The penalties imposed are proportionate to the gravity of the offence, considering the astronomical value of the seized contraband. I find no reason to interfere with the well-reasoned findings of the Adjudicating Authority.

6. In view of the foregoing, the appeal filed by Shri Baldevsinh N. Vala is hereby rejected.

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

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

F. No. S/49-411/CUS/MUN/2024-25 Date:30.03.2026

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