
	कार्यालय: आयुक्त सीमा शुल्क, मुन्द्रा, OFFICE OF THE COMMISSIONER OF CUSTOMS, CUSTOM HOUSE, MUNDRA PORT, KUTCH, GUJARAT-370421 PHONE:02838-271426/271423 FAX:02838-271425 Email: adj-mundra@gov.in	
A. File No.	: GEN/ADJ/COMM/481/2023-Adjn-O/o Pr. Commr-Cus-Mundra	
B. Order-in-Original No.	: MUN-CUSTM-000-COM- 008 - 25-26	
C. Passed by	: Nitin Saini, Commissioner of Customs, Customs House, AP & SEZ, Mundra.	
D. Date of order and Date of issue:	: 30.05.2025. 30.05.2025	
E. SCN No. & Date	: SCN No. GEN/ADJ/COMM/481/2023-Adjn-O/o Pr. Commr-Cus-Mundra dated 31.05.2024.	
F. Noticee(s) / Party / Importer	: (i) M/s PSRA Graphics India Private Limited, G/F, 80E/G-2, Rajendra Nagar Indus. Area, Mohan Nagar, Ghaziabad, Uttar Pradesh-201007. (ii) Shri Rakesh Kumar Chauhan, Director of M/s PSRA Graphics India Private Limited, G/F, 80E/G-2, Rajendra Nagar Indus. Area, Mohan Nagar, Ghaziabad, Uttar Pradesh-201007. (iii) Shri Jayant Ramesh Pardiwala, Proprietor of M/s. Nippon Color, 219, High Tech Ind. Centre, caves road, Jogeshwari, Mumbai-400060. (iv) Shri Tara Chand Aggarwal, Proprietor of M/s ACM Chemicals, WZ-131, Ground floor, Naraina village, near Tikona Park, Ring road, Delhi- 110028. (v) Shri Vikas Vadhawan, Proprietor of M/s. Suman Graphics, 2B-9, Gurunanak House, Ranjit Nagar, Commercial Complex, New Delhi-110008. (vi) M/s Cento Graph, No. 5, John Keells Housing Scheme, Potherwara Road, Malabe, Sri Lanka. (vii) Mr. Llyod Harridge, owner of M/s Cento Graph, No. 5, John Keells Housing Scheme, Potherwara Road, Malabe, Sri Lanka. (viii) M/s Worldgate Express Lines International Pvt. Ltd., 7 th floor, Sharda Terrace (warden House), Sector 11, Plot No. 65, CBD Belapur, west, Navi Mumbai, Maharashtra-0400614. (ix) M/s Worldgate Express Lines Lanka Pvt. Ltd., No. 23, 1 st Floor, Palm Grove, Colombo-03, Sri Lanka.	
G. DIN	: DIN - 20250571MO0000111716	

1. यह अपील आदेश संबन्धित को निःशुल्क प्रदान किया जाता है।

This Order - in - Original is granted to the concerned free of charge.

2. यदि कोई व्यक्ति इस अपील आदेश से असंतुष्ट है तो वह सीमा शुल्क अपील नियमावली 1982 के नियम 6(1) के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 129A(1) के अंतर्गत प्रपत्र सीए3-में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-

Any person aggrieved by this Order - in - Original may file an appeal under Section 129 A (1) (a) of Customs Act, 1962 read with Rule 6 (1) of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -3 to:

“केन्द्रीय उत्पाद एवं सीमा शुल्क और सेवाकर अपीलीय प्राधिकरण, पश्चिम जोनल पीठ, 2nd फ्लोर, बहुमाली भवन, मंजुश्री मील कंपाउंड, गिर्धनगर ब्रिज के पास, गिर्धनगर पोस्ट ऑफिस, अहमदाबाद-380 004”

“Customs Excise & Service Tax Appellate Tribunal, West Zonal Bench, 2nd floor, Bahumali Bhavan, Manjushri Mill Compound, Near Girdharnagar Bridge, Girdharnagar PO, Ahmedabad 380 004.”

3. उक्त अपील यह आदेश भेजने की दिनांक से तीन माह के भीतर दाखिल की जानी चाहिए।

Appeal shall be filed within three months from the date of communication of this order.

4. उक्त अपील के साथ -/ 1000रूपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क, व्याज, दंड या शास्ति रूपये पाँच लाख या कम माँगा हो 5000/- रुपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क, व्याज, शास्ति या दंड पाँच लाख रुपये से अधिक किंतु पचास लाख रुपये से कम माँगा हो 10,000/- रुपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क, दंड व्याज या शास्ति पचास लाख रुपये से अधिक माँगा हो। शुल्क का भुगतान खण्ड पीठ बेंच आहरित ट्रिब्यूनल के सहायक रजिस्ट्रार के पक्ष में खण्ड पीठ स्थित जगह पर स्थित किसी भी राष्ट्रीयकृत बैंक की एक शाखा पर बैंक ड्राफ्ट के माध्यम से भुगतान किया जाएगा।

Appeal should be accompanied by a fee of Rs. 1000/- in cases where duty, interest, fine or penalty demanded is Rs. 5 lakh (Rupees Five lakh) or less, Rs. 5000/- in cases where duty, interest, fine or penalty demanded is more than Rs. 5 lakh (Rupees Five lakh) but less than Rs. 50 lakh (Rupees Fifty lakhs) and Rs. 10,000/- in cases where duty, interest, fine or penalty demanded is more than Rs. 50 lakhs (Rupees Fifty lakhs). This fee shall be paid through Bank Draft in favour of the Assistant Registrar of the bench of the Tribunal drawn on a branch of any nationalized bank located at the place where the Bench is situated.

5. उक्त अपील पर न्यायालय शुल्क अधिनियम के तहत 5/- रुपये कोर्ट फीस स्टाम्प जबकि इसके साथ संलग्न आदेश की प्रति पर अनुसूची- 1, न्यायालय शुल्क अधिनियम, 1870 के मद सं-6 के तहत निर्धारित 0.50 पैसे की एक न्यायालय शुल्क स्टाम्प वहन करना चाहिए।

The appeal should bear Court Fee Stamp of Rs. 5/- under Court Fee Act whereas the copy of this order attached with the appeal should bear a Court Fee stamp of Rs. 0.50 (Fifty paise only) as prescribed under Schedule-I, Item 6 of the Court Fees Act, 1870.

6. अपील ज्ञापन के साथ ड्यूटी/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये।
Proof of payment of duty/fine/penalty etc. should be attached with the appeal memo.
7. अपील प्रस्तुत करते समय, सीमा शुल्क (अपील) नियम, 1982 और CESTAT (प्रक्रिया) नियम, 1982 सभी मामलों में पालन किया जाना चाहिए।

While submitting the appeal, the Customs (Appeals) Rules, 1982 and the CESTAT (Procedure) Rules 1982 should be adhered to in all respects.

8. इस आदेश के विरुद्ध अपील हेतु जहां शुल्क या शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहां केवल जुर्माना विवाद में हो, न्यायाधिकरण के समक्ष मांग शुल्क का 7.5% भुगतान करना होगा।

An appeal against this order shall lie before the Tribunal on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

Brief facts of the Case:

M/s. PSRA Graphics India Private Limited (IEC-AAKCP0142M), G/F, 80E/G-2, Rajendra Nagar Indus. Area, Mohan Nagar, Ghaziabad, Uttar Pradesh-201007 (*hereinafter referred to as ‘M/s PSRA’ for the sake of brevity*) engaged in imports of Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates falling under Chapter Heading 84425090 of Customs Tariff Act, 1985 from Sri Lanka.

2. Intelligence gathered by the officers of Directorate of Revenue Intelligence, Zonal Unit, Ahmedabad (hereinafter referred to as DRI) indicated that ‘M/s PSRA’ was importing CTCP Digital Printing Double Layer Plates manufactured in China, which attracts Anti-Dumping Duty (ADD) as per Notification No. 02/2020-Customs (ADD) dated 30.01.2020 and Notification No. 21/2020-Customs (ADD) dated 29.07.2020 issued by Ministry of Finance, Govt. of India. The intelligence indicated that ‘M/s PSRA’ was routing these goods through M/s Cento Graph, a supplier based in Sri Lanka to evade Anti-Dumping Duty imposed on goods manufactured in China.

3.1 As per Notification No. 02/2020-Customs (ADD) dated 30.01.2020 and Notification No. 21/2020-Customs (ADD) dated 29.07.2020 issued under Section 9A of Customs Tariff Act, 1975, read with Rules 13 and 20 of the Customs Tariff, the Anti-dumping duty applicable on Digital Offset Printing Plates originating in, or exported from People’s Republic of China and imported into India and Digital Offset Printing Plates manufactured in China and imported into India from other countries is as under:

(i) As per Notification No. 02/2020-Customs (ADD) dated 30.01.2020

S. No.	Tariff Item	Description	Country of Origin	Country of Export	Producer	Amount (USD/ SQM)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	84425090	Digital Offset Printing Plates	People’s Republic of China	People’s Republic of China	Lucky Huaguang Graphics Co. Ltd.	0.52
2	84425090	Digital Offset Printing Plates	People’s Republic of China	People’s Republic of China	Kodak China Graphic Communications Co. Ltd.	Nil
3	84425090	Digital Offset Printing Plates	People’s Republic of China	People’s Republic of China	Shanghai Strong State Printing Equipment Limited	0.57
4	84425090	Digital Offset Printing Plates	People’s Republic of China	People’s Republic of China	Fujifilm Printing Plate (China) Co. Ltd.	Nil
5	84425090	Digital Offset Printing Plates	People’s Republic of China	People’s Republic of China	Any other product except S. No. 1 to 4 mentioned above	0.57
6	84425090	Digital Offset Printing Plates	People’s Republic of China	Any country other than People’s Republic of China	Any	0.57

(ii) As per Notification No. 21/2020-Customs (ADD) dated 29.07.2020

S. No.	Tariff Item	Description	Country of Origin	Country of Export	Producer	Amount (USD/ SQM)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	84425090	Digital Offset Printing Plates	People's Republic of China	People's Republic of China	Lucky Huaguang Graphics Co. Ltd.	0.55
2	84425090	Digital Offset Printing Plates	People's Republic of China	People's Republic of China	Kodak China Graphic Communications Co. Ltd.	Nil
3	84425090	Digital Offset Printing Plates	People's Republic of China	People's Republic of China	Shanghai Strong State Printing Equipment Limited	0.60
4	84425090	Digital Offset Printing Plates	People's Republic of China	People's Republic of China	Fujifilm Printing Plate (China) Co. Ltd.	Nil
5	84425090	Digital Offset Printing Plates	People's Republic of China	People's Republic of China	Any other product except S. No. 1 to 4 mentioned above	0.77
6	84425090	Digital Offset Printing Plates	People's Republic of China	Any country other than People's Republic of China	Any	0.77

3.2 From the above Anti-dumping duty structure, it emerges that the Digital Offset Printing Plates/ CTCP Digital Printing Double Layer Plates falling under CTH 84425090 of Chinese Origin, when exported from People's Republic of China or any other countries other than People's Republic of China and imported into India, which is produced by any other producer except S.No. 01 to 04 mentioned in the Column no. (6) of the table in the Notification No. 02/2020-Customs (ADD) dated 30.01.2020, the Anti-dumping duty @ 0.57 USD per SQM is leviable with effective from 30.01.2020 for a period of six months (unless revoked, superseded or amended earlier). Further, the said Anti-dumping duty was enhanced from @ 0.57 USD per SQM to @ 0.77 USD per SQM on the goods i.e. Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates of Chinese Origin produced by any producer, exported from any other countries other than People's Republic of China and imported into India by Notification No. 21/2020-Customs (ADD) dated 29.07.2020 effective from 29.07.2020 for a period of five years (unless revoked, superseded or amended earlier).

4. Based on the above intelligence, search was carried out at the office premises of M/s PSRA Graphics India Private Limited, G/F, 80E/G-2, Rajendra Nagar Indus. Area, Mohan Nagar, Ghaziabad, Uttar Pradesh-201007 on 13.06.2022 in presence of independent panchas and Shri Rakesh Kumar Chauhan, Director of 'M/s PSRA' and documents pertaining to import of Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates along with printout of mail correspondences were seized under panchnama dated 13.06.2022 **(RUD-01 of SCN)** for further investigation.

5. Statement of **Shri Rakesh Kumar Chauhan, Director of 'M/s PSRA'** was recorded under Section 108 of the Customs Act, 1962 on 13.06.2022 **(RUD-02 of SCN)**, wherein he interalia stated that:

5.1 'M/s PSRA' was engaged in manufacturing of printing chemicals (Press Room Chemicals), which were used for offset printing but they also imported "CTCP and CTP Thermal Offset Printing Plates" during the period from July, 2019 to April, 2021; that the imported offset printing plates were sold to the domestic printing units with a small additional margin.

5.2 He was the director of 'M/s PSRA' and mainly looked after sales and Imports of the company; that they had imported CTCP and CTP Thermal Offset Printing Plates from M/s. Cento Graph, Sri Lanka; that he used to contact Mr. Lloyd Harridge, owner of M/s Cento Graph, Sri Lanka for placing purchase order of plates, with whom he came in contact during an exhibition in Delhi about 15 years back. He stated that Mr. Lloyd Harridge informed about the potential customers for the product, as he already knew them. Mr. Lloyd Harridge suggested that if they import the plates from him, these customers would buy the same from them, and they would be able to gain a profit in the business with a small margin and accordingly, they placed orders for Digital Printing plates to Mr. Lloyd Harridge of M/s. Cento Graph

5.3 He stated that they used to get the payment for the purchase in advance from their customers, and they did not invest their money in the said business; that their main customers were M/s. Nippon Colour, M/s. ACM Chemicals, M/s. Suman Graphics, and M/s. N N Graphics. He stated that, one of their customers, M/s. Nippon Colour used to send purchase orders to them, and they in turn, placed orders to M/s. Cento Graph, Sri Lanka by email. Thereafter, Mr. Lloyd Harridge used to send Proforma Invoices to them and they in turn send the proforma invoice to M/s. Nippon Colour. Accordingly, once the rate was accepted, the order was placed and they used to get a margin of Rs. 2/- per sq. mtr from M/s. Nippon Colour.


5.4 He stated that except M/s. Nippon Colour, other customers were not systematic enough to send proper purchase order by email but send the same through WhatsApp; that on receipt of the orders, they send the same to Mr. Lloyd Harridge, who used to send proforma invoice, and they passed on the same to their customer; that once, the confirmation was received from their customer, they placed final order; that after import of the goods, they used to get commission of Rs.2 to 3/- per sq. mtr. from their customers; that they faced some technical difficulties at the port on import of their last cargo, they decided to stop the trading business of offset plates and to concentrate on manufacturing of printing chemicals.

ENQUIRY CONDUCTED WITH OTHER IMPORTER OF DIGITAL OFFSET PRINTING PLATES FROM M/S. CENTO GRAPH, SRI LANKA:

6.1 Search was also conducted at the premises of other importer, M/s. Mahalaxmi Textiles, 2/4522, Shivdas Zaveri Street, Sagrapura, Surat, Gujarat- 395002 who imported the similar goods from same overseas supplier, M/s. Cento Graph, Sri Lanka and incriminating documents were resumed under Panchnama dated 13.06.2022 (**RUD-03 of SCN**). On scrutiny of documents resumed under Panchnama dated 13.06.2022 from the premises of M/s. Mahalaxmi Textiles, it appeared that goods viz. Digital Printing Double Layer Plates imported by M/s. Mahalaxmi Textiles, Surat were arranged by Shri Rakesh Kumar Chauhan, Director of 'M/s PSRA' as broker from Mr. Lloyd Harridge of M/s Cento Graph. Further, Shri Rakesh Kumar Chauhan also arranged buyer of Digital Printing Double Layer Plates in India to M/s. Mahalaxmi Textiles. Further, on scrutiny of documents, it appeared that Digital Printing Double Layer Plates supplied by M/s Cento Graph to Indian importers were of Chinese origin, manufacture in China and exported to India routing through M/s Cento Graph, Sri Lanka on the basis of following evidences found during search in the premises of M/s. Mahalaxmi Textiles, Surat:

- Document available at page no 402 in box file no. 1 **(RUD-04 of SCN)** is the Performa Invoice No CG1021-22 dated 06.12.2021 issued by M/s. Lucky Huaguang Graphics Co. Ltd, China in the name of M/s. Cento Graph, Sri Lanka for supply of 64500 Pc/sheets having 29131.72 Sq Mt of Digital Offset UV CTCP Plates.

Performa Invoice No CG1021-22 dated 06.12.2021 issued by M/s. Lucky Huaguang Graphics Co. Ltd to M/s. Cento Graph, Sri Lanka **(RUD-04 of SCN)** is reproduced below for ready reference:



LUCKY HUAGUANG
GRAPHICS CO., LTD

718 South Station Road
Nanyang Henan China
Fax 86 377 63138450
Tel 86 377 63863074

PROFORMA INVOICE

TO:
CENTOGRAPH
NO. 5 JOHN KEELS HOUSING SCHEME,
POTHUARAWA MALABE, SRI LANKA

INVOICE NO.:CG01021-22
DATE: DEC.06 2021
DISCHARGE PORT:COLOMBO PORT,SRI LANKA
PRICE TERM:FOB SHANGHAI PORT , CHINA
PAYMENT TERM: OA 90 DAYS AFTER BL SHIPPING
DATE

Item	Description of Goods					Quantity		PRICE	Value	
	Digital Offset UV-CTCP Plates					PCS	SQM	USD/SQM	USD	
1	650	x	530	x	0.28	10000	3445.00	3.07	10576.15	B
2	650	x	550	x	0.28	4000	1430.00	3.07	4390.10	B
3	700	x	550	x	0.28	8000	3080.00	3.07	9455.60	B
4	670	x	550	x	0.28	6000	2251.20	3.07	6911.18	A
5	684	x	576	x	0.28	4000	1575.94	3.07	4838.12	C
6	700	x	576	x	0.28	4000	1612.80	3.07	4951.30	C
7	720	x	584	x	0.28	4000	1681.92	3.07	5163.49	C
8	840	x	584	x	0.28	2000	981.12	3.07	3012.04	C
9	889	x	576	x	0.28	1000	512.06	3.07	1572.04	C
10	730	x	600	x	0.28	1000	438.00	3.07	1344.66	B
11	745	x	605	x	0.28	5000	2253.63	3.07	6918.63	A
12	830	x	645	x	0.28	10000	5353.50	3.07	16435.25	B
13	1030	x	770	x	0.28	500	396.55	3.07	1217.41	B
14	1030	x	800	x	0.28	5000	4120.00	3.07	12648.40	A
TOTAL FOB VALUE						64500	29131.72		89434.37	

BENEFICIARY'S BANK:
BANK OF CHINA, NANYANG BRANCH
ADD: 129 QIYI ROAD, NANYANG CITY, HENAN, CHINA
SWIFT NO.: BKCHCNBJ530

BENEFICIARY:
LUCKY HUAGUANG GRAPHICS CO., LTD
ADD: 718 SOUTH STATION ROAD, NANYANG, HENAN, CHINA
ACCOUNT NO.: 255902555623

Cento Graph

No. 05, John Keells Housing Scheme,
Pothuaraawa Road, Malabe, Sri Lanka
Tel: +94 774525541 / +94 774418415
centograph@yashico.com
Date: 06/12/2021

乐凯华光图形科技有限公司
LUCKY HUAGUANG GRAPHICS CO., LTD

Seen
Dilshan
11/1/2022

Seen
Rishan
25/8/22

Seen
Tushan
14/1/22

Seen
Srikanth
23/1/22

Seen
17/04/2023


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EXHIBIT-2

On comparison of both the above Performa invoices, it appeared that quantity /measurement mentioned in both the Performa invoices are correctly matched and in same order. The said goods were imported by M/s Mahalaxmi Textiles, Surat vide Bill of Entry no. 7704761 dated 02.03.2022.

- Document available at page no 105 in box file no. 1 **(RUD-06 of SCN)** is the Commercial Invoice No CG00321-22 dated 04.08.2021 issued by M/s. Lucky Huaguang Graphics Co. Ltd, China in the name of M/s. Cento Graph, Sri Lanka for the supply of 73,500 Pcs/sheets having 28574.79 Sq Mt Digital Printing PPVG Violet Plates and Digital Offset UV CTCP Plates.

Commercial Invoice No CG00321-22 dated 04.08.2021 issued by M/s. Lucky Huaguang Graphics Co. Ltd to M/s. Cento Graph, Sri Lanka **(RUD-06 of SCN)** is reproduced below for ready reference:



**LUCKY HUAGUANG
GRAPHICS CO., LTD**

718 South Station Road
Nanyang Henan China
Fax 86 377 63138450
Tel 86 377 63863074

COMMERCIAL INVOICE

TO:
CENTOGRAPH
NO. 5 JOHN KEELS HOUSING SCHEME,
POTHUARAWA MALABE, SRI LANKA

INVOICE NO.:CG00321-22
DATE: AUG.04 2021
DISCHARGE PORT:COLOMBO PORT, SRI LANKA
PRICE TERM:FOB SHANGHAI PORT , CHINA
PAYMENT TERM: OA 90 DAYS AFTER BL SHIPPING
DATE

Item	Description of Goods	Quantity		PRICE	Value
	DIGITAL PRINTING PPVG VIOLET PLATES	PCS	SQM	USD/SQM	USD
1	684 x 576 x 0.28	16000	6303.74	3.40	21432.73
2	686 x 551.5 x 0.28	48000	18159.79	3.40	61743.29
3	700 x 576 x 0.28	2000	806.40	3.40	2741.76
	Digital Offset UV-CTCP Plates	PCS	SQM	USD/SQM	USD
1	684 x 576 x 0.28	1500	590.98	3.05	1802.48
2	700 x 550 x 0.28	2500	962.50	3.05	2935.63
3	700 x 590 x 0.28	1000	413.00	3.05	1259.65
4	830 x 645 x 0.28	2500	1338.38	3.05	4082.04
	TOTAL FOB VALUE	73500	28574.79		95997.58

BENEFICIARY'S BANK:
BANK OF CHINA, NANYANG BRANCH
ADD: 129 QIYI ROAD, NANYANG CITY, HENAN, CHINA
SWIFT NO.: BKCHCNBJ530
BENEFICIARY:
LUCKY HUAGUANG GRAPHICS CO., LTD
ADD: 718 SOUTH STATION ROAD, NANYANG, HENAN, CHINA
ACCOUNT NO.: 255902555623

seen
26/8/22

23/5/22
21/21/22

seen
Jagdish
19/12/22

AND also split out
seen
6/1/22
D.V.
21/1/23

乐凯华光印刷科技有限公司
LUCKY HUAGUANG GRAPHICS CO., LTD
seen
19/04/2023

EXHIBIT-4

On comparison of both the above Commercial Invoices, it appeared that quantity/measurement mentioned in both the Commercial Invoices are correctly matched and in same order. The said goods were imported by M/s Mahalaxmi Textiles, Surat vide Bill of Entry no. 6347489 dated 21.11.2021.

As per the Performa Invoice/Commercial Invoices issued by M/s Lucky Huaguang Graphics Co. Ltd., China to M/s Cento Graph, Sri Lanka, it appeared that the goods i.e. Digital Printing PPVG Violet Plates and Digital Offset UV CTCP Plates exported by M/s Cento Graph, Sri Lanka to M/s Mahalaxmi Textiles, Surat were purchased by M/s. Cento Graph, Sri Lanka from M/s. Lucky Huaguang Graphics Co. Ltd., China. Thus, it appeared that goods exported by M/s. Cento Graph, Sri Lanka to M/s Mahalaxmi Textiles, Surat were of China Origin and originally supplied by M/s. Lucky Huaguang Graphics Co. Ltd., China.

6.2 Statement of **Shri Rakesh Ajmeri, Proprietor of M/s Mahalaxmi Textiles** was also recorded under Section 108 of the Customs Act, 1962 on 13.06.2022, 23.08.2022 & 28.04.2023 (**RUD-08 of SCN**), wherein he interalia stated that they had imported CTCP Digital Double Layer Plates from M/s Cento Graph, Sri Lanka through a broker, Shri Rakesh Kumar Chauhan of M/s. PSRA Graphics India Pvt. Ltd. He stated that Shri Rakesh Kumar Chauhan arranged all sales, purchase and import of goods; that Shri Rakesh Kumar Chauhan arranged buyer and as per instructions of Shri Rakesh Kumar Chauhan they sold all the imported CTCP Digital Double Layer plates to M/s. Kapoor Imaging Pvt. Ltd., Chennai; that all the finance was done by M/s. Kapoor Imaging Pvt. Ltd on instance of Shri Rakesh Kumar Chauhan. He stated that he was in financial problem and wanted money so he gave permission to Shri Rakesh Kumar Chauhan to use his IEC of M/s Mahalaxmi Textiles for import of goods.

6.3 He perused Panchnama dated 13.06.2022 along with documents resumed under said Panchnama from the office premises of M/s Mahalaxmi Textiles. On being asked, he stated that quantity i.e. 64,500 sheets and measurement mentioned as 29131.72 Sq Mt. in both the Performa Invoice No CG01021-22 dated 06.12.2021 issued by M/s. Lucky Huaguang Graphics Co. Ltd, China in the name of M/s. Cento Graph, Sri Lanka available at page no 402 in box file no. 1 (**RUD-04 of SCN**) and Performa Invoice no CG01021-22ctp10 dated 30.01.2022 issued by M/s. Cento Graph, Sri Lanka in the name of M/s. Mahalaxmi Textiles available at page no 403 in box file no. 1 (**RUD-05 of SCN**) are correctly matched and in same order; that said goods were imported by M/s. Mahalaxmi Textiles, Surat vide Bill of Entry no. 7704761 dated 02.03.2022. He stated that at one instance, he found some discrepancy in the packing list and invoice of the goods imported by M/s. Mahalaxmi Textiles from M/s Cento Graph, Sri Lanka, therefore he directly contacted Mr. Llyod Harridge for the clarification of the same, for which Mr. Llyod Harridge sent the said Performa Invoice No CG01021-22 dated 06.12.2021 issued by M/s. Lucky Huaguang Graphics Co. Ltd, China to him for tallying the same.

6.4 Further, on being asked regarding documents available at page no 105 in box file no. 1 (**RUD-06 of SCN**) and at page no 136 in box file no. 1 (**RUD-07 of SCN**), he stated that quantity i.e. 73,500 Pcs/sheets and measurement mentioned as 28574.79 Sq in both the Commercial Invoice No CG00321-22 dated 04.08.2021 issued by M/s. Lucky Huaguang Graphics Co. Ltd, China in the name of M/s. Cento Graph, Sri Lanka and Commercial Invoice no CG00321ctcp-violet03 dated 15.11.2021 issued by M/s. Cento Graph, Sri Lanka in the name of M/s. Mahalaxmi Textiles were correctly matched and in same order; that said goods were imported

by M/s. Mahalaxmi Textiles, Surat vide Bill of Entry no. 6347489 dated 21.11.2021. He stated that Commercial Invoice No CG00321-22 dated 04.08.2021 issued by M/s. Lucky Huaguang Graphics Co. Ltd., China was forwarded by Mr. Llyod Harridge along with the Commercial Invoice of M/s. Cento Graph to him.

6.5 He agreed that as per the Performa Invoice/Commercial Invoices issued by M/s Lucky Huaguang Graphics Co. Ltd., China to M/s. Cento Graph, Sri Lanka, the goods i.e. Digital Printing PPVG Violet Plates and Digital Offset UV CTCP Plates exported by Mr. Llyod Harridge of M/s. Cento Graph, Sri Lanka to M/s. Mahalaxmi Textiles, Surat were of China Origin and originally supplied by M/s. Lucky Huaguang Graphics Co. Ltd., China. He stated that as per documents, it was evident that the goods supplied by M/s. Cento Graph, Sri Lanka were of Chinese origin.

6.6 During recording of statement on 13.06.2022, Shri Rakesh Ajmeri, Proprietor of M/s Mahalaxmi Textiles produced his mobile phone, Samsung Galaxy M21, Model No. SM-M215F/DS, Serial No. RZ8NA1H86YN, IMEI: 355000117071408, 355026117071403, for examination to the officer and the officer took printout of few pages running from page 01 to 06, from his mobile phone. He was confronted during the statement with the printout taken from his mobile phone, wherein he stated that:

- The document available at page no. 1 (**RUD-09 of SCN**) was the printout of the screenshot of the WhatsApp chat at 04:03 PM dated 29.06.2019 held between him and Mr. Llyod Harridge, which shows that Mr. Llyod Harridge sent him the message that “if i do not change DO you might get custom duty and pay high cost if DO is China”. He stated that Mr. Llyod Harridge informed that the goods were of China origin and if he has to save the customs duty, the goods have to be shown as of Sri Lanka origin.

The screenshot of the WhatsApp chat held at 04:03 PM dated 29.06.2019 (**RUD-09 of SCN**) is reproduced below for ready reference:

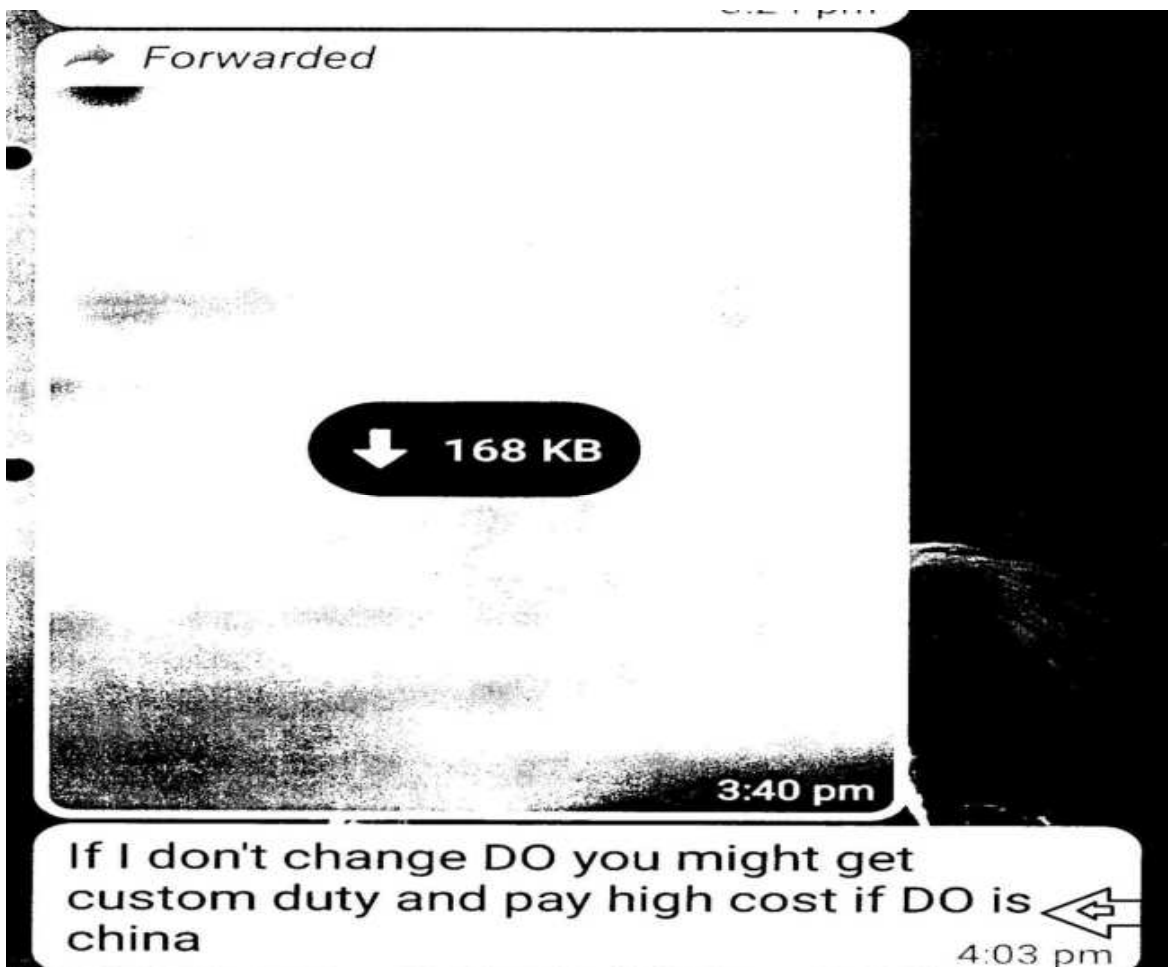


EXHIBIT-5

- The document available at page no. 2, 3 & 4 (**RUD-10 of SCN**) were the printout of the photos sent during WhatsApp chat at 02:56 PM on 11.11.2021 by Mr. Llyod Harridge, which was the photo of the packing list of goods “Digital Offset UV-CTCP Plates”. He stated that at one instance he found some discrepancy in the packing list of the goods imported from M/s Cento Graph, Sri Lanka so he contacted Mr. Llyod Harridge for the clarification of the same, in turn Mr. Llyod Harridge sent him the packing list to tally the size and total quantity; that the packing list sent by Mr. Llyod Harridge was the packing list which was sent to M/s Cento Graph, Sri Lanka by a Chinese firm.

Photo of packing list sent by Mr. Llyod Harridge during WhatsApp chat at 02:56 PM on 11.11.2021 (**RUD-10 of SCN**) is reproduced below for ready reference:

PACKING LIST

TOGRAPHI
JOHN KEELS HOUSING SCHEME,
THUARAWA MALABE, SRI LANKA

DISCHARGE PORT:
PRICE TERM: F
PAYMENT TERM: OA


Item	Description of Goods						Packing		Quantity
#	Digital Offset UV-CTCP Plates						Sheets/Pkt	Pks	Sheets
container 2 1x20GP									
25-27#	UV-PH	890	×	540	×	0.28	50	90	4500
29-30#	UV-PH	910	×	665	×	0.28	50	80	4000
34#	UV-PH	915	×	715	×	0.28	50	40	2000
39#	UV-PH	1030	×	770	×	0.28	50	40	2000
40-49#	UV-PH	1030	×	790	×	0.28	50	300	15000
52#	UV-PH	1030	×	800	×	0.28	50	40	2000
60#	UV-PH	1067	×	1016	×	0.28	30	10	300
61#	UV-PH	1640	×	1280	×	0.28	30	20	600
	UV-PH	1660	×	1260	×	0.28	30	5	150
TOTAL PACKED IN 20 PALLETS ONLY							625		30550

乐凯华光印刷科技有
LUCKY HUANGUANG GRAPHICS

EXHIBIT-6

- The document available at page no. 5 & 6 (RUD-11 of SCN) were the printout of the photo sent on WhatsApp on 05:07 PM dated 25.10.2021, by Mr. Llyod Harridge and the printout of the screenshot of the chat between him and Mr. Llyod Harridge; that the said photo was the Commercial Invoice raised by M/s Lucky Huaguang Graphics Co. Ltd, China to M/s Cento Graph, Sri Lanka for the product “Digital Printing PPVG Violet Plates and Digital Offset UV-CTCP Plates”. He stated that at one instance, he found some discrepancy in the packing list and invoice of the goods imported from M/s Cento Graph, Sri Lanka so he contacted Mr. Llyod Harridge for the clarification of the same, for which Mr. Llyod Harridge sent him the said invoice of Chinese firm to tally the same. He agreed that the goods exported by Mr. Llyod Harridge to his firm were of China Origin.

Photo of Commercial Invoice sent by Mr. Llyod Harridge during WhatsApp on 05:07 PM dated 25.10.2021 (RUD-11 of SCN) is reproduced below for ready reference:



LUCKY HUAGUANG
GRAPHICS CO., LTD

718 South Station Road
Nanyang Henan China
Fax 86 377 63138450
Tel 86 377 63863074

COMMERCIAL INVOICE

TO:
CENTOGRAPH
NO. 5 JOHN KEELS HOUSING SCHEME,
POTHUARAWA MALABE, SRI LANKA

INVOICE NO.:CG00321-22
DATE: AUG.04 2021
DISCHARGE PORT:COLOMBO PORT, SRI LANKA
PRICE TERM:FOB SHANGHAI PORT , CHINA
PAYMENT TERM: OA 90 DAYS AFTER BL SHIPPING
DATE

Item	Description of Goods	Quantity		PRICE	Value
	DIGITAL PRINTING PPVG VIOLET PLATES	PCS	SQM	USD/SQM	USD
1	684 x 576 x 0.28	16000	6303.74	3.40	21432.73
2	686 x 551.5 x 0.28	48000	18159.79	3.40	61743.29
3	700 x 576 x 0.28	2000	806.40	3.40	2741.76
	Digital Offset UV-CTCP Plates	PCS	SQM	USD/SQM	USD
1	684 x 576 x 0.28	1500	590.98	3.05	1802.48
2	700 x 550 x 0.28	2500	962.50	3.05	2935.63
3	700 x 590 x 0.28	1000	413.00	3.05	1259.65
4	830 x 645 x 0.28	2500	1338.38	3.05	4082.04
	TOTAL FOB VALUE	73500	28574.79		95997.58

BENEFICIARY'S BANK:
BANK OF CHINA, NANYANG BRANCH
ADD: 129 QIYI ROAD, NANYANG CITY, HENAN, CHINA
SWIFT NO.: BKCHCNBJ530
BENEFICIARY:
LUCKY HUAGUANG GRAPHICS CO., LTD
ADD: 718 SOUTH STATION ROAD, NANYANG, HENAN, CHINA
ACCOUNT NO.: 255902555623

ADD. 0.400 Spent cost -
107775.5

乐凯华光印刷科技有限公司
LUCKY HUAGUANG GRAPHICS CO., LTD

Spec Rec & Explaine
21/10/2021
5303122

0.400

Page 13 | 152

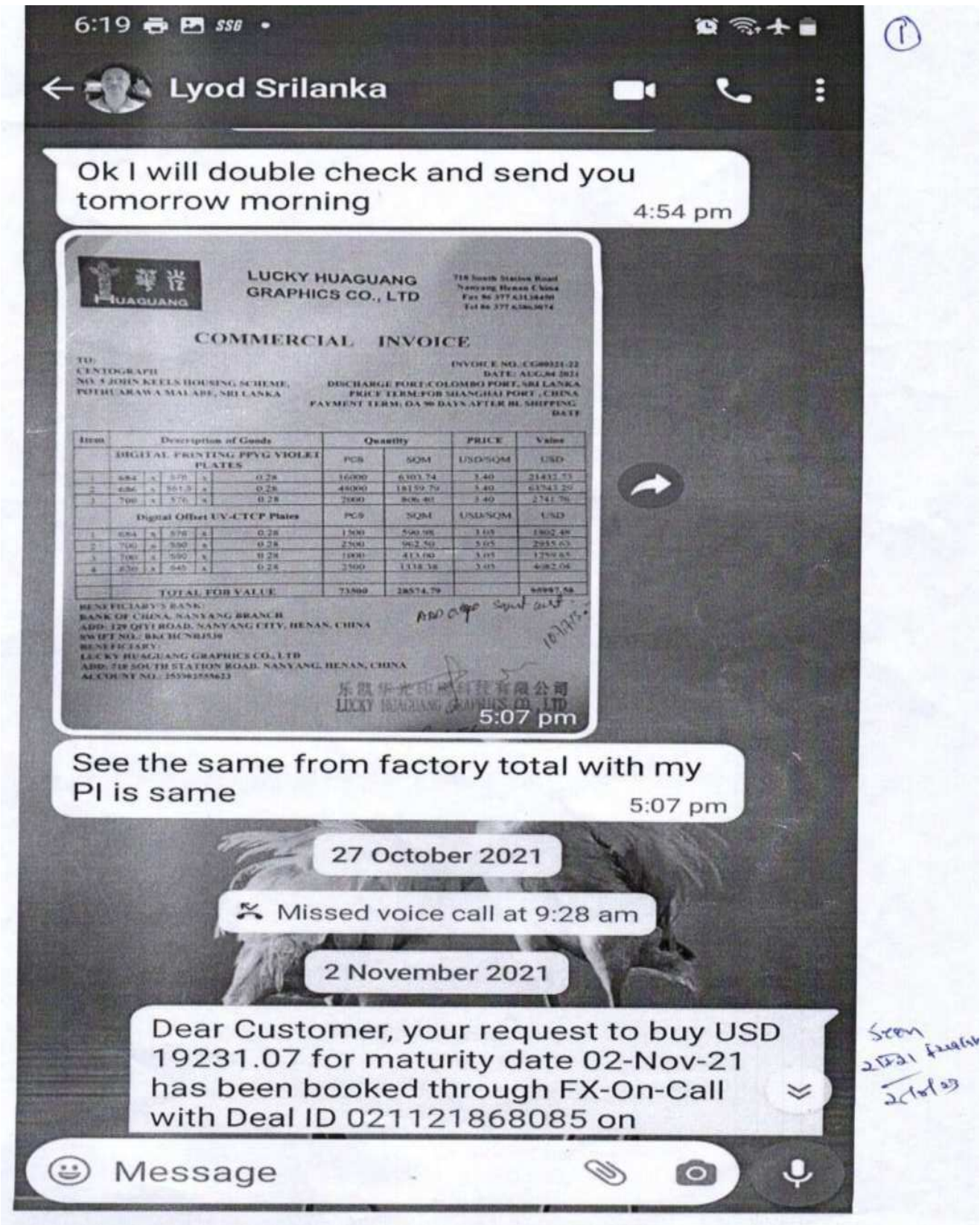


EXHIBIT-7

The data retrieved from mobile phone of Shri Rakesh Ajmeri were incriminating in nature, therefore the recording officer informed Shri Rakesh Ajmeri that the said mobile phone required for further investigation, accordingly, Shri Rakesh Ajmeri submitted the said mobile phone. The officer placed the said mobile phone in green envelope and sealed it with the DRI Lac seal.

6.7 The data contained in the mobile phone, which was produced by Shri Rakesh Ajmeri, Proprietor of M/s Mahalaxmi Textiles under his statement recorded on 13.06.2022 were retrieved at Cyber Forensic Laboratory, Directorate of Revenue Intelligence, Mumbai Zonal Unit Mumbai under Panchnama proceedings dtd. 23.09.2022 (RUD-12 of SCN), in presence of independent panchas. The relevant data were scrutinized and printouts were taken and numbered from page no. 1 to

06 (**RUD-13 of SCN**), during his statement recorded on 28.04.2023, which he explained as under:

- The document available at the page no. 02 (**RUD-13A of SCN**) of the pages attached to his statement was the printout of the screenshot of the WhatsApp chat at 3.24PM between him and Mr. Llyod Harridge, wherein Mr. Llyod Harridge sent him the message that “A very good evening jayesh the is your new ctcP Plate order we will have to change containers in Sri Lanka to get DO from Sri Lanka the is the same we did with Nn graphics please confirm your order for me to book shipping with agent”. He perused the said printout of chat and stated that vide above message Mr. Llyod Harridge informed that he has to change containers in Sri Lanka to get DO from Sri Lanka.

Screenshot of WhatsApp chat held at 3.24PM between Shri Rakesh Ajmeri and Mr. Llyod Harridge (**RUD-13A of SCN**) is reproduced below For ready reference:

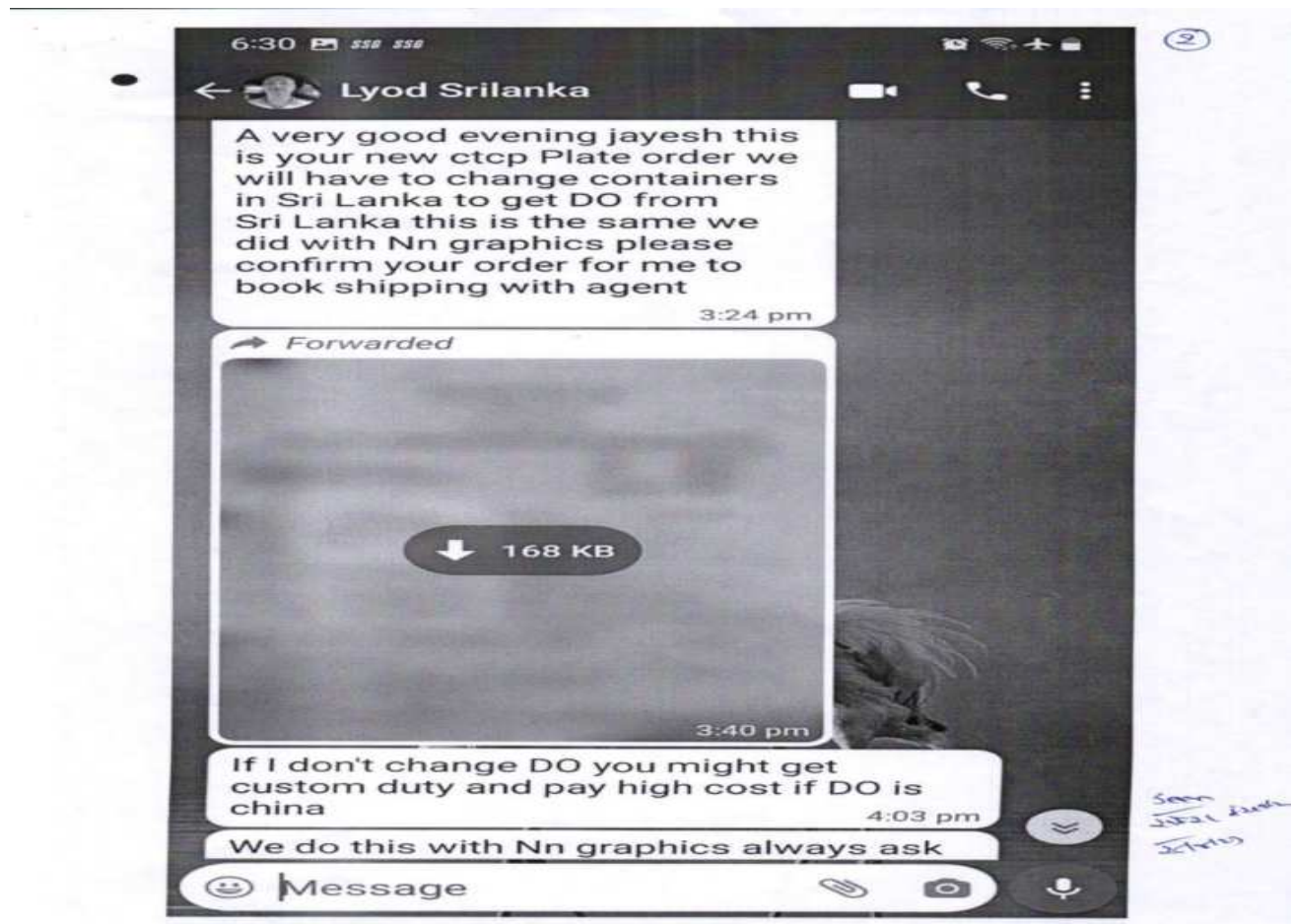


EXHIBIT-8

- The document available at the page no. 03 (**RUD-13B of SCN**) of the pages attached to his statement was the printout of the screenshot of the WhatsApp chat on 01.07.2019 at 7:04 AM between him and Mr. Llyod Harridge wherein Mr. Llyod Harridge sent him the message that “we must change all container in Sri Lanka to new container as I was doing before or we Cento Graph can also be put under pressure by Indian Customs. So from the day they will change container documents DO all in Sri Lanka and ship as new shipment please advise the to Jayesh also. Thanks Llyod.” He perused the said printout of chat and stated that vide above message Mr. Llyod Harridge informed him that he has to Change containers and all documents at Sri Lanka for goods imported from China by him and to further export to India.

Screenshot of WhatsApp chat held on 01.07.2019 at 7:04 AM between Shri Rakesh Ajmeri and Mr. Llyod Harridge (**RUD-13B of SCN**) is reproduced below For ready reference:

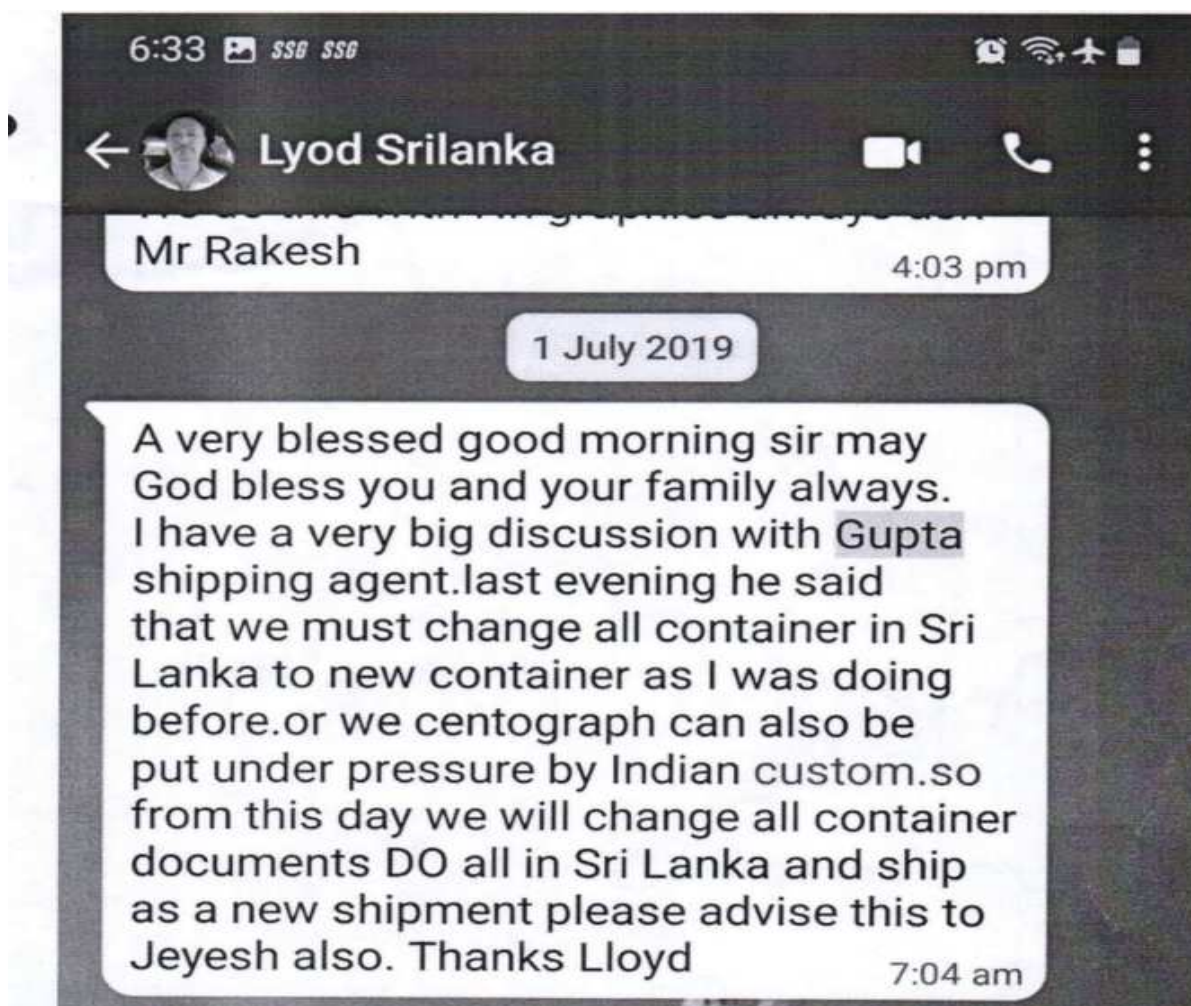


EXHIBIT-9

On being asked, he stated that in view of the above evidences shown to him it was quite clear that goods imported by M/s Mahalaxmi Textiles from M/s Cento Graph, Sri Lanka were Chinese origin

PRELIMINARY INQUIRY AND STATEMENT:

7.1 On scrutiny of documents/printout of email correspondences held with Shri Rakesh Kumar Chauhan, Mr. Jack of China and Mr. Lloyd Harridge of M/s. Cento Graph, Sri Lanka resumed under Panchnama dated 13.06.2022 from the premises of 'M/s PSRA', it appeared that goods supplied by M/s Cento Graph to Indian importers were of Chinese origin, manufactured in China and exported to India routing through M/s Cento Graph, Sri Lanka on the basis of following evidences found during search in the premises of 'M/s PSRA':

- Document available at page no. 05 to 09 (**RUD-14 of SCN**) of Made up File No.4 were the printout of email correspondences held between Shri Rakesh Kumar Chauhan, Mr, Jack of China, Mr. Lloyd Harridge of M/s. Cento Graph and one of the buyer of Digital Plates, M/s ACM Chemicals, New Delhi from 04.10.2021 to 09.12.2021 regarding complaint raised by buyer, M/s. ACM Chemicals, wherein it clearly appeared that goods were manufactured in China and same were arranged by Mr. Jack and exported to India through Mr. Lloyd Harridge of M/s. Cento Graph, Sri Lanka.

The printout of one of such relevant page no. 06 out of page no. 05 to 09 (**RUD-14 of SCN**) of Made up File No.4 is reproduced below for ready reference:

2, 1:35 PM

Yahoo Mail - 回复: 回复: Fw: many complaints of printing plates

6

— Forwarded message —

From: "Carl and Jack" <877120433@qq.com>
 To: "Cento Graph" <centograph@yahoo.com>, "Acm Chemicals" <acmchemicalsnaraina@gmail.com>
 Cc: "Rakesh Chauhan" <rakesh_chauhan74@yahoo.co.in>
 Sent: Fri, 8 Oct 2021 at 8:39 am
 Subject: 回复: plates Claim
 Good morning ,friends

Hope you are all fine.

About the possible issues of last year's plates,actually. Factory needs to see enough and strong proof to make sure it's the problem of the plates.
 Once i get your proof,i will send it to factory with a detailed report about this.
 Please collect proof as Mr.Llody said here.

After proof and report sending,factory will organize a meeting to discuss and then decide how to make a solution to solve problems.
 Or we will talk with Mr.Llody about this then to find way together.

Anyway I will actively cooperate with you in any way I can to support.

Hope we can solve this problem peacefully and fast.

Best Regards

Jack

----- 原始邮件 -----

发件人: "Cento Graph" <centograph@yahoo.com>;
 发送时间: 2021年10月8日(星期五) 上午8:53
 收件人: "Carl and Jack" <877120433@qq.com>; "Acm Chemicals" <acmchemicalsnaraina@gmail.com>;
 抄送: "Rakesh Chauhan" <rakesh_chauhan74@yahoo.co.in>;
 主题: plates Claim

Good Morning Mr Aggarwal.

Hope you are keeping well. Let us take your plates issue one by one to help you out.

You have sent me pictures of only a few CTCP plates with problems lines and spots that I have shown to Mr Jack the same.
 now you say that for USD \$8000 you have plate problems, ok let see where we can help you with this. this is approximately 3000sqmt of plates.

1) send us the stock of plates with pictures(photos)of what plates you have problems with. we will send to Mr Jack and get the factory to look into the matter and make a report on the issue.

2)You have made this claim after one year we need to see the evidence of the product and to close the subject at the same time. in few years you make ask for the same. so disclose all information with regards to your claim. with documents and pictures of the plates to support your claim.

3) you say that you will pick the plates from Mr Jack. Fine. send me the contact of your personal that will pick up the plates. we need full name company name, full address, contact numbers with GSTIN and IEC no. that I will send an official PO to Mr Jack to hand over the plates of your claim to your personal.



Seen and Explained
 R. K. Chauhan
 24/8/22
 5/10

Seen
 5/1/23
 Seen
 8/9/23

EXHIBIT-10

- Document available at page no. 10 (**RUD-15 of SCN** of Made up File No.4 was the printout of email sent by Shri Rakesh Kumar Chauhan on 09.12.2021 at 11:49 hrs to Mr Jack at 877120433@qq.com and buyer, M/s ACM Chemicals at acmchemicalsnaraina@gmail.com with CC to M/s. Cento Graph. In the said mail Shri Rakesh Kumar Chauhan informed, Mr Jack of China that the complaint of the customer regarding quality of the plates is genuine.

The printout of email sent by Shri Rakesh Kumar Chauhan on 09.12.2021 at 11:49 hrs to Mr Jack and buyer with CC to M/s. Cento Graph (**RUD-15 of SCN**) is reproduced below for ready reference:

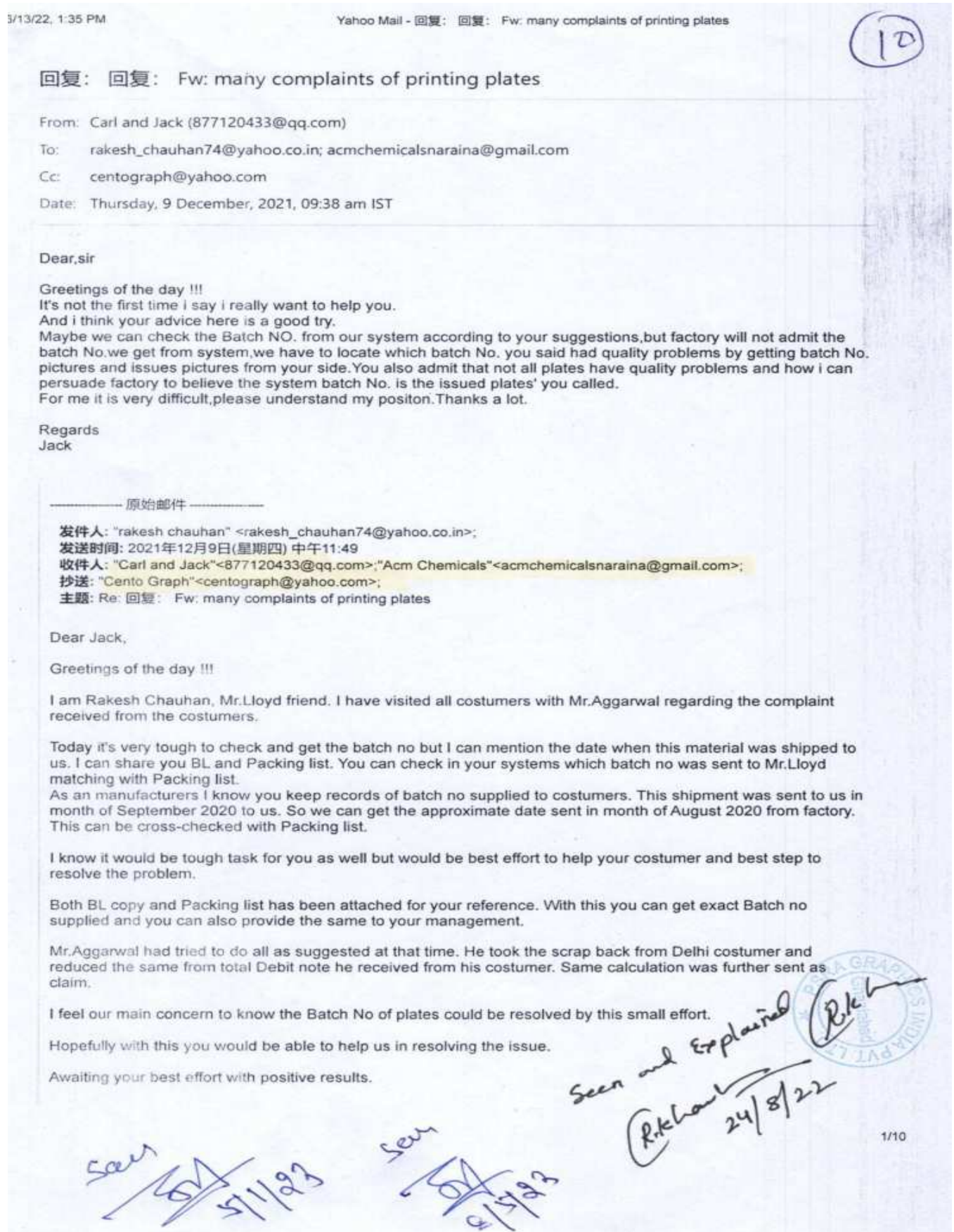


EXHIBIT-11

7.2 Statement of **Shri Rakesh Kumar Chauhan, Director of M/s PSRA Graphics India Pvt. Ltd.** was recorded under Section 108 of Customs Act, 1962 on 24.08.2022 (**RUD-16**), wherein he perused Panchnama dated 13.06.2022 drawn at office premises of M/s PSRA Graphics India Pvt. Ltd. and was confronted with some evidences/documents resumed under Panchnama dated 13.06.2022 from the office premises of M/s PSRA Graphics India Pvt. Ltd., which he explained as under:

- Document available at page no. 05 to 09 (**RUD-14 of SCN**) of Made up File No.4 were the printout of email correspondences held between Shri Rakesh Kumar Chauhan, Mr, Jack of China, Mr. Lloyd Harridge of M/s. Cento Graph and one of the buyer, M/s ACM Chemicals from 04.10.2021 to 09.12.2021 regarding complaint raised by buyer, M/s. ACM Chemicals, wherein it clearly appeared that goods were manufactured in China and same were arranged by Mr. Jack. He stated that the name of Mr Jack and his mail ID was referred by Mr Lloyd Harridge in the trailing mail as the responsible person for the complaint raised by M/s ACM Chemicals because Mr. Jack of China was the producer of the goods. Further, he also perused the document available at page no. 10 (**RUD-15 of SCN**) of Made up File No.4 was the printout of email sent by him to Mr Jack at 877120433@QQ.com and acmchemicalsnaraina@gmail.com with CC to M/s. Cento Graph on 09.12.2021 at 11:49 hrs. He stated that said mail was sent by him in context of a complaints of printing plates by one of their customer i.e. M/s. ACM Chemicals, Delhi.

7.3 During recording of statement he opened his mail Id rakesh_chauhan74@yahoo.co.in on the computer installed in the office premises of DRI and took printout of some mail along with its attachments numbered from page no 1 to 12 and produce it with dated signature. He was confronted during the statement with the printout taken from his mail, wherein he stated that document available at page number 05 (**RUD-17 of SCN**) was the printout of mail, which was sent by one buyer, M/s. N N Graphics at centograph@yahoo.com on 01.06.2017 at 9:42 AM stating that in PI M/s. Cento Graph had mentioned country of origin China which was not acceptable as it would attract antidumping duty. He also perused the copy of P.I. NO: NN Graphics201705/002 dated 01.06.2017 (**RUD-18 of SCN**) available at page number 09 of said attachments, wherein the country of origin was mentioned as China for the goods supplied as Plates to M/s. N N Graphics. On being asked to explain the origin of goods supplied by M/s. Cento Graph, he stated that on the basis of mails sent by M/s. Cento Graph it appeared that the origin of goods was China.

Email sent by one buyer, M/s. N N Graphics at centograph@yahoo.com on 01.06.2017 at 9:42 AM (**RUD-17**) is reproduced below for ready reference:

Re: pi 2

From: Cento Graph (centograph@yahoo.com)

To: nngraphics.06@gmail.com

Date: Thursday, 1 June, 2017 at 04:19 pm IST

Dear Sir

I am sending yo a new PI for this print out the page one and use the attach 2 with the company seal as the new PI 02.

your order will be in India after the 10th of July 2017,

thanks for the order and lool foward to see you in India be 24th june as you wanted

Thank you
Yours Faithfully,

Lloyd Harridge
Managing Director,
Cento Graph,Sri Lanka,
Mobile,+94-77-4533541
WhatsApp+94-77-4533541
Tel:+94-721418415

On Thu, 6/1/17, N.N.GRAPHICS <nngraphics.06@gmail.com> wrote:

Subject: Re: pi 2

To: "Cento Graph" <centograph@yahoo.com>

Date: Thursday, June 1, 2017, 9:42 AM

Dear
Sir,

In this Pi also
you have mentioned country of origin China which is not
acceptable as it will attract antidumping duty.

Thanks and
regards.

N.N.GRAPHICS
SHOP NO 3,UMAPRASAD
BUILDING

NEAR DSK
CHINTAMANI,
512
SHANIVARPETH,PUNE,
INDIA-411030
TEL: +91 - 20-
64004816




Seen and explained
(R. K. Khand) 24/6/22

Seen and explained.
Nitesh N. Shah
03/03/2023

to export of goods by M/s Cento Graph, Sri Lanka to M/s Universal Marketing, Mumbai, one of the other importer of similar goods from same supplier running from page no. 01 to 30 **(RUD-19 of SCN)**. The details of documents /evidences are as under:

- Documents available at Page no. 28 **(RUD-19A of SCN)** is the BL No. EGE21100004-01 dated 20.10.2021 issued by M/s Eagle Global Express (Pvt.) Ltd. for transportation of container no. CAXU6270882 loaded with 21 pallets of CTP Digital Offset Plates having gross weight 22492 Kgs. from Colombo and supplied by overseas supplier, M/s. Cento Graph, Sri Lanka for delivery to M/s Universal Marketing, Mumbai at Nhava Sheva port.

BL No. EGE21100004-01 dated 20.10.2021 issued by M/s Eagle Global Express (Pvt.) Ltd. **(RUD-19A of SCN)** is reproduced below for ready reference:


		ELC Lines		
COPY NON-NEGOTIABLE		BL NO. EGE21100004-01	BILL OF LADING	
SHIPPER CENTOGRAPH ADD: NO 5, JOHN KEELS HOUSING SCHEME, POTHUWARAWA ROAD, MALABE SRI LANKA. MOBILE: +94-774533541		EXPORT REFERENCES		
CONSIGNEE M/S UNIVERSAL MARKETING 229/B,BOMBAY TALKIES COMPOUND, PRITAM PLASTIC GALLY MALAD, MAHARSHTRA-400064, MUMBAI, INDIA TEL:919930768080 EMAIL:MBPATEL007@YAHOO.COM		ALSO NOTIFY		
NOTIFY PARTY GSTIN NO:27ANHPP7787K1Z1 IEC NO:ANHPP7787K PAN NO:ANNPP7787K MR MAHESH PATEL, EVER UNITY / W179		DELIVERY AGENT NEKODA GLOBAL LOGISTICS INDIA PVT LTD NO:7 ,VENKATASWAMY STREET,2ND FLOOR, CHETPET, CHENNAI-600031 RAJESH.MAA@NEKODA.IN		
PLACE OF RECEIPT COLOMBO,SRI LANKA	PORT OF LOADING COLOMBO,SRI LANKA	CONTAINER NOS/SEAL NOS CAXU6270882,185534		
PORT OF DISCHARGE NHAVA SHEVA, INDIA	PLACE OF DELIVERY NHAVA SHEVA, INDIA	FREIGHT STATUS ZERO (0) ORIGINALS		
PARTICULARS FURNISHED BY SHIPPER				
MARKS AND NUMBERS	NO OF PKGS	DESCRIPTION OF PACKAGES AND GOODS	GROSS WEIGHT	MEASUREMENT
FCL/FCL CY/CY	21 Pallets	SHIPPER'S LOAD, COUNT & PACKED 01X20' GP FCL CONTAINER S.T.C: 21 PALLETS OF CTP DIGITAL OFFSET PLATES INVOICE VALUE USD \$ 82,996.25 H.S.CODE:84425090 FREIGHT PREPAID SHIPPED ON BOARD 20.10.2021 ORIGINAL BL SURRENDERED IN COLOMBO	22,492.000 KGS	23.3500 CBM
		<div>REGISTERED</div> <div></div> <div>Secretary General THE NATIONAL CHAMBER OF COMMERCE OF SRI LANKA</div> <div>21 OCT 2021</div> <div>2186</div>		
<small>Received by the Carrier from the Shipper in apparent good order and condition (unless otherwise noted herein) the total number or quantity of Containers or other packages or units indicated in the box above entitled "Total No. of Containers/Packages received by the Carrier" for Carriage subject to all the terms and conditions hereof (INCLUDING THE TERMS AND CONDITIONS ON THE REVERSE HEREOF AND THE TERMS AND CONDITIONS OF THE CARRIER'S APPLICABLE TARIFF) from the Place of Receipt or the Port of Loading, whichever is applicable, to the Port of Discharge or the Place of Delivery, whichever is applicable. If the acknowledged tally is of Containers, this indicates that the Container has been packed and sealed by the Merchant at his premises without the Carrier's representative and that the contents are not weighed by the Carrier at any time. If the Carrier so requires, before he arranges delivery of the Goods one original Bill of Lading, duly endorsed, must be presented to the Carrier at the Port of Discharge or at some other location acceptable to the Carrier. In accepting this Bill of Lading the Merchant expressly accepts and agrees to all its terms and conditions whether printed, stamped or written, or otherwise incorporated, notwithstanding the non-signing of this Bill of Lading by the Merchant. Without prejudice to the generality of the foregoing, attention is drawn, inter alia, to Clauses 12 (Shipper's/Merchant's Responsibility), 19 (Dangerous Goods) and 24 (Law & Jurisdiction).</small>				
FREIGHT AND CHARGES		PREPAID	COLLECT	MERCHANT'S DECLARED VALUE OF GOODS IF MERCHANT ENTERS A VALUE, CARRIER'S LIMITATION OF LIABILITY PER CONSIGNMENT SHALL NOT APPLY AND AD VALOREM FREIGHT WILL BE CHARGED (SEE CLAUSE 17 ON REVERSE)
FREIGHT PREPAID 11/1/23 D.V. Seen Jagadeesha 11/9/22		Seen dhanu 21/1/23 Seen Nakshatra 6/9/22		<div></div> <div>By 20 Oct 2021</div> <div>COLOMBO, SRI LANKA</div> <div>EAGLE GLOBAL EXPRESS (PVT) LTD</div> <div>Issued on At</div>
TOTAL AMOUNT DUE				

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EXHIBIT-16

- Documents available at page no. 15 to 17 (**RUD-19D of SCN**), is the application given to the Director General of Customs, Sri Lanka Customs, Colombo by M/s Eagle Global Express (Pvt.) Ltd. along with another Sri Lanka port documents for bringing empty container no. CAXU6270882 for transshipment rework operation and de-stuffing of container no. SEGU1585959 and stuffing of container no. CAXU6270882.

Relevant portion of Application given by M/s Eagle Global Express (Pvt.) Ltd. to the Director General of Customs, Sri Lanka for bringing empty container for transshipment (**RUD-19D of SCN**) is reproduced below for ready reference:



Director General of Customs
Sri Lanka Customs
Colombo,
Sri Lanka.

13/10/2021

Attn: CAPO - SL Customs – Colombo Port

Cc. The Logistics Manager – SLPA
The Chief Superintend – SLPA
The Chief Security Manager – SLPA
The Commander of Sri Lanka Navy – Colombo Port
ASHA SHIPPING LTD

Dear Sir,

Subject: Import B/L NO: DXK2109108A
Container No: SEGU1585959/20' 21 Plts of Digital Offset Printing Plates – 22492.000 KG

REQUESTING APPROVAL FOR EMPTY CONT. TRANSPORT FOR "TRANSHIPMENT REWORK OPERATION"

We Eagle Global Express Pvt Ltd, have taken approval from DDC Export division of SL customs to do a Transshipment Re work Operation for this shipment export to Nhava Sheva- India (refer attached copies of letters for your information).

Now for this Rework operation we are bringing in the empty container No CAXU6270882/ 20' for cross stuffing at SLPA BQ W/H from outside empty yard, kindly grant your permission to transport the above said empty container to PORT premises.

Your early approval is much appreciated.

Thank You
Yours Sincerely,
Vandana
EAGLE GLOBAL EXPRESS (PVT) LIMITED

Corporate Office | 281-1/1, R A De Mel Mawatha Colombo 03 | Sri Lanka | 094 115 422000
Airport Office | 261 Colombo Road, Liyanagemulla Seeduwa | Sri Lanka | 094 115 234745
Balgama Office | No.582/A, Walgama, Malwana | Sri Lanka | 094 115 232594
Moratuwa Office | No.283, Galle Road, Idama, Moratuwa | Sri Lanka | 094 115 299799
Homagama Office | 114/1/18 High Level Road Homagama | Sri Lanka | 094 115 921235

www.eagleglobex.com

11/1/23
seen
17/04/23
seen
14/9/22
seen
25/8/22
seen
14/9/22

SRI LANKA PORT AUTHORITY-JCT/SAGT CONTAINER TERMINALS
SERIAL NO.

To be filled at Logistics Billing section

Manager (Logistics)

REQUEST FOR STUFFING / DE-STUFFING OF CONTAINERS

Agent:
(1)

EAGLE GLOBAL EXPRESS PVT LTD

Request under (i) Special Operation
(ii) MCC Operation-WP
(iii) Normal Operation

	YES

(2)

Container size No	Discharge Date	Status	VESSEL	Cargo composition	
				Local	T/S
SEGU1585959	09.10.2021	SPO -	STRAIT MAS	NIL	23.350 CBM
		TWO WAY	VOY: W004		

(3)

Container no	Size	Status	cargo composition		loading Vsl	Date	Destination
			local	T/S			
CAXU6270882	20	TS	NIL	23.350 CBM	EVER UNITY	15.10.2021	NHAVA SHEVA
					VOY:W179		
					TERMINAL: CICT		

(4) Nature of the Operation: REWORK

(5) The unit operation to be carried out BQ

(6) The above particulars are correct and we undertake to meet all charges in respect of operation.

1	2 NO objection of container Operator	3	4
---	--------------------------------------	---	---

(Agent of the discharging Vessel)

(7) We have no objection for the above operation and we guarantee to meet all charges, and confirm loading of these containers on the on carrier vessel declared above.

1	2	3	4
---	---	---	---

(Container operator on loading vessels)

AGENT: IMPORT - MKL

Seen
25/8/22
Seen
14/9/22
Seen
17/10/23
Seen
14/3/23
Seen
11/4/23
Seen
17/4/23
Seen
17/4/23

EXHIBIT-17

On scrutiny of all the above documents, it appeared that 21 pallets of CTP Digital Offset Plates having gross weight 22492 Kgs. loaded in container no. SEGU1585959 from Shanghai, China were unloaded at Colombo from the said container and stuffed in container no. CAXU6270882 for export to India from Colombo. The said goods i.e. 21 pallets of CTP Digital Offset Plates having gross weight 22492 Kgs. were loaded from Shanghai, China and arrived at Nhava Sheva via container no. CAXU627088 and same were cleared by M/s. Universal Marketing vide BoE No. 5964187 dated 23.10.2021.

- Documents available at page no. 01 to 14 **(RUD-19E of SCN)** are the application given to the Director General of Customs, Sri Lanka Customs, Colombo by M/s Eagle Global Express (Pvt.) Ltd. along with another Sri Lanka port documents for bringing empty container no. IALU2273475 for transshipment rework operation and de-stuffing of container no. TCKU1252224 and stuffing of container no. IALU2273475.

On scrutiny of all the above documents, it appeared that 24 pallets of CTP Digital Offset Plates having gross weight 23294 Kgs. initially loaded in container no. TCKU1252224 from Shanghai, China were unloaded at Colombo from the said container and stuffed in container no. IALU2273475 for export to India from Colombo. The said 24 pallets of CTP Digital Offset Plates having gross weight 23294 Kgs. were loaded from Shanghai, China and arrived at Nhava Sheva via container no. IALU2273475 and same were cleared by M/s. Universal Marketing vide BoE No. 5965146 dated 23.10.2021.

On scrutiny of the documents submitted by M/s Efficient Marine Services LLP, Mumbai, it appeared that initially goods were loaded in container from Shanghai, China were unloaded at Colombo from the said container. Thereafter, the same goods were then stuffed in other container and exported to India from Colombo. M/s Eagle Global Express (Pvt.) Ltd. a forwarder at Sri Lanka gave an application to the Director General of Customs, Sri Lanka Customs, Colombo for rework of container for Shipping Liner Change (TRANSHIPMENT TWO WAY SPECIAL OPERATION). In the said application, M/s Eagle Global Express (Pvt.) Ltd., a forwarder based in Sri Lanka informed to the Customs Sri Lanka that shipment originated from Shanghai, China and was destined to Nhava Sheva, India. As there were no immediate connecting vessel services available from Colombo to India on current Shipping line, the shipment will be reworked in Colombo and stuffed into container service that offers an immediate service to Nhava Sheva, India. They also mention their plan to ship that container on Vessel: Ever Unity, Voy No. W179, ETA CMB: 15.10.2021 & Export container and requested to grant permission to re-work the above said transshipment container at SLPA BQ Warehouse under customs supervision. Further, they also submitted that re-work empty container will be brought from the outside of the port premises into the BQ Warehouse by their transporter. Thus, as per the documents submitted by M/s Efficient Marine Services LLP, it appeared that the goods i.e. Digital Plates supplied by M/s. Cento Graph, Sri Lanka to Indian importers were manufactured in China and imported from china by M/s. Cento Graph, Sri Lanka and further exported to India.

INQUIRY CONDUCTED WITH THE FREIGHT FORWARDER:

9. The inquiry was extended to Freight Forwarder, who had arranged the logistics and provided HBL/MBL for goods imported by M/s. PSRA Graphics India Private Limited. The documents were called from the Forwarder. In response, M/s Worldgate

Express Lines International Pvt. Ltd. produced the copies of House BLs/Master BLs issued by shipping companies vide letter dated 10.03.2023 & 24.03.2023 (**RUD-20 of SCN**). The statements of **Shri Santosh Chavan, Branch Manager of M/s Worldgate Express Lines International Pvt. Ltd** was recorded under Section 108 of Customs Act, 1962 on 10.03.2023 & 23.05.2023 (**RUD-21 of SCN**), wherein he interalia stated that:

9.1 M/s Worldgate Express Lines International Pvt. Ltd was doing business of Freight forwarding and transportation of containers for Import and Export in India since 2002; that they were operating under the Multimodal Transportation of Goods Act, 1993; that being Branch manager of the company, supervise all work related to finances, import, Admin and export related work of the Mumbai Branch.

9.2 He stated that as a forwarder they were contacted by the customers i.e. shipper in case of exports and consignee in case of Imports for the booking of containers.; that after receiving queries from their customers they contact the Shipping lines for the first availability of the vessel, cheapest rates and fastest transit time from the load port to destination. After working on these factors they gave quotation for containers to their customers and after the acceptance of their quotation they proceed for the booking of containers from the shipping lines in India in case of exports and through their partner forwarder agents overseas in case of imports.

9.3 In case of any CIF terms shipment, business was generated from origin offices or overseas agent plays all role and they have no role to play; that they were at the receiving side and they came to know about the shipment only when the documents were received from overseas counterpart; that in these cases they were restricted to handling agent to issue NOC to importers after which they get Delivery order from the shipping lines.

9.4 He stated that after the import of goods in India their customers (importers) provide them original copy of HBL (House Bill of Lading) issued by the overseas forwarding agent and after verification they raise an Invoice for handling charges to the customers (Importers) and after receiving the same they issue a NOC to the shipping line for the release of the containers to the Importers; that on the basis of NOC issued by them, the shipping line issues a Delivery Order for the release of the containers to the importers.

9.5 He stated that all the correspondences with the overseas forwarding agent and the consignee in India through their mail ID santosh.mum@worldgate.in. He stated that the house bill of lading in case of imports was finalized at load port by the overseas agent in consultation with the supplier and they have no role in drafting of Bill of lading for imports in India.

9.6 He perused the copy of Ocean BL/HBL no LKCMB/WGT/04190 dated 25.02.2021 issued by their overseas company available in the documents produced by them vide letter dated 10.03.2023 and stated that the said Bill of lading was issued for the shipment of M/s. Cento Graph, Sri Lanka to M/s. PSRA Graphics India Pvt. Ltd, New Delhi having description of the goods as CTP Thermal Digital Double Layer Plates and Container number CCSU6010904, wherein Country of Origin was mentioned as Sri Lanka and the place of receipt and port of loading was mentioned as Jabel Ali. On being asked, he stated that goods had been received at Jabel Ali port (UAE) and thereafter the said goods had been transported from Jabel Ali to India. Further, he also perused the documents viz. Bill of Ladings produced by them vide letter dated 10.03.2023, wherein port of loading was mentioned as Jabel Ali.

9.7 He stated that they had requested their overseas branch for the submission of documents regarding the shipping instructions received from the shipper to their overseas branch and they had sent them clarification vide letter dated 17.03.2023 and the same had been submitted by them vide letter dated 24.03.2023 on 27.03.2023.

9.8 He perused the explanation letter dated 17.03.2023 issued by their overseas branch, Colombo and on being asked to explain the point number 02 of the said letter wherein explanation regarding country of origin mentioned as Sri Lanka for the goods loaded from Jabel Ali, he stated that as per the letter, it appeared that Country of origin, mentioned as Sri Lanka was a mistake, as it was captured by systems default settings while generating bill of lading.

9.9 On being asked to submit the details of switch bill of ladings, he state that as per point number 03 of the explanation letter dated 17.03.2023, it was informed by their overseas branch that they would submit the details as soon as possible but later on it was stated that they had not handled the first leg of the operations and the details of the first leg operation was not provided to them by the shipper.

9.10 He perused letter F. No. DRI/CZU/VIII/26/180/2022 dated 28.02.2023 **(RUD-26 of SCN)** received from the Assistant Director, Directorate of Revenue Intelligence, Chennai, wherein letter reference CIU/DRI/DRI/20(2)/2022 dated 30.12.2022 **(RUD-27 of SCN)** of Director of Customs, for the Director General of Customs, Central Intelligence Directorate, Sri Lanka Customs, Customs House, No. 40, Main Street, Colombo 11, Sri Lanka along with documents was forwarded and stated that on being perusal of the letter received from Sri Lanka Customs, he found that Sri Lanka Customs has initiated investigation against the company, M/s Cento Graph, Sri Lanka and observed that the exporter, M/s Cento Graph in Sri Lanka importing containers from China and rework the containers in Colombo to ship the same to India. Further, Sri Lanka Customs has also forwarded the True copies of documents viz. Proforma Invoice, Country of Origin Certificate, Inward and Outward Bills of lading & copies of the applications made by M/s Worldgate Express Lines Lanka Pvt. Ltd. to the Sri Lanka Customs for permission to carry out transshipment operation inside BQ warehouse. He perused all the documents (page no. 01 to 437) viz. Proforma Invoice, Country of Origin Certificate, Inward and Outward Bills of lading as well as copies of the applications made by M/s Worldgate Express Lines Lanka Pvt. Ltd. to the Sri Lanka Customs for permission to carry out transshipment operation inside BQ warehouse, wherein applications made by M/s Worldgate Express Lines Lanka Pvt. Ltd. to the Sri Lanka Customs have been placed at pages from 221 to 245 in the file. He found that the applications had been made by their overseas counterpart to grant permission to destuff the goods i.e. CTCP Digital Double Layer printing plates from a container meant for transshipment to India and load the same in a different container in BQ warehouse under customs supervision citing that there was no direct service from loading port to Nhava Sheva port.

9.11 On being asked regarding the original loading port for these goods/containers, he stated that as per letter reference CIU/DRI/DRI/20(2)/2022 dated 30.12.2022 of the Director of Customs, Central Intelligence Directorate, Sri Lanka Customs, Colombo 11, Sri Lanka, the loading port for these containers was Chinese ports as it was clearly mentioned in the letter that the goods i.e. CTCP Digital Double Layer were imported by M/s Cento Graph from China and then exported to India. Thus, the goods i.e. CTCP Digital Double Layer imported by Indian importers M/s Cento Graph, Sri Lanka were of Chinese origin and same were routed through Sri Lanka.

9.12 He perused the applications made by M/s Worldgate Express Lines Lanka Pvt. Ltd. to the Sri Lanka Customs for permission to carry out transshipment operation inside BQ warehouse and stated that containers have been changed on the basis of applications made by their overseas branch.

INQUIRY CONDUCTED WITH THE CUSTOMS BROKER:

10. The DRI inquiry was extended to Customs brokers, who had arranged the clearance of import consignments of 'M/s PSRA'. Summons were issued and statements of the responsible persons of the CHA/Customs Brokers were recorded under Section 108 of Customs Act, 1962. The gist of their statements are given below for ease of reference:

10.1 Statement of **Shri Pramod Kisan Auti, Marketing Executive of M/s. Sun Clearing Agency** was recorded under Section 108 of Customs Act, 1962 on 07.02.2023 (**RUD-22**), wherein he interalia stated that M/s. Sun Clearing Agency and M/s. Amogh Forwarders Pvt. Ltd were engaged in clearance of import cargo and he looked after work related to marketing and sales. He stated that they got the import work of M/s PSRA Graphics India Private Limited through Shri Mahesh Patel of M/s. Universal Marketing; that they filed the Bills of Entry on receipt of the details of the cargo from the importers on email sunclearings@gmail.com and the duty payments were done by the importers directly. He stated that in all the imported goods of M/s PSRA Graphics India Private Limited, Ghaziabad had been supplied to M/s. Nippon Color, Mumbai and they have arranged the transportation of the goods to the destination as provided by the importer.


10.2 Statement of **Shri S Karthik Authorised Representative and H card holder of M/s Verti Impex** was recorded under Section 108 of Customs Act, 1962 on 08.05.2023 (**RUD-23**), wherein he interalia stated that:

- M/s Verti Impex was engaged in clearance of import and export of goods and Shri L Alagu Murugappan was the F-card holder & proprietor of the firm. He looked after all the work related to clearance of import and exports of goods and Shri L Alagu Murugappan, proprietor of M/s. Vetri Impex had authorized him to appear in DRI for statement and submit authority letter dated 05/05/2023.
- He stated that they have cleared 11 containers of CTCP Digital Printing Plate imported by M/s. PSRA Graphics India Pvt. Ltd; that Shri Rakesh Kumar Chauhan of M/s. PSRA Graphics India Pvt. Ltd was used to contact them in connection with their import clearance; that KYC documents were provided by Shri Rakesh Kumar Chauhan through mail Id on 28.07.2020 and thereafter, they started the import clearance work for M/s. PSRA Graphics India Pvt. Ltd.; that and he did not have knowledge or information, whether goods imported by M/s PSRA Graphics India Pvt. Ltd were of Chinese origin.
- He stated that in case of imports, they used to prepare check list on receipt of the details of the cargo from the importers by email before filing the Bills of Entry and on the approval of Check list by the importer they filed bill of entry on behalf of the importer and the duty payments were done by the importer directly; that they had not arranged the transportation of the goods. He state that Shri Rakesh Kumar Chauhan used to follow up with them for status of clearance.

ENQUIRY CONDUCTED WITH OVERSEAS COUNTRY:

11.1 During the investigation reference was made to Sri Lanka Customs through DRI, Chennai to provide the Export Declarations, Invoices, Packing List, Bill of lading, etc available with the Sri Lankan Customs, to know the original manufacture of goods, to verify the authenticity of Country of Origin Certificates along with the details of original containers and Transshipment thereof. It was also requested to verify whether M/s. Cento Graph is an OEM manufacturer in Sri Lanka or otherwise. In response, Assistant Director, Directorate of Revenue Intelligence, Chennai vide letter F.No. DRI/CZU/ VII/26/180/2022 dated 16.12.2022 **(RUD-24 of SCN)** forwarded a letter reference CIU/DRI/DRI/20/2022 dated 25.11.2022 **(RUD-25 of SCN)** of the Director General of Customs, Central Intelligence Directorate, Sri Lanka Customs, Colombo 11, Sri Lanka. In the said letter the Director General of Customs, Central Intelligence Directorate, Sri Lanka Customs has clearly mentioned that they initiated investigation against the company, M/s Cento Graph, Sri Lanka and observed that the exporter, M/s Cento Graph, Sri Lanka is importing containers from China and rework the containers in Colombo to ship the same to India.

In order to view, the relevant portion of reference letter CIU/DRI/DRI/20/2022 dated 25.11.2022 **(RUD-24 of SCN)** received from the Sri Lanka Customs is reproduced below:

 **SRI LANKA CUSTOMS**
Customs House, No.40, Main Street, Colombo 11,
SRI LANKA

As per
Vm
7/12/22

To: Mr. Vikram Chand Meka, Additional Director, Directorate of Revenue Intelligence, T. Nagar, Chennai- 600 017, India.	From: Mr. A.R.Senadeera, Director of Customs, Central Intelligence Directorate, Sri Lanka Customs, Colombo 11, Sri Lanka.
FAX: 0091-44-2815-1740	FAX: 0094-11-2472423
DATE: 25 th November 2022	CALL: 0094-11-2221430
PAGES: 01	E-MAIL: ciu@customs.gov.lk
YOUR REF: DRI/CZU/VIII/26/180/2022	OUR REF: CIU/DRI/DRI/20/2022
SUBJECT: Re: Indo-Sri Lankan Customs - Request for details/ documents in respect of export consignments of Sri Lankan exporter M/s. Cento Graph to certain Indian importers - Reg.	

Greetings from Sri Lanka Customs!

Dear Sir,

The Central Intelligence Directorate of Sri Lanka Customs avails this opportunity to compliment Indian Customs for extending an excellent co-operation in matters of Customs mutual assistance and invited kind attention to your letter Ref No. **DRI/CZU/VIII/26/180/2022** dated 27th October 2022 on the above subject.

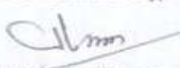
02. At the moment Sri Lanka Customs has initiated the investigation against the company **M/s. Cento Graph**. During the course of the investigation it is observed that the exporter **M/s. Cento Graph** in Sri Lanka, importing containers from China and rework the containers in Colombo to ship the same to India.


03. Sri Lanka Customs will forward you the full report and the documents you requested at the earliest possible completion of our investigation.

Sri Lanka Customs once again compliments the Directorate of Revenue Intelligence, India, and extends assurance of its highest consideration.

Thank you.

Yours sincerely,


A R Senadeera
Director of Customs
Central Intelligence Directorate
For Director General of Customs

 **A.R. Senadeera**
Director of Customs
Sri Lanka Customs
Colombo 11.

Seen D/11/12/23

Seen and sent 10/11/23

Seen and Read (Rikant) 09/01/23

Seen Jayesh Kumar 10/12/23

Seen 17/04/23

Seen 11/04/23

Read and sign 11/12/23

EXHIBIT-18

11.2 During the investigation, the Assistant Director, Directorate of Revenue Intelligence, Chennai vide letter F.No. DRI/CZU/VIII/26/180/2022 dated 28.02.2023 **(RUD-26 of SCN)** also forwarded a letter reference CIU/DRI/DRI/20(2)/2022 dated 30.12.2022 **(RUD-27 of SCN)** of Director of Customs, for the Director General of Customs, Central Intelligence Directorate, Sri Lanka Customs, Customs House, No. 40, Main Street, Colombo 11, Sri Lanka. In the said letter the Director General of Customs, Central Intelligence Directorate, Sri Lanka Customs has clearly mentioned that Sri Lanka Customs has initiated investigation against the company, M/s Cento Graph, Sri Lanka and observed that the exporter, M/s Cento Graph in Sri Lanka importing containers from China and rework the containers in Colombo to ship the same to India. Further, Sri Lanka Customs has also forwarded the True copies of documents viz. Proforma Invoice, Country of Origin Certificate, Inward and Outward Bills of lading & copies of the applications made by M/s Worldgate Express Lines Lanka Pvt. Ltd. to the Sri Lanka Customs for rework of containers.

11.3 On scrutiny of the documents/reports received from the Director General of Customs, Central Intelligence Directorate, Sri Lanka Customs, Colombo 11, Sri Lanka, which includes an application given to the Director General of Customs, Sri Lanka Customs, Colombo by the freight forwarder, M/s Worldgate Express Lines Lanka Pvt. Ltd. along with another Sri Lanka port documents for bringing empty container for transshipment rework operation and de-stuffing of container imported from China and stuffing of goods in empty container at Sri Lankan Warehouse, it appeared that initially goods were loaded in container from Shanghai, China were unloaded at Colombo. Thereafter, the same goods were then stuffed in other container and exported to India from Colombo. As per the documents/reports received from Sri Lanka Customs, it appeared that the goods i.e. Digital Plates supplied by M/s. Cento Graph, Sri Lanka were manufactured in China and imported from china by M/s Cento Graph, Sri Lanka and further exported to India. Thus, the goods i.e. CTCP Digital Double Layer imported by M/s Cento Graph, Sri Lanka were of Chinese origin and same were routed through Sri Lanka to evade payment of Anti-dumping duty.

ENQUIRY CONDUCTED WITH BUYERS OF DIGITAL PRINTING PLATES:

12. During the investigation, it appeared that most of the goods imported by 'M/s PSRA' were purchased by only two buyer's viz. M/s. ACM Chemicals, New Delhi and M/s. Nippon Color, Mumbai. Further, on scrutiny of documents resumed from the premises of M/s PSRA Graphics India Private Limited under panchnama dated 13.06.2022, it appeared that there were various mail correspondences held between Shri Rakesh Kumar Chauhan, director of 'M/s PSRA', Mr, Jack of China, Mr. Lloyd Harridge of M/s. Cento Graph and one of the buyer regarding complaint raised by buyer, wherein it clearly appeared that goods were manufactured in China. Accordingly, investigation was extended to M/s. ACM Chemicals, New Delhi and M/s. Nippon Color, Mumbai and their respective office premises were searched and documents pertaining to Purchase of goods from 'M/s PSRA' were resumed under Panchnamas. The premises searched are as detailed below:-

S. No.	Details of searches	RUD No.
1	Panchnama dated 05.01.2023 drawn at the office premises of M/s. ACM Chemicals, WZ-131, Ground Floor, Naraina Village, Near Tikona Park, Ring Road, New Delhi- 110028	RUD-28 of SCN

2	Panchnama dated 06.02.2023 drawn at the office premises of M/s. Nippon Color, 219, High Tech Ind. Centre, Caves Road, Jogeshwari (E), Mumbai-400 060.	RUD-29 of SCN
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12.1. Statements of **Shri Tara Chand Aggarwal, Proprietor of M/s ACM Chemicals** were recorded under Section 108 of the Customs Act, 1962 on 05.01.2023 & 08.05.2023 (**RUD-30 of SCN**), wherein he inter-alia stated that:

12.1.1. M/s. ACM Chemicals was engaged in business of trading of Offset Printing Plates/CTCP Plates and Offset Rubber Blankets since 2004; that he was proprietor of M/s. ACM Chemicals, looked after all work related to purchase, sales etc.; that they mainly purchased Offset Printing Plates from various printing industries located in India; that they had also purchased CTCP Plates from M/s. PSRA Graphics India Pvt. Ltd., which were imported by M/s PSRA Graphics India Pvt. Ltd from M/s Cento Graph, Sri Lanka.

12.1.2 He came in contact with Shri Rakesh Kumar Chauhan of M/s PSRA Graphics India Pvt. Ltd in around June, 2020, when he came to his office for marketing of CTCP Plates; that during the meeting, initially Shri Rakesh Kumar Chauhan informed that they were importing CTCP Plates from Sri Lanka and he can supply the same to them; that during meeting Shri Rakesh Kumar Chauhan gave landing cost of goods and wanted Rs. 4 per Sqm as commission for supply of goods; that rate given by Shri Rakesh Kumar Chauhan were good as per market price so they gave him verbal order for One Container of CTCP Plates and accordingly, there after they used to give him verbal order of CTCP Plates as per their requirement and purchase approximately 8-9 containers of CTCP Plates; that Shri Rakesh Chauhan regularly used to come to their office and at that time he informed that Shri Llyod Harridge, owner of M/s Cento Graph, Sri Lanka from whom he import the goods.

12.1.3 He stated that in one of the consignment purchased from M/s PSRA Graphics India Pvt. Ltd they received some complain from customers and accordingly he called Shri Rakesh Kumar Chauhan and informed about the complaints; that Shri Rakesh Kumar Chauhan came to his office and sent mail to some person named, Mr. Jack with CC to M/s. Cento Graph regarding complain of customers.

12.1.4 He perused Page No. 1 to 10 of Made up File No.4 resumed from the premises of M/s PSRA Graphics India Pvt. Ltd. under panchnama dated 13.06.2022, wherein there were correspondence held between mail ids, acmchemicalsnaraina@gmail.com, 877120433@qq.com, centograph@yahoo.com and rakesh_chauhan74@yahoo.co.in. On being asked he stated that the same were mail correspondence held between Shri Rakesh Kumar Chauhan, Mr, Jack of China, Mr. Lloyd Harridge of M/s. Cento Graph and their firm, M/s ACM Chemicals related to the quality of CTCP digital printing plates which were purchased by them from M/s. PSRA Graphics India Pvt. Ltd. and the same were imported by M/s. PSRA Graphics India Pvt. Ltd from M/s. Cento Graph, Sri Lanka.

12.1.5 He stated that he was aware of the fact that CTCP Digital printing plates arranged by Shri Rakesh Chauhan of M/s PSRA Graphics India Private Limited to them were of Chinese origin and routed through Sri Lanka; that CTCP Digital printing plates supplied by M/s. Cento Graph, Sri Lanka to M/s PSRA Graphics India Private Limited were originally been supplied by Mr. Jack of China.

12.2 Statement of **Shri Jayant Ramesh Pardiwala, Proprietor of M/s. Nippon Color** was recorded under Section 108 of the Customs Act, 1962 on 11.04.2023 (**RUD-31**), wherein he inter-alia stated that:

12.2.1 M/s Nippon Color was engaged in business of trading of Digital Printing Material and Machines viz. MGI Machine, Konica Digital Press, Digital Flexo Machine and Digital Printing Plates etc. since 1972; that he was proprietor of M/s Nippon Color, looked after all work related to purchase /imports, sales, administration & technical matter related to Machines etc.

12.2.2 They had purchased Offset Printing Plates/CTCP Digital Double Layer Plates from M/s Universal Marketing, Mumbai and M/s PSRA Graphics India Private Limited, Ghaziabad; that they also directly imports Offset Printing Plates from Taiwan & China and sold to various printing industries located in India; that that had never imported CTCP Plates from M/s Cento Graph, Sri Lanka but they purchased the goods from M/s. PSRA Graphics India Private Limited and M/s Universal Marketing, which were imported from M/s Cento Graph, Sri Lanka

12.2.3 He met Shri Llyod Harridge, owner of M/s Cento Graph, Sri Lanka and Shri Rakesh Kumar Chauhan of M/s PSRA Graphics India Pvt. Ltd. in an exhibition in New Delhi; that during the meeting, initially Shri Rakesh Kumar Chauhan informed that they manufacturing various chemicals used in printing industries and thereafter, Shri Rakesh Kumar Chauhan came to their office in Mumbai and informed that they were also importing CTCP Plates/Printing Plates from Sri Lanka and can supply the same to them; that at that time they both decided the rates of CTCP Plates /Printing Plates on the basis of quantity to be purchased; that thereafter, Shri Rakesh Kumar Chauhan send 10 pieces of CTCP Plates/Printing Plates as sample and after checking they found the same ok; that rates offered by Shri Rakesh Kumar Chauhan were also good as per the market price and on being satisfied with the quality they started business and gave purchase order to Shri Rakesh Kumar Chauhan; that Shri Rakesh Kumar Chauhan used to gave Performa invoice and accordingly, there after they used to gave him purchase order of CTCP Plates via email as per their requirement and purchased approximately 8-9 containers of CTCP Plates from M/s. PSRA Graphics India Pvt. Ltd.

12.2.4 He perused the statement dated 13.06.2022, 24.08.2022, 25.08.2022, 09.01.2023 & 10.01.2023 of Shri Rakesh Kumar Chauhan, Director of M/s. PSRA Graphics India Pvt. Ltd and stated that when he met Shri Rakesh Kumar Chauhan in exhibition at Delhi at that time Mr. Llyod Harridge was also present; that Shri Rakesh Kumar Chauhan gave them imported Offset Digital Plates after importing and Charged Rs. 2.5 per Sqm in addition to all landing cost including duty & other charges; that he also gave advance payment to Shri Rakesh Kumar Chauhan for import of goods and thereafter used to gave remaining 80% before receipt of goods.

12.2.5 He perused the statement dated 06.09.2022 & 10.04.2023 of Shri Shri Mahesh Patel, Proprietor of M/s. Universal Marketing and put his dated signature on both the statements on being agreed with the same. He stated that Shri Mahesh Patel of M/s Universal Marketing came to his office and informed that they were importing CTCP Plates/Printing Plates and he gave offer for supply Offset Printing Plates; that. Shri Mahesh Patel also gave samples of CTCP Plates/Printing Plates, which they found ok; that rates given by Shri Mahesh Patel were also good as per market price so and on being satisfied with the quality they started business and gave purchase order to Shri Mahesh Patel; that Shri Mahesh Patel used to contact him on mobile for requirement of CTCP Digital Double Layer Plate and for order of

Digital Plates and payment regarding supply of goods; that they used to gave purchase order to Shri Mahesh Patel and accordingly Shri Mahesh Patel forwarded the Performa invoice for the supply of CTCP Digital Double Layer plates to them and after confirmed, they gave the Order and 20% amount in advance as mentioned in Performa invoice; that as soon as they received information regarding dispatch of goods, they paid remaining 80% payment to Shri Mahesh Patel of M/s. Universal Marketing.

12.2.6 He perused Panchnama dated 14.06.2022 drawn at office premises of M/s. Universal Marketing, 229/B, Bombay Talkies Compound, Pritam Plastic Gally, Malad West, Mumbai, Maharashtra-400064 who imported the similar goods from same overseas supplier, M/s Cento Graph, Sri Lanka and incriminating documents were resumed under Panchnama dated 13.06.2022 **(RUD-33 of SCN)**. He was confronted with some evidences/documents resumed from the office premises of M/s. Universal Marketing, which he explained as under:

- Documents available at page no 98 to 117 in Made Up File No. 01 **(RUD-34 of SCN)** were the BoE No. 5964187 dated 23.10.2021 along with supporting documents viz. Commercial Invoice dated 21.10.21, packing list, Certificate of Country of Origin and BL No. EGE21100004-01 dated 20.10.2021 issued by M/s Eagle Global Express (Pvt.) Ltd. for goods i.e. 21 pallets of CTP Digital Offset Plates having gross weight 22492 Kgs. imported by M/s. Universal Marketing. Further, on perusal of the said BL No. EGE21100004-01 dated 20.10.2021 issued by M/s Eagle Global Express (Pvt.) Ltd., it appeared that said goods i.e. 21 pallets of CTP Digital Offset Plates were loaded in container no. CAXU6270882 from Colombo and supplied by overseas supplier, M/s. Cento Graph, Sri Lanka.
- Documents available at page no 79 to 92 in Made Up File No. 01 **(RUD-35 of SCN)** were the BoE No. 5965146 dated 23.10.2021 along with supporting documents viz. Commercial Invoice dated 21.10.21, packing list, Certificate of Country of Origin and BL No. EGE21100004-02 dated 20.10.2021 issued by M/s Eagle Global Express (Pvt.) Ltd. for goods i.e. 24 pallets of CTP Digital Offset Plates having gross weight 23294 Kgs. imported by M/s. Universal Marketing. Further, on perusal of the said BL No. EGE21100004-02 dated 20.10.2021 issued by M/s Eagle Global Express (Pvt.) Ltd., it appeared that said goods i.e. 24 pallets of CTP Digital Offset Plates were loaded in container no. IALU2273475 from Colombo and supplied by overseas supplier, M/s. Cento Graph, Sri Lanka.

12.2.7 He perused the printout of mail received on 19.08.2022 at 08.30PM from M/s Efficient Marine Services LLP, Mumbai from their mail id mumops1@efficientmarine.com to the office of DRI Ahmedabad at mail id driazu@nic.in wherein various documents viz. Bill of landing issued by shipping lines, M/s Ceyser Line, HBL issued by forwarder, M/s Eagle Global Express (Pvt.) Ltd., Marine Cargo Specific Voyage Policy and other documents submitted to Customs, Sri Lanka for change of containers at Colombo, which were received from Shanghai along with Sri Lanka port authority documents etc. related to export of goods by M/s Cento Graph, Sri Lanka to M/s Universal Marketing, Mumbai were forwarded by M/s Efficient Marine Services LLP, Mumbai which are serial numbered from 01 to 30 **(RUD-19 of SCN)**, which he explained as under:

- Document available at page no Page no. 28 **(RUD-19A of SCN)** was the BL No. EGE21100004-01 dated 20.10.2021 issued by M/s Eagle Global Express (Pvt.) Ltd. for transportation of container no. CAXU6270882 loaded with 21 pallets of

CTP Digital Offset Plates having gross weight 22492 Kgs. from Colombo and supplied by overseas supplier, M/s. Cento Graph, Sri Lanka to deliver to M/s Universal Marketing, Mumbai at Nhava Sheva port.

- Documents available at Page no. 21 (**RUD-19B of SCN**) was the MBL No. RVHCMBNSA1221 dated 20.10.2021 issued by M/s Ceyserv Line for transportation of container no. CAXU6270882 loaded with 21 pallets of CTP Digital Offset Plates having gross weight 22492 Kgs. from Colombo to Nhava Sheva.
- Documents available at page no. 18 (**RUD-19C of SCN**) was the application given to the Director General of Customs, Sri Lanka Customs, Colombo by M/s Eagle Global Express (Pvt.) Ltd. for rework of container for Shipping Liner Change (TRANSHIPMENT TWO WAY SPECIAL OPERATION) Full T/S Container no. SEGU1585959 loaded with 21 pallets having 22492 Kgs of Weight. In the said application, M/s Eagle Global Express (Pvt.) Ltd. informed to the Customs Sri Lanka that shipment originated from Shanghai, China and destined to Nhava Sheva, India. As there were no immediate connecting vessel services available from Colombo to India on current Shipping line, the shipment will be reworked in Colombo and stuffed into container service that offers an immediate service to Nhava Sheva, India. They also mention their plan to ship that container on Vessel: Ever Unity, Voy No. W179, ETA CMB: 15.10.2021 & Export container no. CAXU6270882 and requested to grant permission to re-work the above said transshipment container at SLPA BQ Warehouse under customs supervision. Further, they also submitted that re-work empty container no. CAXU6270882 will be brought from the outside of the port premises into the BQ Warehouse by their transporter.
- Documents available at page no. 15 to 17 (**RUD-19D of SCN**) were the application given to the Director General of Customs, Sri Lanka Customs, Colombo by M/s Eagle Global Express (Pvt.) Ltd. along with another Sri Lanka port documents for bringing empty container no. CAXU6270882 for transshipment rework operation and de-stuffing of container no. SEGU1585959 and stuffing of container no. CAXU6270882.
- He stated that on being perusal of all the above documents, it appeared that 21 pallets of CTP Digital Offset Plates having gross weight 22492 Kgs initially loaded in container no. SEGU1585959 were loaded from Shanghai, China were unloaded at Colombo from the said container and stuffed in container no. CAXU6270882 were again exported to India from Colombo. He agreed that 21 pallets of CTP Digital Offset Plates having gross weight 22492 Kgs. were loaded from Shanghai, China and arrived at Nhava Sheva via container no. CAXU627088 and same were cleared by M/s Universal Marketing vide BoE No. 5964187 dated 23.10.2021.
- Similarly, he perused the documents available at page no. 01 to 14 (**RUD-19E of SCN**) and find that documents were the application given to the Director General of Customs, Sri Lanka Customs, Colombo by M/s Eagle Global Express (Pvt.) Ltd. along with another Sri Lanka port documents for bringing empty container no. IALU2273475 for transshipment rework operation and de-stuffing of container no. TCKU1252224 and stuffing of container no. IALU2273475. He stated that on being perusal of all the above documents, it appeared that 24 pallets of CTP Digital Offset Plates having gross weight 23294 Kgs initially loaded in container no. TCKU1252224 were loaded from Shanghai, China were

unloaded at Colombo from the said container and stuffed in container no. IALU2273475 were again exported to India from Colombo. The said 24 pallets of CTP Digital Offset Plates having gross weight 23294 Kgs. were loaded from Shanghai, China which arrived at Nhava Sheva via container no. IALU2273475 were cleared by M/s Universal Marketing vide BoE No. 5965146 dated 23.10.2021. He state that as per the documents submitted by M/s Efficient Marine Services LLP, the goods i.e. Digital Plates supplied by M/s. Cento Graph, Sri Lanka were imported from China by M/s. Cento Graph, Sri Lanka and further exported to India. He agreed that Digital Plates supplied by M/s. Cento Graph, Sri Lanka were manufactured in China.

12.2.8 He perused the letter F.No. DRI/CZU/VII/26/180/2022 dated 16.12.2022 **(RUD-24 of SCN)** and letter F.No. DRI/CZU/VIII/26/180/2022 dated 28.02.2023 **(RUD-26 of SCN)** received from the Assistant Director, Directorate of Revenue Intelligence, Chennai, wherein letter reference CIU/DRI/DRI/20/2022 dated 25.11.2022 **(RUD-25 of SCN)** and letter reference CIU/DRI/DRI/20(2) /2022 dated 30.12.2022 **(RUD-27 of SCN)** of the Director General of Customs, Central Intelligence Directorate, Sri Lanka Customs, Colombo 11, Sri Lanka were forwarded and stated that on being perusal of the letters received from Sri Lanka Customs, he find that Director General of Customs, Central Intelligence Directorate, Sri Lanka Customs has mentioned that Sri Lanka Customs has initiated investigation against the company, M/s Cento Graph, Sri Lanka and observed that the exporter, M/s Cento Graph in Sri Lanka importing containers from China and rework the containers in Colombo to ship the same to India. Further, Sri Lanka Customs has also forwarded the True copies of documents viz. Proforma Invoice, Country of Origin Certificate, Inward and Outward Bills of lading & copies of the applications made by M/s Worldgate Express Lines Lanka Pvt. Ltd. to the Sri Lanka Customs for rework of containers. He perused all the documents viz. Proforma Invoice, Country of Origin Certificate, Inward and Outward Bills of lading as well as copies of the applications made by M/s Worldgate Express Lines Lanka Pvt. Ltd. to the Sri Lanka Customs for rework of containers and find that the goods i.e. CTCP Digital Double Layer imported from M/s Cento Graph, Sri Lanka were imported by M/s Cento Graph from China and then exported to India. Thus, the goods i.e. CTCP Digital Double Layer imported by M/s. PSRA Graphics India Private Limited from M/s Cento Graph, Sri Lanka were of Chinese origin and same were routed through Sri Lanka to evade payment of Anti-dumping duty.

12.2.9 He stated that since the goods i.e. CTCP Digital Double Layer imported by M/s. Universal Marketing and M/s. PSRA Graphics India Private Limited were Chinese origin, the Anti-dumping duty @ 0.77 USD per square metre as per Notification No. 21/2020-Customs (ADD) dated 29.07.2020 issued by the CBEC, New Delhi was leviable on the same but M/s. Universal Marketing and M/s. PSRA Graphics India Private Limited had not paid the applicable Anti-dumping duty on the import of CTCP Digital Double Layer. He agreed that they have procured the CTCP Digital Double Layer, imported by M/s. PSRA Graphics India Private Limited which were supplied by M/s Cento Graph, Sri Lanka to M/s. PSRA Graphics India Private Limited were Chinese origin and attract Anti-dumping duty.

12.3 Statements of **Shri Vikas Vadhawan, Proprietor of M/s. Suman Graphics** were recorded under Section 108 of the Customs Act, 1962 on 07.02.2023 & 29.05.2023 **(RUD-32 of SCN)**, wherein he inter-alia stated that:

12.3.1 M/s. Suman Graphics was engaged in business of trading of Offset Printing Material viz. Rubber Blankets, Digital Plates, Films, Inks, Papers etc. since

2001; that they had also purchased CTCP Plates from M/s. PSRA Graphics India Pvt. Ltd., which were imported by M/s PSRA Graphics India Pvt. Ltd from M/s Cento Graph, Sri Lanka. He came in contact with Shri Rakesh Kumar Chauhan of M/s PSRA Graphics India Pvt. Ltd in around mid 2018, through one of the dealer of Offset Printing Material; that during the meeting, Shri Rakesh Kumar Chauhan informed that they were importing CTCP Plates from Sri Lanka and he can supply the same to them and gave landing cost of goods and wanted Rs. 2-3 per Sqm as commission for supply of goods; that rate given by Shri Rakesh Kumar Chauhan were good as per market price so they gave him verbal order for One Container of CTCP Plates.

12.3.2 Shri Rakesh Chauhan regularly used to come to their office and at that time he informed that Shri Llyod Harridge, owner of M/s Cento Graph, Sri Lanka from whom he import the goods; that he also met Shri Llyod Harridge along with Shri Rakesh Chauhan once before purchase of Digital Plates. He stated that once he received a mail from M/s Cento Graph regarding early payment to Shri Rakesh Chauhan and copy of said mail was sent to Shri Rakesh Chauhan;

12.3.3 He perused the print outs of email communication among centograph@yahoo.com, rakesh_chauhan74@yahoo.co.in, nngraphics.06@gmail.com placed at page number 55 to 58 (**RUD-32A of SCN**) of made up file number 04 which was resumed under panchnama dated 13.06.2022. In the said communication, a mail was sent from Cento Graph on Saturday, 7th April at 09:49 am, wherein it was mentioned that Mr Vicky called me 2 days back, he wanted me to send plates to his office, but we Mr Rakesh and I told Vicky that we have already given NN your order and he need to go with you. On being asked to explain the contents of the said mail, he stated that said mail was sent by M/s Cento Graph regarding the purchase of CTCP digital printing plates by M/s. PSRA Graphics India Pvt. Ltd, which were further purchased by them from M/s. PSRA Graphics India Pvt. Ltd.

12.3.4 He stated that after imposition of Anti dumping duty, they had purchased only one container from M/s. PSRA Graphics India Pvt. Ltd; that he was aware of the fact that CTCP Digital printing plates supplied by M/s. Cento Graph, Sri Lanka to M/s PSRA Graphics India Private Limited were originally Chinese origin imported from China and routed through Sri Lanka and the same were purchased by them from M/s. PSRA Graphics India Pvt. Ltd Graph.

STATEMENTS AND INQUIRY WITH IMPORTER WITH REFERENCE TO DOCUMENTS /EVIDENCES COLLECTED/RECEIVED FROM OVERSEAS:

13. During the investigation, it appeared that Shri Rakesh Kumar Chauhan, Director of M/s PSRA Graphics India Pvt. Ltd., New Delhi was in constant touch with the overseas supplier of goods, Mr. Llyod Harridge, who routed the Chinese goods through his firm M/s Cento Graph, Sri Lanka. Shri Rakesh Kumar Chauhan made mail correspondences with Mr. Jack of China, who arranged the goods from Chinese manufacture regarding complain of plates by one of their buyer, M/s ACM Chemicals in India. Shri Rakesh Kumar Chauhan also arranged Chinese origin Digital Printing Plates to other importer, M/s Mahalaxmi Textiles through Sri Lanka on commission basis and introduced Shri Rakesh Ajmeri, Proprietor of M/s Mahalaxmi Textiles to Mr. Llyod Harridge. In order to confronted him with evidences, summons were issued and statements of **Shri Rakesh Kumar Chauhan, Director of M/s PSRA Graphics India Pvt. Ltd.** were recorded under Section 108 of Customs

Act, 1962 on 25.08.2022, 09.01.2023, 10.01.2023 & 27.04.2023 (**RUD-36 of SCN**), wherein he interalia stated that:

13.1 He perused Panchnama dated 13.06.2022 drawn at office premises of M/s. Mahalaxmi Textiles and stated that he arranged import of CTCP Digital Double Layer Plates for M/s. Mahalaxmi Textiles, Surat as a broker. He was confronted with some evidences /documents resumed under Panchnama dated 13.06.2022 from the office premises of M/s. Mahalaxmi Textiles, which he explained as under:

- Document available at page no 402 in box file no. 1 (**RUD-06 of SCN**) is the Performa Invoice No CG01021-22 dated 06.12.2021 issued by M/s. Lucky Huaguang Graphics Co. Ltd, China in the name of M/s. Cento Graph, Sri Lanka for the supply of 64500 Pc/sheets having 29131.72 Sq Mt of Digital Offset UV CTCP Plates.
- Document available at page no 403 in box file no. 1 (**RUD-07**) is the Performa Invoice no CG01021-22ctp10 dated 30.01.2022 issued by M/s. Cento Graph, Sri Lanka in the name of Att: Mr. Rakesh, M/s. Mahalaxmi Textiles, Surat for supply of 64500 Pcs/sheets having 29131.72 Sq Mt of Digital Offset UV CTCP Plates.

On being asked, he stated that quantity i.e. 64,500 sheets and measurement mentioned as 29131.72 Sq Mt. in both the Performa Invoice No CG01021-22 dated 06.12.2021 issued by M/s. Lucky Huaguang Graphics Co. Ltd, China in the name of M/s. Cento Graph, Sri Lanka and Performa Invoice no CG01021-22ctp10 dated 30.01.2022 issued by M/s. Cento Graph, Sri Lanka in the name of M/s. Mahalaxmi Textiles are correctly matched and in same order; that said goods were imported by M/s. Mahalaxmi Textiles, Surat vide Bill of Entry no. 7704761 dated 02.03.2022. He stated that at one instance, Shri Rakesh Ajmeri found some discrepancy in the packing list and invoice of the goods imported by M/s. Mahalaxmi Textiles from M/s Cento Graph, Sri Lanka, therefore Shri Rakesh Ajmeri discuss the issue of discrepancy with him on phone. Thereafter, Shri Rakesh Ajmeri directly contacted Mr. Llyod Harridge for the clarification of the same, for which Mr. Llyod Harridge send the said Performa Invoice No CG01021-22 dated 06.12.2021 issued by M/s. Lucky Huaguang Graphics Co. Ltd, China to Shri Rakesh Ajmeri for tally the same.

- Document available at page no 105 in box file no. 1 (**RUD-08 of SCN**) is the Commercial Invoice No CG00321-22 dated 04.08.2021 issued by M/s. Lucky Huaguang Graphics Co. Ltd, China in the name of M/s. Cento Graph, Sri Lanka for the supply of 73,500 Pcs/sheets having 28574.79 Sq Mt Digital Printing PPVG Violet Plates and Digital Offset UV CTCP Plates.
- Document available at page no 136 in box file no. 1 (**RUD-09 of SCN**) is the Commercial Invoice no CG00321ctcp-violet03 dated 15.11.2021 issued by M/s. Cento Graph, Sri Lanka in the name of Att: Mr. Rakesh, M/s. Mahalaxmi Textiles, Surat for the supply of 73,500 Pcs/sheets having 28574.79 Sq Mt Digital Printing PPVG Violet Plates and Digital Offset UV CTCP Plates.

On being asked, he stated that quantity i.e. 73,500 Pcs/sheets and measurement mentioned as 28574.79 Sq in both the Commercial Invoice No CG00321-22 dated 04.08.2021 issued by M/s. Lucky Huaguang Graphics Co. Ltd, China in the name of M/s. Cento Graph, Sri Lanka and Commercial Invoice no CG00321ctcp-violet03 dated 15.11.2021 issued by M/s. Cento Graph, Sri Lanka in the name of Att: Mr.

Rakesh, M/s. Mahalaxmi Textiles were correctly matched and in same order; that said goods were imported by M/s. Mahalaxmi Textiles, Surat vide Bill of Entry no. 6347489 dated 21.11.2021. He stated that Commercial Invoice No CG00321-22 dated 04.08.2021 issued by M/s. Lucky Huaguang Graphics Co. Ltd., China was forwarded by Mr. Llyod Harridge along with the Commercial Invoice of M/s. Cento Graph to Shri Rakesh Ajmeri of M/s. Mahalaxmi Textiles.

13.2 He agreed that as per the Performa Invoice/Commercial Invoices issued by M/s Lucky Huaguang Graphics Co. Ltd., China to M/s. Cento Graph, Sri Lanka, the goods i.e. Digital Printing PPVG Violet Plates and Digital Offset UV CTCP Plates exported by Mr. Llyod Harridge of M/s. Cento Graph, Sri Lanka to M/s. Mahalaxmi Textiles, Surat were of China Origin and originally supplied by M/s. Lucky Huaguang Graphics Co. Ltd., China.

13.3 He perused the statement dated 13.06.2022 of Shri Rakesh Ajmeri, Proprietor of M/s Mahalaxmi Textiles along with printout of few pages running from page 01 to 06 taken from the mobile phone Shri Rakesh Ajmeri was produced by Shri Rakesh Ajmeri under statement dated 13.06.2022, which are as under:

- Page no.1 (**RUD-03 of SCN**) is the printout of the screenshot of WhatsApp chat at 04:03PM dated 29.06.2019 between Shri Rakesh Ajmeri and Mr. Llyod Harridge, wherein, wherein Mr. Llyod Harridge sent a message to Shri Rakesh Ajmeri that “if i do not change DO you might get custom duty and pay high cost if DO is China” that means Mr. Llyod Harridge informed that the goods is China of origin and if he had to save the customs duty, the goods have to be shown as of Sri Lanka origin.
- Page no. 2,3 & 4 (**RUD-04 of SCN**) are the printout of the photos sent on WhatsApp chat at 02:56PM on 11.11.2021 by Mr. Llyod Harridge to Shri Rakesh Ajmeri, which is the photo of packing list of goods “Digital Offset UV-CTCP Plates”. Shri Rakesh Ajmeri stated in his statement that at one instance he found some discrepancy in the packing list of the goods imported from M/s Cento Graph, Sri Lanka, so he contacted Mr. Llyod Harridge for the clarification of the same, in turn Mr. Llyod Harridge sent him these packing list to tally the size and total quantity. On being asked, he stated that the packing list sent to Shri Rakesh Ajmeri by Mr. Llyod Harridge was the packing list issued by Chinese firm to M/s Cento Graph, Sri Lanka.
- Page no. 5 and 6 (**RUD-05 of SCN**) are printout of the photo sent on WhatsApp on 05:07 PM dated 25.10.2021, by Mr. Llyod Harridge to Shri Rakesh Ajmeri which is the photo of Commercial Invoice raised by M/s. Lucky Huaguang Graphics Co. Ltd, China to M/s Cento Graph, Sri Lanka for the product “Digital Printing PPVG Violet Plates and Digital Offset UV-CTCP Plates”. Shri Rakesh Ajmeri stated in his statement that at one instance, Shri Rakesh Ajmeri found some discrepancy in the packing list and invoice of the goods imported from M/s Cento Graph, Sri Lanka, so he contacted Mr. Llyod Harridge for the clarification of the same, for which Mr. Llyod Harridge sent him the said invoice of Chinese firm to tally the same.

On being asked, he stated that as per the above message sent by Mr. Llyod Harridge to Shri Rakesh Ajmeri, it seems that the goods exported by Mr. Llyod Harridge were of China Origin.

13.4 He perused Panchnama dated 14.06.2022 drawn at office premises of M/s. Universal Marketing, 229/B, Bombay Talkies Compound, Pritam Plastic Gally,

Malad West, Mumbai, Maharashtra-400064 who imported the similar goods from same overseas supplier, M/s Cento Graph, Sri Lanka and incriminating documents were resumed under Panchnama dated 13.06.2022 **(RUD-33 of SCN)**. He was confronted with some evidences/documents resumed from the office premises of M/s. Universal Marketing, which he explained as under:

- Documents available at page no 98 to 117 in Made Up File No. 01 **(RUD-34 of SCN)** were the BoE No. 5964187 dated 23.10.2021 along with supporting documents viz. Commercial Invoice dated 21.10.21, packing list, Certificate of Country of Origin and BL No. EGE21100004-01 dated 20.10.2021 issued by M/s Eagle Global Express (Pvt.) Ltd. for goods i.e. 21 pallets of CTP Digital Offset Plates having gross weight 22492 Kgs. imported by M/s. Universal Marketing. Further, on perusal of the said BL No. EGE21100004-01 dated 20.10.2021 issued by M/s Eagle Global Express (Pvt.) Ltd., it appeared that said goods i.e. 21 pallets of CTP Digital Offset Plates were loaded in container no. CAXU6270882 from Colombo and supplied by overseas supplier, M/s. Cento Graph, Sri Lanka.
- Documents available at page no 79 to 92 in Made Up File No. 01 **(RUD-35 of SCN)** were the BoE No. 5965146 dated 23.10.2021 along with supporting documents viz. Commercial Invoice dated 21.10.21, packing list, Certificate of Country of Origin and BL No. EGE21100004-02 dated 20.10.2021 issued by M/s Eagle Global Express (Pvt.) Ltd. for goods i.e. 24 pallets of CTP Digital Offset Plates having gross weight 23294 Kgs. imported by M/s. Universal Marketing. Further, on perusal of the said BL No. EGE21100004-02 dated 20.10.2021 issued by M/s Eagle Global Express (Pvt.) Ltd., it appeared that said goods i.e. 24 pallets of CTP Digital Offset Plates were loaded in container no. IALU2273475 from Colombo and supplied by overseas supplier, M/s. Cento Graph, Sri Lanka

13.5 He perused the printout of mail received on 19.08.2022 at 08.30PM from M/s Efficient Marine Services LLP, Mumbai from their mail id mumops1@efficientmarine.com to the office of DRI Ahmedabad at mail id driazu@nic.in wherein various documents viz. Bill of landing issued by shipping lines, M/s Ceyserv Line, HBL issued by forwarder, M/s Eagle Global Express (Pvt.) Ltd., Marine Cargo Specific Voyage Policy and other documents submitted to Customs, Sri Lanka for change of containers at Colombo, which were received from Shanghai along with Sri Lanka port authority documents etc. related to export of goods by M/s Cento Graph, Sri Lanka to M/s Universal Marketing, Mumbai were forwarded by M/s Efficient Marine Services LLP, Mumbai which are serial numbered from 01 to 30 **(RUD-19 of SCN)**, which he explained as under:

- Document available at page no Page no. 28 **(RUD-19A of SCN)** was the BL No. EGE21100004-01 dated 20.10.2021 issued by M/s Eagle Global Express (Pvt.) Ltd. for transportation of container no. CAXU6270882 loaded with 21 pallets of CTP Digital Offset Plates having gross weight 22492 Kgs. from Colombo and supplied by overseas supplier, M/s. Cento Graph, Sri Lanka to deliver to M/s Universal Marketing, Mumbai at Nhava Sheva port.
- Documents available at Page no. 21 **(RUD-19B of SCN)** was the MBL No. RVHCMBNSA1221 dated 20.10.2021 issued by M/s Ceyserv Line for transportation of container no. CAXU6270882 loaded with 21 pallets of CTP Digital Offset Plates having gross weight 22492 Kgs. from Colombo to Nhava Sheva.

- Documents available at page no. 18 (**RUD-19C of SCN**) was the application given to the Director General of Customs, Sri Lanka Customs, Colombo by M/s Eagle Global Express (Pvt.) Ltd. for rework of container for Shipping Liner Change (TRANSHIPMENT TWO WAY SPECIAL OPERATION) Full T/S Container no. SEGU1585959 loaded with 21 pallets having 22492 Kgs of Weight. In the said application, M/s Eagle Global Express (Pvt.) Ltd. informed to the Customs Sri Lanka that shipment originated from Shanghai, China and destined to Nhava Sheva, India. As there were no immediate connecting vessel services available from Colombo to India on current Shipping line, the shipment will be reworked in Colombo and stuffed into container service that offers an immediate service to Nhava Sheva, India. They also mention their plan to ship that container on Vessel: Ever Unity, Voy No. W179, ETA CMB: 15.10.2021 & Export container no. CAXU6270882 and requested to grant permission to re-work the above said transshipment container at SLPA BQ Warehouse under customs supervision. Further, they also submitted that re-work empty container no. CAXU6270882 will be brought from the outside of the port premises into the BQ Warehouse by their transporter.
- Documents available at page no. 15 to 17 (**RUD-19D of SCN**) were the application given to the Director General of Customs, Sri Lanka Customs, Colombo by M/s Eagle Global Express (Pvt.) Ltd. along with another Sri Lanka port documents for bringing empty container no. CAXU6270882 for transshipment rework operation and de-stuffing of container no. SEGU1585959 and stuffing of container no. CAXU6270882.
- He stated that on being perusal of all the above documents, it appeared that 21 pallets of CTP Digital Offset Plates having gross weight 22492 Kgs initially loaded in container no. SEGU1585959 were loaded from Shanghai, China were unloaded at Colombo from the said container and stuffed in container no. CAXU6270882 were again exported to India from Colombo. He agreed that 21 pallets of CTP Digital Offset Plates having gross weight 22492 Kgs. were loaded from Shanghai, China and arrived at Nhava Sheva via container no. CAXU627088 and same were cleared by M/s Universal Marketing vide BoE No. 5964187 dated 23.10.2021.
- Similarly, he perused the documents available at page no. 01 to 14 (**RUD-19E of SCN**) and find that documents were the application given to the Director General of Customs, Sri Lanka Customs, Colombo by M/s Eagle Global Express (Pvt.) Ltd. along with another Sri Lanka port documents for bringing empty container no. IALU2273475 for transshipment rework operation and de-stuffing of container no. TCKU1252224 and stuffing of container no. IALU2273475. He stated that on being perusal of all the above documents, it appeared that 24 pallets of CTP Digital Offset Plates having gross weight 23294 Kgs. initially loaded in container no. TCKU1252224 were loaded from Shanghai, China were unloaded at Colombo from the said container and stuffed in container no. IALU2273475 were again exported to India from Colombo. The said 24 pallets of CTP Digital Offset Plates having gross weight 23294 Kgs. were loaded from Shanghai, China which arrived at Nhava Sheva via container no. IALU2273475 were cleared by M/s Universal Marketing vide BoE No. 5965146 dated 23.10.2021. He stated that as per the documents submitted by M/s Efficient Marine Services LLP, the goods i.e. Digital Plates supplied by M/s. Cento Graph, Sri Lanka were imported from china by M/s. Cento Graph, Sri Lanka and further

exported to India. He agreed that Digital Plates supplied by M/s. Cento Graph, Sri Lanka were manufactured in China.

13.6 He perused both the letters F.No. DRI/CZU/VII/26/180/2022 dated 16.12.2022 (**RUD-24 of SCN**) and letter F.No. DRI/CZU/VIII/26/180/2022 dated 28.02.2023 (**RUD-26 of SCN**) received from the Assistant Director, Directorate of Revenue Intelligence, Chennai, wherein letter reference CIU/DRI/DRI/20/2022 dated 25.11.2022 (**RUD-25 of SCN**) and CIU/DRI/DRI/20(2)/2022 dated 30.12.2022 (**RUD-27 of SCN**) of the Director General of Customs, Central Intelligence Directorate, Sri Lanka Customs, Colombo 11, Sri Lanka was forwarded and stated that on being perusal of the letter received from Sri Lanka Customs, he found that Director General of Customs, Central Intelligence Directorate, Sri Lanka Customs has mentioned that they initiated investigation against the company, M/s Cento Graph, Sri Lanka and observed that the exporter, M/s Cento Graph, Sri Lanka is importing containers from China and reworking the containers in Colombo to ship the same to India. Further, Sri Lanka Customs has also forwarded the True copies of documents viz. Proforma Invoice, Country of Origin Certificate, Inward and Outward Bills of lading & copies of the applications made by M/s Worldgate Express Lines Lanka Pvt. Ltd. to the Sri Lanka Customs for rework of containers. He perused all the documents viz. Proforma Invoice, Country of Origin Certificate, Inward and Outward Bills of lading as well as copies of the applications made by M/s Worldgate Express Lines Lanka Pvt. Ltd. to the Sri Lanka Customs for rework of containers. He stated that CTCP Digital Double Layer imported from M/s Cento Graph, Sri Lanka were initially imported by M/s Cento Graph from China and then exported to India. He agreed that goods i.e. CTCP Digital Double Layer imported by M/s. PSRA Graphics India Private Limited from M/s Cento Graph, Sri Lanka were of Chinese origin and same were routed through Sri Lanka to evade payment of Anti-dumping duty.

13.7 He perused the Notification No. 2/2020-Customs (ADD) dated 30.01.2020 and Notification No. 21/2020-Customs (ADD) dated 29.07.2020 issued by the CBEC, New Delhi vide which anti dumping duty was levied on the import of Digital Offset Printing Plates imported from China, Vietnam, Korea, Japan and Taiwan and stated that as per the Notification No. 21/2020-Customs (ADD) dated 29.07.2020 serial number 06 Anti dumping duty of @ 0.77 USD per square metre was applicable in their case as the country of origin was China and Country of Export was Sri Lanka.

13.8 He stated that they have also imported goods i.e. Digital Plates from M/s. Cento Graph, Sri Lanka and as per practice of Mr. Llyod Harridge, the goods supplied to them were also Chinese origin manufactured in China. He stated that since the goods i.e. CTCP Digital Double Layer imported by M/s. PSRA Graphics India Pvt. Ltd. were Chinese origin, the Anti-dumping duty @ 0.57 USD per square metre as per Notification No. 02/2020-Customs (ADD) dated 30.01.2020 and Anti-dumping duty @ 0.77 USD per square metre as Notification No. 21/2020-Customs (ADD) dated 29.07.2020 issued by the CBEC, New Delhi was leviable on the same but M/s. PSRA Graphics India Pvt. Ltd. had not paid the applicable Anti-dumping duty on the import of CTCP Digital Double Layer.

13.9 He perused the statement of dated 05.01.2023 of Shri Tara Chand Aggarwal, Proprietor of M/s ACM Chemicals, Delhi and and stated that he had also arranged import of Offset Printing Plates/CTCP Plates for M/s ACM Chemicals, Delhi through his firm, M/s PSRA Graphics India Private Limited as a broker and Charge Rs. 3 per Sqm in addition to all landing cost including duty & other charges. He stated that

Shri Tara Chand Aggarwal knew Mr. Llyod Harridge, owner of M/s Cento Graph, Sri Lanka and personally called to Mr. Llyod Harridge to negotiate rates of CTCP Plates; that Shri Tara Chand Aggarwal have advance payments and he had arranged import of 9 containers of CTCP Plates to M/s ACM Chemicals.

13.10 He perused the statement dated 11.04.2023 of Shri Jayant Pardiwala, Proprietor of M/s Nippon Color, Mumbai and stated that he had also arranged import Offset Printing Plates/CTCP Plates for M/s Nippon Colors, Mumbai through his firm, M/s PSRA Graphics India Private Limited on commission basis. He stated that Mr. Llyod Harridge gave him the contact no. of Shri Jayant Pardiwala, owner of M/s Nippon Colors, Mumbai and told that he also wanted Offset Printing Plates/CTCP Plates; that he called Shri Jayant Pardiwala and negotiate the business terms & conditions and arranged import through his firm, M/s PSRA Graphics India Private Limited and Charge Rs. 2 per Sqm in addition to all landing cost including duty & other charges and advance payment for import. He stated that Shri Jayant Pardiwala also knew Mr. Llyod Harridge, owner of M/s Cento Graph, Sri Lanka, he personally called to Mr. Llyod Harridge to negotiate rates of CTCP Plates; that they imported around 09 containers of CTCP Plates from M/s Cento Graph, Sri Lanka as per purchase order given by M/s Nippon Colors.

13.11 He perused the statement dated 07.02.2023 of Shri Vikas Vadhawan, Proprietor of M/s. Suman Graphics, Delhi and stated that he had arranged import of Offset Printing Plates/CTCP Plates for M/s Suman Graphic, Delhi through his firm, M/s PSRA Graphics India Private Limited as a broker and Charge Rs. 2.5 per Sqm in addition to all landing cost including duty & other charges and advance payment for import. He stated that Mr. Llyod Harridge gave him reference of Shri Vicky Vadhwan, who was owner of M/s Suman Graphic, Delhi and told that he require Offset Printing Plates/CTCP Plates; that he negotiate the business terms & conditions regarding business of Offset Printing Plates/CTCP Plates with Shri Vicky Vadhwan; that Shri Vicky Vadhwan also knew Mr. Llyod Harridge, owner of M/s Cento Graph, Sri Lanka and he personally called to Mr. Llyod Harridge to negotiate rates of CTCP Plates and used to give orders directly to Mr. Llyod Harridge; that his role was to arrange import of Offset Digital Printing Plates through his company, M/s. PSRA Graphics India Pvt. Ltd.

13.12 He stated that financial condition of their buyers viz. M/s ACM Chemicals, Delhi, M/s Nippon Colors, Mumbai and M/s Suman Graphics, Delhi were very healthy/strong and well settled in the market; that M/s ACM Chemicals, M/s Nippon Colors and M/s Suman Graphics were well aware of the imposition of Anti dumping duty but they had misused them for the purpose of evasion of Anti dumping duty and created a layer to hide themselves; that M/s PSRA Graphics India Pvt. Ltd was not having warehousing facilities and all the goods were directly sold and supplied to the buyer from the port only.

MODUS OPERANDI ADOPTED FOR EVASION OF ANTI-DUMPING DUTY:

14.1 In view of the evidence and facts discussed in the foregoing paras, it appeared that 'M/s PSRA' had imported Digital Offset Printing Plates/ CTCP Digital Printing Double Layer Plates falling under CTH 84425090 of Chinese Origin by routing through Sri Lanka based company, M/s Cento Graph to evade Anti Dumping duty leviable on import of Digital Offset Printing Plates produced by China based manufacturer as per Notification No. 02/2020-Customs (ADD) dated 30.01.2020 and Notification No. 21/2020-Customs (ADD) dated 29.07.2020. The goods namely, Digital Offset Printing Plates/ CTCP Digital Printing Double Layer Plates imported

by 'M/s PSRA' were produced by China based manufacturer which attracts Anti-dumping duty @ 0.57 USD per SQM with effective from 30.01.2020 as per Notification No. 02/2020-Customs (ADD) dated 30.01.2020. Further, the said Anti-dumping duty was enhanced from @ 0.57 USD per SQM to @ 0.77 USD per SQM on the goods i.e. Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates of Chinese Origin produced by any producer, exported from any other countries other than People's Republic of China and imported into India by Notification No. 21/2020-Customs (ADD) dated 29.07.2020 effective from 29.07.2020 for a period of five years. However, the importer was claiming the goods were of Spanish Origin, imported from M/s Cento Graph, Sri Lanka which does not attract Anti-dumping duty.

14.2 Shri Rakesh Kumar Chauhan of M/s PSRA Graphics India Pvt. Ltd., New Delhi negotiated business deal with Mr. Llyod Harridge owner of M/s Cento Graph, Sri Lanka according to which, Mr. Llyod Harridge would supply the goods i.e. Digital Offset Printing Plates/ CTCP Digital Printing Double Layer Plates under the invoice of his company, M/s Cento Graph, Sri Lanka and the goods would be imported through, 'M/s PSRA' and same would be sold to buyer in India. Mr. Llyod Harridge also arranged buyer of goods in India to Shri Rakesh Kumar Chauhan and the goods were sold to the said buyers viz. M/s. Nippon Colour, M/s. ACM Chemicals & M/s. Suman Graphics. Shri Rakesh Kumar Chauhan got Rs. 2 per Sqm in addition to all landing cost including duty & other charges.

14.3 Buyers viz. M/s. Nippon Colour, M/s. ACM Chemicals & M/s. Suman Graphics placed purchase order/verbal order to Shri Rakesh Kumar Chauhan of M/s PSRA Graphics India Pvt. Ltd. who in turn forwarded the Performa invoice issued by M/s. Cento Graph for supply of CTCP Digital Double Layer plates to these buyers. As per the Performa Invoice, buyers used to send some advance payment to 'M/s PSRA'. As soon as 'M/s PSRA' received the payment, they further paid to M/s. Cento Graph, Sri Lanka. The remaining payment was given to 'M/s PSRA' by all the respective buyers, once the goods were delivered to them and the same was paid to M/s. Cento Graph, Sri Lanka by 'M/s PSRA'.

14.4 As per the order placed by 'M/s PSRA', M/s. Cento Graph, Sri Lanka purchased the goods from China based manufacturer, loaded it in containers from Shanghai, China and brought to Colombo, Sri Lanka. After the goods reached at Colombo, they were unloaded at Colombo from the said containers. Thereafter, the same goods were then stuffed in another container and exported to India from Colombo. M/s Worldgate Express Lines Lanka Pvt. Ltd., a forwarder at Sri Lanka gave an application to the Director General of Customs, Sri Lanka Customs, Colombo for permission to carry out transshipment operation inside BQ warehouse. In the said application, M/s Worldgate Express Lines Lanka Pvt. Ltd., a forwarder based in Sri Lanka informed to the Customs Sri Lanka that shipments originated from Shanghai, China and was destined to India. As there were no immediate connecting vessel services available from Colombo to India on current Shipping line, the shipment will be reworked in Colombo and stuffed into container service that offers an immediate service to India. They also mentioned their plan to ship that container on Vessel to Export container and requested to grant permission to re-work the above said transshipment container at SLPA BQ Warehouse under customs supervision. Further, they also submitted that for re-work empty container will be brought from the outside of the port premises into the BQ Warehouse by their transporter.

14.5 In the manner discussed herein above, the goods i.e. Digital Plates supplied by M/s. Cento Graph, Sri Lanka were manufactured in China and imported from China by M/s. Cento Graph, Sri Lanka and further exported to India. Shri Rakesh Kumar Chauhan of M/s. PSRA Graphics India Private Limited, Shri Jayant Ramesh Pardiwala, Proprietor of M/s. Nippon Color, Shri Tara Chand Aggarwal, Proprietor of M/s. ACM Chemicals and Shri Vikas Vadhawan, Proprietor of M/s. Suman Graphics in connivance with Mr. Llyod Harridge of overseas suppliers, M/s. Cento Graph, Sri Lanka had evaded the Anti-dumping duty due to the Government Exchequer by way of importing Digital Offset Printing Plates/CTCP Digital Double Layer plates of Chinese Origin by routing through Sri Lanka.

14.6 From facts as emerged herein above, it appeared that M/s. Nippon Colour, M/s. ACM Chemicals & M/s. Suman Graphics were the actual beneficial owners of the goods i.e. Digital Offset Printing Plates imported through 'M/s PSRA'. All the goods were imported by 'M/s PSRA' as per order placed/given by M/s. Nippon Colour, M/s. ACM Chemicals & M/s. Suman Graphics as well as total amount given in advance by M/s. Nippon Colour, M/s. ACM Chemicals & M/s. Suman Graphics. All the landing cost of goods was given by respective buyers viz. M/s. Nippon Colour, M/s. ACM Chemicals & M/s. Suman Graphics to Rakesh Kumar Chauhan of 'M/s PSRA'. In all these transactions, Shri Rakesh Kumar Chauhan of 'M/s PSRA' used to get Rs. 2 per Sqm as commission only. M/s. Nippon Colour, M/s. ACM Chemicals & M/s. Suman Graphics being the beneficial owners of the goods as discussed herein above, also thus appeared to qualify as the 'importer' in terms of Section 2(26) of the Customs Act, 1962.

DISCUSSION OF THE EVIDENCES:

15. Anti-dumping duty was imposed on 'Digital Offset Printing Plates', originating in, or exported from, People's Republic of China, Japan, Korea RP, Taiwan and Vietnam vide Notification No. 02/2020-Customs (ADD) dated 30.01.2020 and Notification No. 21/2020-Cus(ADD) dated 29.07.2020. From the facts narrated in the foregoing paras and the material evidence as gathered during the course of investigations, it transpires that 'M/s PSRA' had imported Digital Offset Printing Plates/ CTCP Digital Printing Double Layer Plates from the manufacturers based in China, which is evident from the following evidences on record:-

15.1 The printout of the email correspondences held between Shri Rakesh Kumar Chauhan, Mr. Jack of China, Mr. Lloyd Harridge of M/s. Cento Graph and one of the buyer, M/s ACM Chemicals from 04.10.2021 to 09.12.2021 available at page no. 05 to 09 (**RUD-14 of SCN /EXHIBIT-10**) of Made up File No.4 resumed during search in the premises of M/s PSRA Graphics India Pvt. Ltd. under Panchnama dated 13.06.2022. The said mail correspondences were regarding complaint raised by buyer, M/s. ACM Chemicals. In the said emails, Mr. Jack of China informed Mr. Lloyd Harridge of M/s. Cento Graph that after proof and report sending, factory will organize a meeting to discuss and then decide how to make solution to solve problem. Accordingly, Mr. Lloyd Harridge of M/s. Cento Graph also inform the buyer that send the stock of plates with photo (picture) of plates have problem. They will send to Mr. Jack and get the factory to look into the matter and make report on the issue. Thus, it clearly appeared that goods exported to India by Mr. Lloyd Harridge of M/s. Cento Graph, Sri Lanka were manufactured in China and same were arranged by Mr. Jack.

15.2 The printout of the email sent by Shri Rakesh Kumar Chauhan on 09.12.2021 at 11:49 hrs to Mr Jack at 877120433@QQ.com with CC to M/s. Cento

Graph available at page no. 10 **(RUD-15 of SCN /EXHIBIT-11)** of Made up File No.4 resumed during search in the premises of M/s PSRA Graphics India Pvt., wherein Shri Rakesh Kumar Chauhan informed Mr Jack of China that the complaint of the customer regarding quality of the plates was genuine, therefore it appeared that goods were supplied by Mr Jack of China and same were manufacture in China.

15.3 The printout of the email sent by one buyer, M/s. N N Graphics at centograph@yahoo.com on 01.06.2017 at 9:42 AM available at page number 05 **(RUD-17 of SCN /EXHIBIT-12)** of documents, which were taken by Shri Rakesh Kumar Chauhan from his mail Id rakesh_chauhan74@yahoo.co.in and submitted during his statement dated 24.08.2022, wherein M/s. N N Graphics stated that in PI M/s. Cento Graph had mentioned country of origin China which was not acceptable as it would attract antidumping duty. Thus, it appeared that goods supplied by M/s. Cento Graph were Chinese origin.

15.4 P.I. NO: NN Graphics201705/002 dated 01.06.2017 available at page number 09 **(RUD-18 of SCN /EXHIBIT-13)** of documents, which were taken by Shri Rakesh Kumar Chauhan from his mail Id rakesh_chauhan74@yahoo.co.in and submitted during his statement dated 24.08.2022. In the said P.I., the country of origin was mentioned as China for the goods supplied as Plates to M/s. N N Graphics. Shri Rakesh Kumar Chauhan also admitted that goods supplied by M/s. Cento Graph were Chinese origin.

15.5 A letter reference CIU/DRI/DRI/20/2022 dated 25.11.2022 **(RUD-25 of SCN/EXHIBIT-18)** received from the Director General of Customs, Central Intelligence Directorate, Sri Lanka Customs, Colombo 11, Sri Lanka wherein it is clearly mentioned that the Director General of Customs, Central Intelligence Directorate, Sri Lanka Customs has initiated investigation against the company, M/s Cento Graph, Sri Lanka and observed that the exporter, M/s Cento Graph, Sri Lanka is importing containers from China and rework the containers in Colombo to ship the same to India.

15.6 Sri Lanka Customs vide letter reference CIU/DRI/DRI/20(2)/2022 dated 30.12.2022 **(RUD-27 of SCN)** has also forwarded the True copies of documents viz. Proforma Invoice, Country of Origin Certificate, Inward and Outward Bills of lading & copies of the applications made by M/s Worldgate Express Lines Lanka Pvt. Ltd. to the Sri Lanka Customs for rework of containers. On scrutiny of the documents/reports received from the Director General of Customs, Central Intelligence Directorate, Sri Lanka Customs, Colombo 11, Sri Lanka, it appeared that container with goods loaded from Shanghai, China arrived in Sri Lanka. Thereafter, M/s Worldgate Express Lines Lanka Pvt. Ltd., a forwarder based in Sri Lanka gave an application to the Director General of Customs, Sri Lanka Customs, Colombo for permission to carry out transshipment operation inside BQ warehouse. They also obtained permission for bringing empty container for transshipment rework operation. The container with goods loaded in China were de-stuffed and stuffed into another empty container at Sri Lankan Warehouse and exported to India from Colombo. As per the documents /reports received from Sri Lanka Customs, it appeared that the goods i.e. Digital Plates supplied by M/s. Cento Graph, Sri Lanka were manufactured in China and imported from china by M/s Cento Graph, Sri Lanka and further exported to India. Thus, the goods i.e. CTCP Digital Double Layer imported by 'M/s PSRA' from M/s Cento Graph, Sri Lanka were of Chinese origin and same were routed through Sri Lanka to evade payment of Anti-dumping duty. Shri Rakesh Kumar Chauhan, Director of 'M/s PSRA' has also admitted during his statement recorded on 25.08.2022 under Section 108 of the Customs Act,1962 that

he was also importing the same material i.e. CTCP Digital Printing Double Layer Plate from M/s Cento Graph, Sri Lanka and not paying Anti Dumping duty.

Corroborating evidences also found during search in the office premises of M/s Mahalaxmi Textiles as well as in the mobile phone of Shri Rakesh Ajmeri, Proprietor of M/s Mahalaxmi Textiles, wherein Shri Rakesh Kumar Chauhan, Director of 'M/s PSRA' arranged the imported goods as broker and documents received from Shipping Lines in case of M/s Universal Marketing, the other importer of similar goods from same overseas supplier:

16.1 The Performa Invoice No CG1021-22 dated 06.12.2021 (**RUD-04 of SCN / EXHIBIT-1**) issued by M/s. Lucky Huaguang Graphics Co. Ltd to M/s. Cento Graph, Sri Lanka and Performa Invoice no CG01021-22ctcp10 dated 30.01.2022 (**RUD-05 of SCN/EXHIBIT-2**) issued by M/s. Cento Graph, Sri Lanka to M/s. Mahalaxmi Textiles found during search in the premises of M/s. Mahalaxmi Textiles, it appeared that quantity/measurement i.e. 64500 Pc/sheets having 29131.72 Sq Mt of Digital Offset UV CTCP Plates mentioned in both the Performa invoices are correctly matched and in same order. Thus, it appeared that goods supplied by M/s. Cento Graph, Sri Lanka to M/s Mahalaxmi Textiles vide Performa Invoice no CG01021-22ctcp10 dated 30.01.2022 were initially purchased by M/s. Cento Graph, Sri Lanka from M/s Lucky Huaguang Graphics Co. Ltd, China vide Performa Invoice No CG1021-22 dated 06.12.2021 and same were exported to M/s Mahalaxmi Textiles, Surat. Thus, it appeared that goods exported by M/s. Cento Graph, Sri Lanka to Indian importers were of China Origin and originally supplied by M/s. Lucky Huaguang Graphics Co. Ltd., China.

16.2 The Commercial Invoice No CG00321-22 dated 04.08.2021 (**RUD-06 of SCN /EXHIBIT-3**) issued by M/s. Lucky Huaguang Graphics Co. Ltd to M/s. Cento Graph, Sri Lanka and Commercial Invoice no CG00321ctcp-violet03 dated 15.11.2021 (**RUD-07 of SCN/EXHIBIT-4**) issued by M/s. Cento Graph, Sri Lanka to M/s. Mahalaxmi Textiles found during search in the premises of M/s Mahalaxmi Textiles, it appeared that quantity /measurement i.e. 73,500 Pcs/sheets having 28574.79 Sq Mt of Digital Printing PPVG Violet Plates and Digital Offset UV CTCP Plates mentioned in both the Commercial Invoice are correctly matched and in same order. Thus, it appeared that goods supplied by M/s. Cento graph, Sri Lanka to M/s Mahalaxmi Textiles vide Commercial Invoice no CG00321ctcp-violet03 dated 15.11.2021 were initially purchased by M/s. Cento Graph, Sri Lanka from M/s Lucky Huaguang Graphics Co. Ltd, China vide Commercial Invoice No CG00321-22 dated 04.08.2021 and same were exported to M/s Mahalaxmi Textiles, Surat. Thus, it appeared that goods exported by M/s. Cento Graph, Sri Lanka to Indian importers were of China Origin and originally supplied by M/s. Lucky Huaguang Graphics Co. Ltd., China.

16.3 The screenshot of the WhatsApp chat held at 04:03 PM dated 29.06.2019 (**RUD-09 of SCN /EXHIBIT-5**) between Shri Rakesh Ajmeri, Proprietor of 'M/s Mahalaxmi Textiles and Mr. Llyod Harridge of M/s. Cento Graph, Sri Lanka, clearly shows that Mr. Llyod Harridge sent a message to Shri Rakesh Ajmeri that "if i do not change DO you might get custom duty and pay high cost if DO is China" that means Mr. Llyod Harridge informed to Shri Rakesh Ajmeri that the goods were of China origin and if he has to save the customs duty, the goods have to be shown as of Sri Lanka origin.

16.4 As per the photos of the packing list of goods sent by Mr. Llyod Harridge to Shri Rakesh Ajmeri, Proprietor of M/s Mahalaxmi Textiles during WhatsApp chat at

02:56 PM on 11.11.2021 **(RUD-10 of SCN/EXHIBIT-6)**, it appeared that Packing list was issued by Chinese Firm for goods “Digital Offset UV-CTCP Plates”. Shri Rakesh Ajmeri in his statement also admitted that at one instance he found some discrepancy in the packing list of the goods imported from M/s Cento Graph, Sri Lanka so he contacted Mr. Llyod Harridge for the clarification of the same, in turn Mr. Llyod Harridge sent him the packing list to tally the size and total quantity. He stated that the packing list sent by Mr. Llyod Harridge was the packing list which was sent to M/s Cento Graph, Sri Lanka by a Chinese firm.

16.5 The photos of the Commercial Invoice raised by M/s. Lucky Huaguang Graphics Co. Ltd, China to M/s Cento Graph, Sri Lanka for the product “Digital Printing PPVG Violet Plates and Digital Offset UV-CTCP Plates” was sent by Mr. Llyod Harridge to Shri Rakesh Ajmeri, Proprietor of M/s Mahalaxmi Textiles on WhatsApp on 05:07 PM dated 25.10.2021 **(RUD-11 of SCN/EXHIBIT-7)**. On perusal of the said photo, it appeared that Commercial Invoice issued by M/s. Lucky Huaguang Graphics Co. Ltd, China to M/s Cento Graph, Sri Lanka was for the product “Digital Printing PPVG Violet Plates and Digital Offset UV-CTCP Plates”. Shri Rakesh Ajmeri in his statement also admitted that at one instance he found some discrepancy in the packing list and invoice of the goods imported from M/s Cento Graph, Sri Lanka so he contacted Mr. Llyod Harridge for the clarification of the same, for which Mr. Llyod Harridge sent him the said invoice of Chinese firm to tally the same. He agreed that the goods exported by Mr. Llyod Harridge to his firm were of China Origin.

16.6 The WhatsApp chat held at 3.24PM between Shri Rakesh Ajmeri, Proprietor of M/s Mahalaxmi Textiles and Mr. Llyod Harridge of M/s. Cento Graph, Sri Lanka **(RUD-13A of SCN/EXHIBIT-8)** was recovered from the mobile phone of Shri Rakesh Ajmeri at Cyber Forensic Laboratory, Directorate of Revenue Intelligence, Mumbai, which was submitted by Shri Rakesh Ajmeri under statement dated 13.06.2022. On perusal of the said chat, it appeared that Mr. Llyod Harridge had sent a message to Shri Rakesh Ajmeri that “A very good evening jayesh the is your new ctcp Plate order we will have to change containers in Sri Lanka to get DO from Sri Lanka the is the same we did with Nn graphics please confirm your order for me to book shipping with agent”. Thus, it appeared that Mr. Llyod Harridge used to change containers in Sri Lanka to get DO from Sri Lanka to evade Anti Dumping duty.

16.7 The WhatsApp chat held on 01.07.2019 at 7:04 AM between Shri Rakesh Ajmeri, Proprietor of M/s Mahalaxmi Textiles and Mr. Llyod Harridge of M/s. Cento Graph, Sri Lanka **(RUD-13B of SCN/EXHIBIT-9)** was recovered from the mobile phone of Shri Rakesh Ajmeri at Cyber Forensic Laboratory, Directorate of Revenue Intelligence, Mumbai, which was submitted by Shri Rakesh Ajmeri under statement dated 13.06.2022. On perusal of the said chat, it appeared that Mr. Llyod Harridge had sent a message to Shri Rakesh Ajmeri that “we must change all containers in Sri Lanka to new container as I was doing before or we Cento Graph can also be put under pressure by Indian Customs. So from the day we will change container documents DO all in Sri Lanka and ship as new shipment please advise the to Jayesh also. Thanks Llyod.” Thus, it appeared that Mr. Llyod Harridge used to change containers in Sri Lanka to get DO from Sri Lanka to evade Anti Dumping duty.

16.8 Application given by M/s Eagle Global Express (Pvt.) Ltd. to the Director General of Customs, Sri Lanka for rework of container for Shipping Liner Change **(RUD-19C of SCN/EXHIBIT-16)**, along with another Sri Lanka port documents for bringing empty container for transshipment rework operation and de-stuffing of container imported from China and stuffing of goods in empty container at Sri

Lankan Warehouse (**RUD-19D of SCN/EXHIBIT-17**) which was received from the shipping line, M/s Efficient Marine Services LLP related to the past import of CTCP Digital Printing Double Layer Plate by another importer, M/s Universal Marketing from the same supplier in Sri Lanka i.e. M/s Cento Graph, Sri Lanka. As per the above documents, it appeared that 21 pallets of CTP Digital Offset Plates having gross weight 22492 Kgs loaded in container no. SEGU1585959 were loaded from Shanghai, China were unloaded at Colombo from the said container and stuffed in container no. CAXU6270882 and exported to India from Colombo. The said goods i.e. 21 pallets of CTP Digital Offset Plates having gross weight 22492 Kgs were loaded from Shanghai, China and arrived at Nhava Sheva via container no. CAXU627088 and same were cleared by M/s. Universal Marketing vide BoE No. 5964187 dated 23.10.2021.

16.9 On scrutiny of the documents submitted by Shipping Line, M/s Efficient Marine Services LLP, Mumbai (**RUD-19 of SCN**), it appeared that initially goods were loaded in containers from Shanghai, China were unloaded at Colombo from the said containers. Thereafter, the same goods were then stuffed in other containers and exported to India from Colombo. M/s Eagle Global Express (Pvt.) Ltd. a forwarder at Sri Lanka gave an application to the Director General of Customs, Sri Lanka Customs, Colombo for rework of container for Shipping Liner Change (TRANSHIPMENT TWO WAY SPECIAL OPERATION). In the said application, M/s Eagle Global Express (Pvt.) Ltd., a forwarder based in Sri Lanka informed to the Customs Sri Lanka that shipment originated from Shanghai, China and was destined to Nhava Sheva, India. As there were no immediate connecting vessel services available from Colombo to India on current Shipping line, the shipment will be reworked in Colombo and stuffed into container service that offers an immediate service to Nhava Sheva, India. They also mentioned their plan to ship that container on Vessel: Ever Unity, Voy No. W179, ETA CMB: 15.10.2021 & Export container and requested to grant permission to re-work the above said transshipment container at SLPA BQ Warehouse under customs supervision. Further, they also submitted that for re-work, empty container will be brought from the outside of the port premises into the BQ Warehouse by their transporter. Thus, as per the documents submitted by M/s Efficient Marine Services LLP, it appeared that the goods i.e. Digital Plates supplied by M/s. Cento Graph, Sri Lanka to Indian importers were manufactured in China and imported from china by M/s. Cento Graph, Sri Lanka and further exported to India.

16.10. Shri Rakesh Ajmeri, Proprietor of M/s Mahalaxmi Textiles has admitted in his statements dated 13.06.2023 & 23.08.2022 recorded under Section 108 of Customs Act, 1962 that at one instance, Mr. Llyod Harridge sent the said Performa Invoice & Commercial Invoices issued by M/s Lucky Huaguang Graphics Co. Ltd., China in the name of M/s. Cento Graph, Sri Lanka for supply of Digital Printing PPVG Violet Plates and Digital Offset UV CTCP Plates and same goods were exported by M/s. Cento Graph, Sri Lanka to M/s Mahalaxmi Textiles, Surat. Shri Rakesh Ajmeri stated that they had imported CTCP Digital Double Layer Plates from M/s Cento Graph, Sri Lanka through a broker, Shri Rakesh Kumar Chauhan of M/s. PSRA Graphics India Pvt. Ltd. He stated that Shri Rakesh Kumar Chauhan arranged all sales, purchase and import of goods. He also admitted that as per the Performa Invoice & Commercial Invoices issued by Chinese based firm, the goods exported by Mr. Llyod Harridge were of China Origin and originally supplied by M/s. Lucky Huaguang Graphics Co. Ltd., China.

16.11. Shri Santosh Chavan, Branch Manager of M/s Worldgate Express Lines International Pvt. Ltd. (Forwarder) has admitted in his statement dated 23.05.2023 recorded under Section 108 of Customs Act, 1962 that the containers have been changed at Colombo on the basis of applications made by their overseas counterpart before the Sri Lanka Customs to grant permission to destuff the goods i.e. CTCP Digital Double Layer printing plates from a container meant for transshipment to India and load the same in a different container in BQ warehouse. He agreed that as per letter of the Director of Customs, Central Intelligence Directorate, Sri Lanka Customs, Colombo, the loading port for the containers was Chinese port and the goods i.e. CTCP Digital Double Layer were imported by M/s Cento Graph from China and then exported to India. He agreed that the goods i.e. CTCP Digital Double Layer imported by Indian importers M/s Cento Graph, Sri Lanka were of Chinese origin and same were routed through Sri Lanka.

16.12. Shri Tara Chand Aggarwal, Proprietor of M/s ACM Chemicals (Buyer of goods) has admitted in his statements dated 05.01.2023 & 08.05.2023 recorded under Section 108 of Customs Act, 1962 that during mail correspondence held between Shri Rakesh Kumar Chauhan related to the quality of CTCP digital printing plates, Shri Rakesh Kumar Chauhan send mail to Mr. Jack of China with CC to M/s. Cento Graph & M/s ACM Chemicals regarding complain of customers [because the CTCP Digital printing plates supplied by M/s. Cento Graph, Sri Lanka to M/s PSRA Graphics India Private Limited were originally been supplied by Mr. Jack of China. He admitted that he was aware of the fact that CTCP Digital printing plates arranged by Shri Rakesh Chauhan of M/s PSRA Graphics India Private Limited to them were of Chinese origin and routed through Sri Lanka.](#)

16.13. Shri Jayant Ramesh Pardiwala, Proprietor of M/s Nippon Color (Buyer of goods) has admitted in his statement dated 11.04.2023 recorded under Section 108 of Customs Act, 1962 that as per the documents submitted by M/s Efficient Marine Services LLP, Mumbai and documents/reports received from Sri Lanka Customs, it appeared that initially goods were loaded from Shanghai were transported from China to Sri Lanka. The said goods were unloaded at Colombo and again stuffed in another container and exported to India from Colombo. He agreed that goods i.e. CTCP Digital Double Layer imported by M/s PSRA Graphics India Private Limited from M/s Cento Graph, Sri Lanka were of Chinese origin, which were initially imported by M/s Cento Graph from China and then exported to India.

16.14 Shri Rakesh Kumar Chauhan director of 'M/s PSRA' has admitted in his statements dated 13.06.2022, 24.08.2022, 25.08.2022, 09.01.2023, 10.01.2023 & 27.04.2023 recorded under Section 108 of Customs Act, 1962 that they imported CTCP Digital Double Layer Plates of Chinese origin from M/s. Cento Graph, Sri Lanka. He stated that at one instance, Mr. Llyod Harridge sent the Performa Invoice & Commercial Invoices issued by M/s Lucky Huaguang Graphics Co. Ltd., China in the name of M/s. Cento Graph, Sri Lanka for supply of Digital Printing PPVG Violet Plates and Digital Offset UV CTCP Plates and same goods were exported by M/s. Cento Graph, Sri Lanka to India. He admitted that he was aware of the Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates imported by 'M/s PSRA' were produced/manufactured in China and routed through Mr. Lloyd Harridge of M/s. Cento Graph, Sri Lanka as per the mail correspondences held between Shri Rakesh Kumar Chauhan, Mr. Llyod Harridge and Mr. Jack of China who arranged the goods from Chinese manufacture regarding complain of plates by one of the buyer in India. He admitted that on his instance, packing list and commercial Invoice issued by M/s. Lucky Huaguang Graphics Co. Ltd, China were forwarded by

Mr. Llyod Harridge to Shri Rakesh Ajmeri on his WhatsApp for comparing the goods and Mr. Llyod Harridge also sent message to Shri Rakesh Ajmeri regarding change of containers in Sri Lanka to get DO from Sri Lanka. He admitted that as per the documents submitted by M/s Efficient Marine Services LLP, Mumbai, the Digital plates supplied by M/s. Cento Graph, Sri Lanka were of Chinese origin. He also admitted that as per documents/reports received from Sri Lanka Customs, initially the goods were loaded from Shanghai and transported from China to Sri Lanka. The said goods were unloaded at Colombo and again stuffed in another container and exported to India from Colombo. He agreed that goods i.e. CTCP Digital Double Layer imported by M/s PSRA Graphics India Private Limited from M/s Cento Graph, Sri Lanka were of Chinese origin, which were initially imported by M/s Cento Graph from China and then exported to India, which attract Anti-dumping duty @ 0.57 USD per square metre as per Notification No. 02/2020-Customs (ADD) dated 30.01.2020 and Anti-dumping duty @ 0.77 USD per square metre as Notification No. 21/2020-Customs (ADD) dated 29.07.2020 issued by the CBEC, New Delhi but M/s. PSRA Graphics India Pvt. Ltd. had not paid the applicable Anti-dumping duty on the import of CTCP Digital Double Layer.

17.1 In view of the above, it is clearly evident that Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates imported by 'M/s PSRA' were actually manufactured in China and routed through Sri Lanka to evade Anti Dumping duty. As per the Email correspondences held between Shri Rakesh Kumar Chauhan, Mr. Llyod Harridge and Mr. Jack of China regarding complain of plates by one of the buyer, which were recovered from the officer premises of 'M/s PSRA' and submitted by Rakesh Kumar Chauhan in his statement. It was evident from Performa Invoice/Commercial Invoices issued by M/s. Lucky Huaguang Graphics Co. Ltd., China to M/s. Cento Graph, Sri Lanka found during search in the premises of M/s Mahalaxmi Textiles (the other importer, wherein Shri Rakesh Kumar Chauhan arranged goods as broker), WhatsApp chats found in the mobile of Sh. Rakesh Ajmeri, wherein Packing list & Commercial Invoices issued by Chinese based manufacturer were send by Mr. Llyod Harridge for comparing the goods on the instance of Shri Rakesh Kumar Chauhan and discuss about change of container & DO. It was also evident from documents submitted by Shipping Line, M/s Efficient Marine Services LLP, Mumbai, related to the past import by another importer of CTCP Digital Printing Double Layer Plate from the same supplier in Sri Lanka which includes an application given to the Director General of Customs, Sri Lanka Customs, Colombo by forwarder based in Sri Lanka along with another Sri Lanka port documents for bringing empty container for transshipment rework operation and de-stuffing of container imported from China and stuffing of goods in empty container at Sri Lankan Warehouse and as per the report along with true copies of documents viz. Proforma Invoice, Country of Origin Certificate, Inward and Outward Bills of lading & copies of the applications made by M/s Worldgate Express Lines Lanka Pvt. Ltd. overseas counterpart of M/s Worldgate Express Lines International Pvt. Ltd to the Sri Lanka Customs for rework of containers received from the overseas country vide letter reference CIU/DRI/DRI/20/2022 dated 25.11.2022 and CIU/DRI/DRI/20(2) /2022 dated 30.12.2022 of the Director General of Customs, Central Intelligence Directorate, Sri Lanka Customs, Colombo 11, Sri Lanka wherein it is clearly mentioned that the Director General of Customs, Central Intelligence Directorate, Sri Lanka Customs has initiated investigation against the company, M/s Cento Graph, Sri Lanka and observed that the exporter, M/s Cento Graph, Sri Lanka is importing containers from China and rework the containers in Colombo to ship the same to India

17.2 In view of the aforesaid position, the Anti-dumping duty @ 0.57 USD per SQM as per Notification No. 02/2020-Customs (ADD) dated 30.01.2020 and 0.77 USD per SQM as per Notification No. 21/2020-Customs (ADD) dated 29.07.2020 is leviable on goods imported by 'M/s PSRA', wherein actual beneficiary of the goods were M/s. Nippon Colour, M/s. ACM Chemicals & M/s. Suman Graphics. However, importer had wrongly claimed the imported goods manufactured by M/s Cento Graph, Sri Lanka and did not pay applicable Anti-dumping duty with a mala-fide intention. The importer with the intent to evade payment of Custom Duty (Anti-dumping duty) had consciously and intentionally not declared the actual producer/manufacturer of goods in the import documents. The above willful suppression and willful mis-statement was done by the importer with the intention to evade payment of Anti-dumping Duty leviable and payable on the import of goods as specified in the Notification No. 02/2020-Customs(ADD) dated 30.01.2020 and Notification No. 21/2020-Customs (ADD) dated 29.07.2020 issued under Section 9A of Customs Tariff Act, 1975. Therefore, it appeared that the importer had knowingly involved themselves in the suppression & mis-statement of the material facts.

ARREST OF SHRI RAKESH KUMAR CHAUHAN, DIRECTOR OF M/S PSRA GRAPHICS INDIA PVT. LTD:

18. In view of the evidence and facts discussed in the foregoing paras, it appeared that Shri Rakesh Kumar Chauhan, Director of M/s PSRA Graphics India Pvt. Ltd had knowingly concerned himself with goods which were liable to confiscation under Section 111 (o) of the Customs Act, 1962. He had intentionally defrauded the Government Exchequer thereby knowingly causing harm to the economy of the nation by evading of huge Customs Duty i.e. Anti-dumping duty to the tune of approx. Rs. 3.24 Crores by deliberately suppressing the actual Country of Origin of CTCP Digital Double Layer Plates i.e. China with a view to avoid Anti-Dumping duty (ADD). He knowingly imported the CTCP Digital Double Layer Plates manufactured in China by routing it through Sri Lanka for evasion of Anti-Dumping duty imposed on CTCP Digital Double Layer Plates of Chinese Origin by Notification No. 02/2020-Customs (ADD) dated 30.01.2020 and Notification No. 21/2020-Customs (ADD) dated 29.07.2020. Therefore, Shri Rakesh Kumar Chauhan was arrested on 10.01.2023 under Section 104 of the Customs Act, 1962 read with Section 135 of the Act *ibid* and he was sent to judicial custody by the Hon'ble ACMM Court, Ahmedabad. Thereafter, Shri Rakesh Kumar Chauhan was granted bail on 21.03.2023.

VIOLATION OF LEGAL PROVISIONS OF CUSTOMS ACT, 1962

19. Vide Finance Act, 2011 w.e.f. 08.04.2011 "Self Assessment" has been introduced under the Customs Act, 1962. Section 17 of the said Act provides for self-assessment of duty on import and export goods by the importer or exporter himself by filing a bill of entry or shipping bill as the case may be, in the electronic form, as per Section 46 or 50 respectively. Thus, under self-assessment, it is the importer or exporter who will ensure that he declares the correct classification, applicable rate of duty, value, benefit or exemption notification claimed, if any in respect of the imported/exported goods while presenting Bill of Entry or Shipping Bill. In the present case, it is evident that the actual facts was only known to the importer about the product and aforesaid fact came to light only subsequent to the in-depth investigation and after chemical analysis of the product. Therefore, it appeared 'M/s PSRA' have deliberately contravened the above said provisions with an intention to evade payment of Anti-dumping duty leviable and payable on the import of Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates as specified in the

first schedule under Section 2 of Customs Tariff Act, 1975 and Notification No. 02/2020-Customs(ADD) dated 30.01.2020 and Notification No. 21/2020-Customs (ADD) dated 29.07.2020 issued under Section 9A of Customs Tariff Act, 1975. It appeared that 'M/s PSRA' had contravened the provisions of Section 46(4A) of the Customs Act, 1962 in as much as 'M/s PSRA' while filing Bills of Entry had to ensure the accuracy and completeness of the information given therein for assessment of Customs duty, whereas in the instant case, 'M/s PSRA' had failed to fulfill the legal obligation in respect of imports of Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates for its correct and accurate information.

CULPABILITY AND LIABILITY OF NOTICEES

20. From the aforesaid, it appeared that the importer had knowingly and deliberately indulged in suppression of facts and had wilfully misrepresented /mis stated the material facts regarding the producer/manufacturer of goods imported by them, in the declarations made in the import documents including Check lists presented for filing of Bills of Entry presented before the Customs at the time of import for assessment and clearance, with an intent to evade payment of applicable Customs Duty. Therefore, the Anti-dumping duty not paid is liable to be recovered jointly & severally from 'M/s PSRA' and M/s. Nippon Colour, M/s. ACM Chemicals & M/s. Suman Graphics, the beneficial owners by invoking the extended period of five years as per Section 28 (4) of the Customs Act, 1962, in as much as the Anti-dumping duty is short paid on account of wilful misstatement as narrated above. Accordingly, the Anti-dumping duty including IGST amounting to **Rs. 3,24,40,946/-** in respect of the goods imported through Mundra port (INMUN1) and Nhava Sheva Port (INNSA1) during the period from 12.05.2020 to 16.04.2021 as indicated in **Annexure-A & B** to the notice, is liable to be recovered jointly & severally from 'M/s PSRA' and respective beneficial owners viz. M/s. Nippon Colour, M/s. ACM Chemicals & M/s. Suman Graphics, under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28 AA *ibid*.

21. 'M/s PSRA' in connivance with M/s. Nippon Colour, M/s. ACM Chemicals & M/s. Suman Graphics, the respective beneficial owners of the goods have imported Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates valued at **Rs. 8,97,03,963/-** (Rs. 6,71,51,179/- as detailed in Annexure-A & Rs. 2,25,52,784/- as detailed in Annexure-B to the notice) by deliberately resorting to mis-statement & suppression of the material fact that the said goods were manufactured by M/s Cento Graph, Sri Lanka, in contravention of the provisions of Section 46 (4) of the Customs Act, 1962. In terms of Section 46(4) of Customs Act, 1962, the importer was required to make a declaration as to truth of the contents of the Bills of Entry submitted for assessment of Customs duty, which in the instant case, 'M/s PSRA' had failed to fulfill in respect of the imports of Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates through Mundra port (INMUN1) and Nhava Sheva Port (INNSA1). For these contraventions and violations, the goods fall under the ambit of 'smuggled goods' within the meaning of Section 2(39) of the Customs Act, 1962 and are liable for confiscation under the provisions of Section 111(m) of the Customs Act, 1962. Further since the goods have been imported in violation to the conditions of Notification No. 02/2020-Customs(ADD) dated 30.01.2020 and Notification No. 21/2020-Customs (ADD) dated 29.07.2020 issued under Section 9A of Customs Tariff Act, 1975 the goods appear liable to confiscation under Section 111(o) of the Customs Act, 1962.

22. The aforesaid acts of suppression of facts and wilful misstatement by 'M/s PSRA' in connivance with M/s. Nippon Colour, M/s. ACM Chemicals & M/s. Suman

Graphics, beneficial owners of the goods, had led to evasion of Customs duty (Anti-dumping duty including IGST) of **Rs. 3,24,40,946/-**, thereby rendering them liable for penalty under Section 114A of the Customs Act, 1962, in as much as the Customs duty amounting to **Rs. 3,24,40,946/-** was evaded by reason of wilful misstatement and suppression of facts with a malafide intention. All the aforesaid acts of omission and commission on the part of 'M/s PSRA' in connivance with M/s. Nippon Colour, M/s. ACM Chemicals & M/s. Suman Graphics, beneficial owners of the goods have rendered the subject imported goods totally valued at **Rs. 8,97,03,963/-** (as detailed in **Annexure-A & B** to the notice) liable for confiscation under Section 111(m) and 111(o) of the Customs Act, 1962. 'M/s PSRA' and M/s. Nippon Colour, M/s. ACM Chemicals & M/s. Suman Graphics, beneficial owners of the goods are therefore liable to penalty under Section 112(a) and 112(b) of the Customs Act, 1962. In the present case, it is also evident that the actual facts were only known to 'M/s PSRA' and M/s. Nippon Colour, M/s. ACM Chemicals & M/s. Suman Graphics about the product and its actual producer. However, it appeared that 'M/s PSRA' had knowingly and intentionally made, signed or used the declaration, statements and/or documents and presented the same to the Customs authorities, which were incorrect in as much as they were not representing the true, correct and actual producer/ manufacturer/country of origin of the imported goods, and have therefore rendered themselves liable for penalty under section 114AA of the Customs Act, 1962 also. Since 'M/s PSRA' in connivance with M/s. Nippon Colour, M/s. ACM Chemicals & M/s. Suman Graphics, beneficial owners of the goods have violated the provisions of Section 17 and 46 of the Customs Act, 1962 which was their duty to comply, but for which no express penalty is elsewhere provided for such contravention or failure, they shall also be liable to penalty under Section 117 of Customs Act, 1962. However, since, M/s. Nippon Colour, M/s. ACM Chemicals & M/s Suman Graphics are proprietorship firms, penalties as discussed foregoing is proposed to be imposed on the proprietors and no separate penalties are proposed on the firms.

23. In view of the facts discussed in the foregoing paras and evidences available on record, it appeared that Shri Rakesh Kumar Chauhan, Director of M/s PSRA Graphics India Pvt. Ltd. had knowingly and willfully suppressed the actual manufacturer/producer of goods in the documents submitted before Customs with an intent to evade payment of applicable Anti-dumping duty. Shri Rakesh Kumar Chauhan had full knowledge about the actual producer/ manufacturer/country of origin of the said imported goods in as much as Shri Rakesh Kumar Chauhan was overall responsible for all imports of goods. He was in constant touch with the overseas supplier of goods, Mr. Llyod Harridge, who routed the Chinese goods through his firm M/s Cento Graph, Sri Lanka and arranged documents of M/s Cento Graph along with Country of origin from Sri Lanka. In arranging all transactions, Shri Rakesh Kumar Chauhan got monetary benefit of Rs. 2 to 3 per Sqm in addition to all landing cost including duty & other charges. Shri Rakesh Kumar Chauhan, Director of 'M/s PSRA' was aware that the Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates imported by 'M/s PSRA' were produced/manufactured in China as per the mail correspondences held between Shri Rakesh Kumar Chauhan, Mr. Llyod Harridge and Mr. Jack of China who arranged the goods from Chinese manufacture regarding complain of plates by one of the buyer, which were recovered from the officer premises of 'M/s PSRA' and submitted by Rakesh Kumar Chauhan in his statement. It was evident from Performa Invoices/ Commercial Invoice issued by M/s. Lucky Huaguang Graphics Co. Ltd, China in the name of M/s. Cento Graph, Sri Lanka, which were recovered during search in the premises of M/s Mahalaxmi Textiles (the other importer, wherein Shri Rakesh Kumar Chauhan arranged goods as broker) which were forwarded by Mr. Llyod Harridge of

M/s Cento Graph, Sri Lanka to Shri Rakesh Ajmeri via WhatsApp Chat. The photos of packing list and commercial Invoice issued by M/s. Lucky Huaguang Graphics Co. Ltd, China were forwarded by Mr. Llyod Harridge to Shri Rakesh Ajmeri on his WhatsApp for comparing the goods on the instance of Shri Rakesh Kumar Chauhan and Mr. Llyod Harridge also sent message to Shri Rakesh Ajmeri regarding change of containers in Sri Lanka to get DO from Sri Lanka. It was evident from the documents submitted by Shipping Line, M/s Efficient Marine Services LLP, Mumbai, related to the past import by another importer of CTCP Digital Printing Double Layer Plate from the same supplier in Sri Lanka which includes an application given to the Director General of Customs, Sri Lanka Customs, Colombo by the forwarder along with another Sri Lanka port documents for bringing empty container for transshipment rework operation and de-stuffing the goods of container received from China and stuffing the same in empty container at Sri Lankan Warehouse. It was also evident from the report along with true copies of documents viz. Proforma Invoice, Country of Origin Certificate, Inward and Outward Bills of lading & copies of the applications made by M/s Worldgate Express Lines Lanka Pvt. Ltd. overseas counterpart of M/s Worldgate Express Lines International Pvt. Ltd to the Sri Lanka Customs for rework of containers received from the Director General of Customs, Central Intelligence Directorate, Sri Lanka Customs, Colombo 11, Sri Lanka wherein it is clearly mentioned that they initiated investigation against the company, M/s Cento Graph, Sri Lanka and observed that the exporter, M/s Cento Graph, Sri Lanka is importing containers from China and rework the containers in Colombo to ship the same to India. Further, Shri Rakesh Kumar Chauhan also suppressed the facts regarding liability of Anti-dumping duty imposed vide Notification No. 02/2020-Customs(ADD) dated 30.01.2020 and Notification No. 21/2020-Customs (ADD) dated 29.07.2020 issued under Section 9A of Customs Tariff Act, 1975 on imported Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates produced/ manufactured by Chinese based company. All the aforesaid acts of omissions and commissions on the part of Shri Rakesh Kumar Chauhan have rendered the imported goods liable for confiscation under Section 111(m) and (o) of the Customs Act, 1962, and consequently rendered him liable for penalty under Section 112(a) and (b) of the Customs Act, 1962. Further, it also appeared that Shri Rakesh Kumar Chauhan had knowingly and intentionally prepared/got prepared, signed/got signed and used the declaration, statements and/or documents and presented the same to the Customs authorities, which were incorrect in as much as they were not representing the true, correct and actual producer/ manufacturer of the imported goods, and has therefore rendered himself liable for penalty under section 114AA of the Customs Act, 1962. Since Shri Rakesh Kumar Chauhan, Director of 'M/s PSRA' has also violated the provisions of Section 17 and 46 of the Customs Act, 1962 which was his duty to comply, but for which no express penalty is elsewhere provided for such contravention or failure, he shall also be liable to penalty under Section 117 of Customs Act, 1962.

24. Also from the foregoing, it appeared that Shri Jayant Ramesh Pardiwala, Proprietor of M/s. Nippon Color in connivance with Shri Rakesh Kumar Chauhan, director of 'M/s PSRA' and Mr. Llyod Harridge of M/s Cento Graph, Sri Lanka by adopting a modus as described in preceding paras, have involved himself in the conspiracy of mis-declaring the actual name of producer /manufacturer of Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates imported by 'M/s PSRA'. He was in constant touch with the overseas supplier of goods, Mr. Llyod Harridge, who routed the Chinese goods through his firm M/s Cento Graph, Sri Lanka and arranged documents of M/s Cento Graph along with Country of origin from Sri Lanka to Shri Rakesh Kumar Chauhan. Shri Jayant Ramesh Pardiwala had

full knowledge about the producer/manufacturer of the goods imported in the name of 'M/s PSRA', and aided 'M/s PSRA' to evade Anti-dumping duty imposed vide Notification No. 21/2020-Customs (ADD) dated 29.07.2020 issued under Section 9A of Customs Tariff Act, 1975 on imported Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates of Chinese origin. All the aforesaid acts of omission and commission on the part of Shri Jayant Ramesh Pardiwala have rendered the imported goods liable for confiscation under Section 111(m) and (o) of the Customs Act, 1962. Further, he had consciously dealt with the said goods which he knew or had reasons to believe, were liable to confiscation under the Customs Act, 1962. By these acts, Shri Jayant Ramesh Pardiwala, Proprietor of M/s. Nippon Color has rendered himself liable to penalty under provisions of Section 112(b) of the Customs Act, 1962.

25. Also from the foregoing, it appeared that Shri Tara Chand Aggarwal, Proprietor of M/s. ACM Chemicals in connivance with Shri Rakesh Kumar Chauhan, director of 'M/s PSRA' and Mr. Llyod Harridge of M/s Cento Graph, Sri Lanka by adopting a modus as described in preceding paras, have involved himself in the conspiracy of mis-declaring the actual name of producer manufacturer of Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates imported by 'M/s PSRA'. He was in constant touch with the overseas supplier of goods, Mr. Llyod Harridge, who routed the Chinese goods through his firm M/s Cento Graph, Sri Lanka and arranged documents of M/s Cento Graph along with Country of origin from Sri Lanka to Shri Rakesh Kumar Chauhan. Shri Tara Chand Aggarwal had full knowledge about the producer/ manufacturer of the goods imported in the name of 'M/s PSRA', and aided 'M/s PSRA' to evade Anti-dumping duty imposed vide Notification No. 21/2020-Customs (ADD) dated 29.07.2020 issued under Section 9A of Customs Tariff Act, 1975 on imported Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates of Chinese origin. All the aforesaid acts of omission and commission on the part of Shri Tara Chand Aggarwal have rendered the imported goods liable for confiscation under Section 111(m) and (o) of the Customs Act, 1962. Further, he had consciously dealt with the said goods which he knew or had reasons to believe, were liable to confiscation under the Customs Act, 1962. By these acts, Shri Tara Chand Aggarwal, Proprietor of M/s. ACM Chemicals has rendered himself liable to penalty under provisions of Section 112(b) of the Customs Act, 1962.

26. Also from the foregoing, it appeared that Shri Vikas Vadhawan, Proprietor of M/s. Suman Graphics in connivance with Shri Rakesh Kumar Chauhan, director of 'M/s PSRA' and Mr. Llyod Harridge of M/s Cento Graph, Sri Lanka by adopting a modus as described in preceding paras, have involved himself in the conspiracy of mis-declaring the actual name of producer manufacturer of Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates imported by 'M/s PSRA'. He was in constant touch with the overseas supplier of goods, Mr. Llyod Harridge, who routed the Chinese goods through his firm M/s Cento Graph, Sri Lanka and arranged documents of M/s Cento Graph along with Country of origin from Sri Lanka to Shri Rakesh Kumar Chauhan. Shri Vikas Vadhawan had full knowledge about the producer/ manufacturer of the goods imported in the name of 'M/s PSRA', and aided 'M/s PSRA' to evade Anti-dumping duty imposed vide Notification No. 02/2020-Customs(ADD) dated 30.01.2020 issued under Section 9A of Customs Tariff Act, 1975 on imported Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates of Chinese origin. All the aforesaid acts of omission and commission on the part of Shri Vikas Vadhawan have rendered the imported goods liable for confiscation under Section 111(m) and (o) of the Customs Act, 1962.

Further, he had consciously dealt with the said goods which he knew or had reasons to believe, were liable to confiscation under the Customs Act, 1962. By these acts, Shri Vikas Vadhawan, Proprietor of M/s. Suman Graphics has rendered himself liable to penalty under provisions of Section 112(b) of the Customs Act, 1962.

27. From the facts as narrated above, it appeared that M/s Cento Graph, Sri Lanka and Mr. Llyod Harridge of M/s Cento Graph in connivance with Shri Rakesh Kumar Chauhan, Director of 'M/s PSRA' by adopting a modus as described in preceding paras, have involved himself in the conspiracy of mis-declaring the actual name of producer/manufacturer of Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates imported by 'M/s PSRA'. Mr. Llyod Harridge, imported the goods from China and exported the same to 'M/s PSRA'. He consciously routed the Chinese goods through his firm M/s Cento Graph, Sri Lanka and arranged documents of M/s Cento Graph along with Country of origin from Sri Lanka. Mr. Llyod Harridge sent Performa Invoices/ Commercial Invoice issued by M/s. Lucky Huaguang Graphics Co. Ltd, China in the name of M/s. Cento Graph, Sri Lanka to Shri Rakesh Ajmeri, proprietor of M/s Mahalaxmi Textiles (the other importer, wherein Shri Rakesh Kumar Chauhan arranged goods as broker) for verifying and comparing the goods received by him. Mr. Llyod Harridge also made mail correspondences with Mr. Jack of China, who arranged the goods from Chinese manufacture regarding complain of plates by one of the buyer in India. Mr. Llyod Harridge also informed Shri Rakesh Ajmeri proprietor of M/s Mahalaxmi Textiles (the other importer, wherein Shri Rakesh Kumar Chauhan arranged goods as broker) through WhatsApp message regarding change of containers in Sri Lanka to get DO from Sri Lanka. The fact is also evident from the documents submitted by Shipping Line, M/s Efficient Marine Services LLP, Mumbai, related to the past import by another importer of CTCP Digital Printing Double Layer Plate from the same supplier in Sri Lanka which includes an application given to the Director General of Customs, Sri Lanka Customs, Colombo by M/s Eagle Global Express (Pvt.) Ltd. along with another Sri Lanka port documents for bringing empty container for transshipment rework operation and de-stuffing of container received from China and stuffing of goods in empty container at Sri Lankan Warehouse. It was also evident from there port along with true copies of documents viz. Proforma Invoice, Country of Origin Certificate, Inward and Outward Bills of lading & copies of the applications made by M/s Worldgate Express Lines Lanka Pvt. Ltd. to the Sri Lanka Customs for rework of containers received from the Director General of Customs, Central Intelligence Directorate, Sri Lanka Customs, Colombo 11, Sri Lanka wherein it is clearly mentioned that they initiated investigation against the company, M/s Cento Graph, Sri Lanka and observed that the exporter, M/s Cento Graph, Sri Lanka is importing containers from China and rework the containers in Colombo to ship the same to India. Mr. Llyod Harridge aided and abetted 'M/s PSRA' to evade Anti-dumping duty imposed vide Notification No. 02/2020-Customs(ADD) dated 30.01.2020 and Notification No. 21/2020-Customs (ADD) dated 29.07.2020 issued under Section 9A of Customs Tariff Act, 1975 on imported Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates of Chinese origin. All the aforesaid acts of omission and commission on the part of M/s Cento Graph, Sri Lanka and Mr. Llyod Harridge of M/s Cento Graph have rendered the imported goods liable for confiscation under Section 111(m) and (o) of the Customs Act, 1962. Further, they had consciously dealt with the said goods which they knew or had reasons to believe, were liable to confiscation under the Customs Act, 1962. In terms of Section 1(2) of the Customs Act, 1962 the act *ibid* would apply to any offence or contravention there under committed outside India by any person. Hence M/s Cento Graph, Sri Lanka and Mr. Llyod Harridge of M/s Cento Graph by their acts, have rendered themselves

liable to penalty under provisions of Section 112 (a) of the Customs Act, 1962. They prepared/got prepared, signed /got signed documents which they had reasons to believe were false and thereby rendered themselves liable for penalty under Section 114AA of Customs Act, 1962.

28. From the facts as narrated above, it appeared that M/s Worldgate Express Lines Lanka Pvt. Ltd. abetted Mr. Llyod Harridge of M/s Cento Graph by adopting a modus as described in preceding paras, have there by concerned themselves in the conspiracy of mis-declaring and suppressing the facts related to actual producer /manufacturer of Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates imported by 'M/s PSRA'. M/s Worldgate Express Lines Lanka Pvt. Ltd., the overseas counterpart of M/s Worldgate Express Lines International Pvt. Ltd made applications to the Sri Lanka Customs for permission to carryout transshipment operation inside warehouse and to grant permission to de-stuff the goods i.e. CTCP Digital Double Layer printing plates from containers meant for transshipment to India and load the same in a different container in warehouse under customs supervision citing that there was no direct service from loading port to India. The fact is evident from the copies of documents viz. Proforma Invoice, Country of Origin Certificate, Inward and Outward Bills of lading & copies of the applications made by M/s Worldgate Express Lines Lanka Pvt. Ltd. to the Sri Lanka Customs for rework of containers, asreceived from the Director General of Customs, Central Intelligence Directorate, Sri Lanka Customs, Colombo 11, Sri Lanka. The Director General of Customs, Sri Lanka informed that they initiated investigation against the company, M/s Cento Graph, Sri Lanka and had observed that the exporter, M/s Cento Graph, Sri Lanka is importing containers from China and rework the containers in Colombo to ship the same to India. M/s Worldgate Express Lines International Pvt. Ltd did not disclose these facts and did not produce documents during the investigation. Thus, the overseas counterpart of M/s Worldgate Express Lines International Pvt. Ltd aided and abetted Mr. Llyod Harridge by changing the containers at Colombo to avoid identification of the original shipper of the goods. Thus had helped in re-routing the Chinese goods through Sri Lanka to India to evade Anti-dumping duty imposed vide Notification No. 02/2020-Customs (ADD) dated 30.01.2020 and Notification No. 21/2020-Customs (ADD) dated 29.07.2020 issued under Section 9A of Customs Tariff Act, 1975 on imported Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates of Chinese origin. All the aforesaid acts of omission and commission on the part of M/s Worldgate Express Lines Lanka Pvt. Ltd. and M/s Worldgate Express Lines International Pvt. Ltd have rendered the imported goods liable for confiscation under Section 111(m) and (o) of the Customs Act, 1962. Further, they had consciously dealt with the said goods which they knew or had reasons to believe, were liable to confiscation under the Customs Act, 1962. In terms of Section 1(2) of the Customs Act, 1962 the act ibid would apply to any offence or contravention there under committed outside India by any person. Hence, M/s Worldgate Express Lines International Pvt. Ltd and M/s Worldgate Express Lines Lanka Pvt. Ltd. by their acts, have rendered themselves liable to penalty under provisions of Section 112 (a) of the Customs Act, 1962. They prepared/got prepared, signed/got signed documents which they had reasons to believe were false and thereby rendered themselves liable for penalty under Section 114AA of Customs Act, 1962.

29. The Port wise details of goods i.e. Digital Offset Printing Plates/ CTCP Digital Printing Double Layer Plates imported by M/s PSRA Graphics India Private Limited in connivance with M/s. Suman Graphics, M/s. ACM Chemicals and M/s. Nippon Color from China routing through Sri Lanka during the period from 12.05.2020 to

16.04.2021 along with Quantity, Assessable value and Differential Duty (Anti-dumping Duty & IGST) demanded/to be recovered jointly and severally from M/s PSRA Graphics India Private Limited (IEC-AAKCP0142M), G/F, 80E/G-2, Rajendra Nagar Indus. Area, Mohan Nagar, Ghaziabad, Uttar Pradesh-201007 in connivance with M/s. Suman Graphics, 2B-9, Gurunanak House, Ranjit Nagar, Commercial Complex, New Delhi-110008, M/s. ACM Chemicals, WZ-131, Ground floor, Naraina village, near Tikona park, Ring road, Delhi- 110028 and M/s. Nippon Color, 219, High Tech Ind. Centre, caves road, Jogeshwari, Mumbai-400060 is as below:

Sr. No.	Bills of Entry No. & Date	Ports / ICDs of imports	Assessable Value of goods imported (Rs.)	Duty (Anti-dumping Duty & IGST) not paid/ to be recovered (Rs.)	Name of the actual beneficiary
1	2	3	4	5	6
1	Shown at Sr. No. 01 in Annexure-A to the notice	Mundra port (INMUN1), Gujarat	45,77,238	12,31,467	M/s. Suman Graphics
2	Shown at Sr. No. 02 to 08 in Annexure-A to the notice		3,61,24,706	1,38,01,352	M/s. ACM Chemicals
3	Shown at Sr. No. 09 to 13 in Annexure-A to the notice		2,64,49,235	94,13,659	M/s. Nippon Color
Total			6,71,51,179	2,44,46,478	
4	Shown in Annexure-B to the notice	Nhava Sheva Port (INNSA1)	2,25,52,784	79,94,468	M/s. Nippon Color
	Grand Total		8,97,03,936	3,24,40,946	

30. In view of above, a notice was issued to **M/s PSRA Graphics India Private Limited** (IEC-AAKCP0142M), G/F, 80E/G-2, Rajendra Nagar Indus. Area, Mohan Nagar, Ghaziabad, Uttar Pradesh-201007; **M/s. Suman Graphics**, 2B-9, Gurunanak House, Ranjit Nagar, Commercial Complex, New Delhi-110008; **M/s. ACM Chemicals**, WZ-131, Ground floor, Naraina village, near Tikona park, Ring road, Delhi- 110028; and **M/s. Nippon Color**, 219, High Tech Ind. Centre, caves road, Jogeshwari, Mumbai-400060, asking them jointly and severally, to show cause in writing to the Commissioner of Customs, Customs Mundra, having his address at 5B, Port User Building, Mundra Port, Mundra, Kutch, Gujarat-370421, as to why:

- (i) The 492378 SQM. of goods valued at Rs. 8,97,03,963/- (*Rupees Eight Crore Ninety Seven Lac Three Thousand Nine Hundred Sixty Three only*) as per Column No. 4 of the Table in Para-29 and as detailed in Annexure A & B, attached to the notice which have been cleared and are not physically available for confiscation, should not be held liable to confiscation under Section 111(m) and (o) of the Customs Act, 1962;
- (ii) Differential Customs duty (Anti-dumping duty & IGST) amounting to Rs. 12,31,467/- (*Rupees Twelve Lac Thirty One Thousand Four Hundred Sixty Seven Only*) as per Column No. 5 at Sr. No. 01 of the Table in Para-29 and as detailed at Sr. No. 01 in Annexure-A, attached to the notice should not be demanded and recovered jointly and severally from M/s PSRA Graphics India Private Limited; and M/s. Suman Graphics under Section 28(4) of the

Customs Act, 1962 read with conditions of Notification No. 02/2020-Customs (ADD) dated 30.01.2020 alongwith applicable interest under Section 28AA *ibid*;

- (iii) Differential Customs duty (Anti-dumping duty & IGST) amounting to Rs. 1,38,01,352/- (*Rupees One Crore Thirty Eight Lac One Thousand Three Hundred Fifty Two Only*) as per Column No. 5 at Sr. No. 02 of the Table in Para-29 and as detailed at Sr. No. 02 to 08 in Annexure A, attached to the notice should not be demanded and recovered jointly and severally from M/s PSRA Graphics India Private Limited; and M/s. ACM Chemicals under Section 28(4) of the Customs Act, 1962 read with conditions of Notification No. 21/2020-Customs (ADD) dated 29.07.2020 alongwith applicable interest under Section 28AA *ibid*;
- (iv) Differential Customs duty (Anti-dumping duty & IGST) amounting to Rs.1,74,08,127/- (*Rupees One Crore Seventy Four Lac Eight Thousand One Hundred Twenty Seven Only*) as per Column No. 5 at Sr. No. 03 & 4 of the Table in Para-29 and as detailed at Sr. No. 09 to 13 in Annexure A and Annexure-B, attached to the notice, should not be demanded and recovered jointly and severally from M/s PSRA Graphics India Private Limited; and M/s. Nippon Color under Section 28(4) of the Customs Act, 1962 read with conditions of Notification No. 21/2020-Customs (ADD) dated 29.07.2020 alongwith applicable interest under Section 28AA *ibid*;
- (v) Penalty should not be imposed upon M/s PSRA Graphics India Private Limited, G/F, 80E/G-2, Rajendra Nagar Indus. Area, Mohan Nagar, Ghaziabad, Uttar Pradesh-201007 under Section 112(a), 112(b), 114AA and 117 of the Customs Act, 1962 separately for their role as discussed in para *supra*.
- (vi) Penalty should not be imposed upon Shri Rakesh Kumar Chauhan, Director of M/s PSRA Graphics India Private Limited G/F, 80E/G-2, Rajendra Nagar Indus. Area, Mohan Nagar, Ghaziabad, Uttar Pradesh-201007 under Section 112(a), 112(b), 114AA and 117 of the Customs Act, 1962 separately for his roles as discussed in paras *supra*.
- (vii) Penalty should not be imposed upon Shri Jayant Ramesh Pardiwala, Proprietor of M/s. Nippon Color, 219, High Tech Ind. Centre, caves road, Jogeshwari, Mumbai-400060 under Section 112(a), 112(b), 114AA and 117 of the Customs Act, 1962 separately for his roles as discussed in paras *supra*.
- (viii) Penalty should not be imposed upon Shri Tara Chand Aggarwal, Proprietor of M/s ACM Chemicals, WZ-131, Ground floor, Naraina village, near Tikona park, Ring road, Delhi- 110028 under Section 112(a), 112(b), 114AA and 117 of the Customs Act, 1962 separately for his roles as discussed in paras *supra*.
- (ix) Penalty should not be imposed upon Shri Vikas Vadhawan, Proprietor of M/s. Suman Graphics, 2B-9, Gurunanak House, Ranjit Nagar, Commercial Complex, New Delhi-110008 under Section 112(a), 112(b), 114AA and 117 of the Customs Act, 1962 separately for his roles as discussed in paras *supra*
- (x) Penalty should not be imposed upon M/s Cento Graph, No. 5, John Keells Housing Scheme, Potherwara Road, Malabe, Sri Lanka under Section 112(a) and 114AA of the Customs Act, 1962 separately for their roles as discussed in paras *supra*

- (xi) Penalty should not be imposed upon Mr. Llyod Harridge, owner of M/s Cento Graph, No. 5, John Keells Housing Scheme, Potherwara Road, Malabe, Sri Lanka under Section 112(a) and 114AA of the Customs Act, 1962 separately for his roles as discussed in paras supra.
- (xii) Penalty should not be imposed upon M/s Worldgate Express Lines International Pvt. Ltd., 7th floor, Sharda Terrace (warden House), Sector 11, Plot No. 65, CBD Belapur, west, Navi Mumbai, Maharashtra-0400614 under Section 112(a) and 114AA of the Customs Act, 1962 separately for their roles as discussed in paras supra.
- (xiii) Penalty should not be imposed upon M/s Worldgate Express Lines Lanka Pvt. Ltd., No. 23, 1st Floor, Palm Grove, Colombo-03, Sri Lanka under Section 112(a) and 114AA of the Customs Act, 1962 separately for their roles as discussed in paras supra

31. Written submissions

31.1 M/s Nippon Color, New Delhi vide letter dated 24.06.2024 submitted their defence reply, which is reproduced as under -

Proceedings are without jurisdiction:

1. It may be seen from Para 29 of the impugned notice that in terms of in terms of Section 110AA read with Notification No. 28/2022 – Cus (N.T) dated 31.03.2022, the Pr Commissioner of Customs/Commissioner of Customs, in the highest amount of duty shall be the proper officer in terms of Section 28, 28AAA or Chapter X of the Act. Accordingly, it appears that the said Show Cause Notice has been issued by the Pr. Commissioner of Customs, Custom House, Mundra.
2. The said Section 110AA of the Customs Act, 1962 reads as follows –

Section 110AA. Action subsequent to inquiry, investigation or audit or any other specified purpose.-

Where in pursuance of any proceeding, in accordance with Chapter XIIA or this Chapter, if an officer of customs has reasons to believe that—

(a) any duty has been short-levied, not levied, short-paid or not paid in a case where assessment has already been made;

(b) any duty has been erroneously refunded;

(c) any drawback has been erroneously allowed; or

(d) any interest has been short-levied, not levied, short-paid or not paid, or erroneously refunded,

then such officer of customs shall, after causing inquiry, investigation, or as the case may be, audit, transfer the relevant documents, along with a report in writing—

(i) to the proper officer having jurisdiction, as assigned under section 5 in respect of assessment of such duty, or to the officer who allowed such refund or drawback; or

(ii) in case of multiple jurisdictions, to an officer of customs to whom such matter is assigned by the Board, in exercise of the powers conferred under section 5,

and thereupon, power exercisable under sections 28, 28AAA or Chapter X, shall be exercised by such proper officer or by an officer to whom the proper officer is subordinate in accordance with sub-section (2) of section 5]

(Emphasis supplied)

3. The said Notification No. 28/2022 – Cus (NT) dated 28.03.2022 specifies that in case of multiple jurisdictions, in terms of Section 3, 4, 5 and 110AA of Customs Act, 1962, the Principal Commissioner/Commissioner of customs having highest amount of duty, at the stage of transfer.
4. It is submitted that although the Principal Commissioner/Commissioner has been specified as the proper officer in terms of above notification, thus conferring jurisdiction on the said officers as specified in the notification. However, in terms of the Section 110AA (ii), Such Matter requires to be assigned by the Board. Therefore, it is submitted while the said notification has merely conferred the jurisdiction and power to adjudicate, the actual case has to be specifically assigned by the Board. This is borne by the fact that even after the issuance of the said Notification No. 28/2022 – Cus (NT) dated 31.03.2022, the Board has issued the following notifications conferring specific cases to specified officers viz.,
 - i. Notification No. 59/2023 – Cus (NT) dated 07.08.2023
 - ii. Notification No. 80/2023 – Cus (NT) dated 01.11.2023
 - iii. Notification No. 85/2023 – Cus (NT) dated 23.11.2023
5. Therefore, it is respectfully submitted unless and until a notification is issued assigning this matter to the Principal Commissioner of Customs, Custom House, Mundra, the proceedings are without jurisdiction.

Submission: It is therefore submitted unless the case is specifically assigned to an officer of customs by the Board, the issuing authority has no power to adjudicate the matter. In any case, the provisions of Customs Act will prevail over a notification.

FACTUAL MATRIX OF THE INVESTIGATION

6. The allegation in the notice is that one M/s PSRA Graphics India Pvt Ltd (hereinafter referred to as the “Importer”) was importing Digital double layer Printing CTCP Plates of Chinese Origin by routing the goods through one M/s Centograph, Sri Lanka (hereinafter referred to as “Centograph”) to evade the Anti-dumping Duty (ADD) imposed on such goods of Chinese Origin. The basis for this allegation is that the investigation agency found that M/s Centograph, Sri Lanka was importing such goods of Chinese Origin and supplying the same to importers in India including the Importer. Investigations by the agency at one of the importers, M/s Mahalakshmi Textiles (hereinafter referred to as “Mahalakshmi”) appears to have resulted in recovery of a Proforma Invoice No. CG091021-22 dated 06.12.2021 by one Lucky Huaguang Graphics Co Ltd, China (hereinafter referred to as “Lucky”) to M/s Centograph, Sri Lanka for supply of 27131.72 Sq. Mr of Digital Offset UV CTCP Printing Plates (Exhibit 1 of SCN). There is also said to be a Proforma

Invoice No. C001021-22 dated 30.01.2022 from Centograph to Mahalakshmi for the same quantity (exhibit 2 of SCN). Similar Proforma invoice No CG00321-22 dated 04.08.2021 from Lucky to Centograph (Exhibit 3 of SCN) and thereafter a Proforma Invoice No. CG00321 ctcp-violet dated 5.11.2021 from Centograph to Mahalakshmi (Exhibit 4 of SCN) for the same quantity of goods was also purportedly found. It appears that the proprietor of Mahalakshmi, during his statement dated 13.06.2022, in the light of some WhatsApp images allegedly recovered from his phone, agreed with the proposition that the goods imported from Lucky were supplied to him by Centograph.

7. Noticee submits that the relevance of the same for demanding duty and imposing penalties on the noticee has not been brought forth in the impugned Notice. There is nothing to indicate that the noticee was in any manner related to the transactions narrated supra, since the noticee is only a purchaser of Digital Printing Plates in the local market in India on GST Bills duly supported by e-way bills from the main noticee PSRA Graphics India Pvt Ltd.
8. The second leg of the proof garnered by the investigating agency relates to a search at M/s PSRA Graphics India P Ltd (hereinafter referred to as "PSRA"), wherein it appears some email correspondence was recovered between PSRA, Centograph, one Mr Jack of China and a local Indian buyer of PSRA, one ACM Chemicals which related to quality issues in some goods supplied by PSRA to ACM Chemicals over a period of 2 months viz., 04.10.2021 to 09.12.2021. Although the authenticity of the email and its value in terms of Section 138C of Customs Act, 1962 stands apart, it really beats one as to how it could be deciphered from email id (877120433@qq.com), it was determined that Mr Jack is from China. Besides, the email correspondence generously reproduced in the SCN but not provided to my client, relates to some supplies made in the year 2020 and the complaints generated in the year 2021. It appears that these emails were printed from the office computer of PSRA and he had appended his signature thereto and it was he, who stated that this Mr Jack is the producer of these plates in China. It does not appear from the painstaking investigation undertaken by the Agency, whether they could find any factory by name of Jack in China. It also appears that in the computer of PSRA, they could find one email purportedly of one NN Graphics, Pune of 2017 vintage addressed to Centograph, which related to not declaring the Country of Origin as China, which is also accompanied by a Proforma Invoice dated 01.06.2017. Similarly, there appears to be some WhatsApp images relied upon by the investigating agency, which have not been supplied to the noticee and it is submitted even otherwise, the same cannot be taken as evidence in the absence of any certification in terms of Section 138C of Customs Act, 1962.
9. Noticee submits that the relevance of the same for demanding duty and imposing penalties on the noticee has not been brought forth in the impugned Notice. There is nothing to indicate that the noticee was in any manner related to the transactions narrated supra, since the noticee is only a purchaser of Digital Printing Plates in the local market in India on GST Bills and with e-way bills to support the same. Besides, the narrative has nothing to do with the purchases of Printing plates by the local supplier of the goods to the noticee viz., PSRA Graphics India Pvt Ltd.
10. In fact, it may be noted from Para 5.3 of the impugned Notice that the noticee has been issuing a proper proforma invoice for purchase of the goods and the main noticee PSRA Graphics India Pvt Ltd thereafter issued Proforma Invoice on the noticee and the noticee has paid an advance against the proforma

invoice through proper banking channels and once the goods were received, the balance amount was paid to the supplier upon receipt of proper GST Invoices and e-way Bills. These purchases have also been duly reflected in the GST Returns filed by the noticee.

11. In Para 8 of the notice, it appears that the investigating agency has made some inquiries with the shipping lines. The notice reproduces the Bill of Lading No. EGE21100004-01 dated 20.10.2021 for transport of one container bearing No. CAXU6270882 of CTP printing plates from Centograph, Colombo to PSRA Graphics India Pvt Ltd, Mumbai. The notice further reproduces a letter dated 13.10.2021 ostensibly submitted by the shipping line, Eagle Global Logistics Pvt Ltd to the Director General of Custom, Colombo requesting permission to rework container No. SEGU1585959 which had arrived from Shanghai to be reworked into said container no CAXU6270882. It also reproduces a purported letter dated 13.10.2021 from the shipping line, Eagle Global Logistics P ltd seeking permission for destuffing of container No. SEGU1585959 and stuffing of container no. CAXU6270882. It is therefore, concluded in the impugned notice that the goods imported vide Bill of Entry No. 5964187 dated 23.10.2021 by PSRA Graphics India Pvt Ltd are the same goods that were imported from Shanghai. It is further stated that similar documents were found in respect of destuffing of Container No. TCKU125224 and stuffing of container no. IALU2273475, although the documents are neither supplied to the noticee nor reproduced in the said show cause notice. The import Bill of Entry is stated to be 5965146 dated 23.10.2021 by one Universal Marketing, Mumbai.
12. Para 9.1 of the notice refers to inquiries with freight forwarders in respect of carriage of goods to M/s PSRA Graphics India Pvt Ltd vide their office letters dated 10.03.2023 & 23.05.2023. He was shown the Bill of Lading No. LKCMB/WGT/04190 dated 25.02.2021 wherein the goods were supplied by Centograph to PSRA Graphics from Jebel Ali Port but the country of origin is stated to be Sri Lanka vide Container No. CCSU6010904 but the port of receipt of goods is shown as Jebel Ali. He stated that it appeared that the country of origin has been erroneously mentioned as Sri Lanka, which could be due to their system settings. It bears mention herein that it still doesn't prove whether the goods are of Jebel Ali Origin (obviously incorrect) or origin of any other country of the world. The point being made in asking such query does not pass reason. The manager of the freight forwarder offers his very considered opinion that from the Sri Lanka Customs Letter and DRI letters, it appeared that the goods are of Chinese origin.
13. Para 11.1 of the notice purports to be a letter from Sri Lanka Customs to DRI, Chennai stating that they have started an investigation against the company, Centograph and that a report will be forwarded. It appears that the Sri Lanka Customs have also seemed to have the opinion Worldgate Express Lines Lanka Pvt Ltd have taken permission form Customs for reworking of a containers and that the goods appeared to have originated in China and thereafter exported to India.
14. Para 12 refers that most of the goods were sold to ACM Chemicals and the noticee, Nippon Color. It refers to some complaint by ACM Chemicals and the correspondence between ACM Chemicals, PSRA Graphics India pvt Ltd, Lloyds and one Mr Jack, said to be of China. It then refers to the search of the premises of the Indian Buyer, Nippon Color. It acknowledges that Nippon Color was the local Indian Buyer of the goods imported by PSRA Graphics India Pvt Ltd and that payments were made through banking channels. It acknowledges the fact that the noticee, Nippon Color also directly imports the

goods and also buys imported Digital Offset Printing Plates from various Indian importers such as PSRA Graphics India Pvt Ltd and Universal Marketing and that the noticee never imported any goods from Centograph, Sri Lanka.

15. During the course of recording his statement, the proprietor of Nippon Color was shown the documents relating to imports by PSRA and the complaint by one ACM Chemicals and opined that it appeared that the goods were of Chinese origin. In relation to purchases from PSRA Graphics India Pvt Ltd, he stated that he was shown the samples and thereafter, he used to place order by paying 20-40% of the amount through bank and the rest of the amount through bank upon dispatch of the goods to him. He was also shown various evidences gathered by the investigating agency for all other importers and asked his opinion whether these appeared to be Chinese origin, to which he opined that these goods appeared to be of Chinese origin.
16. **Importantly in Para 12.2.4 of the impugned Notice, it is alleged that Mr Rakesh Kumar Chauhan of PSRA Graphics had supplied the plates after importing them and charged Rs. 2.5 Per SqM in addition to all landing charges including duty and other charges. Noticee refutes this unfounded allegation since none of the documents viz., Proforma Invoice, Purchase Order, GST invoice show that the goods are being sold on landed cost + Rs. 2.50 per Sq Mtr as alleged. All these documents show the full price in Indian Rupees per Sq Mtr basis and do not even declare that the goods are imported into India. Therefore, the noticee strongly refutes the baseless allegation which seeks to show that the noticee has appointed PSRA Graphics India pvt Ltd as his buying commission agent.**
17. Para 13 relates once again to the correspondences between PSRA Graphics India P Ltd, ACM Chemicals, Centograph and one Mr Jack, supposedly of China also statement of Rakesh Chauhan of PSRA Graphics India Pvt Ltd in respect of supply of goods to Mahalakshmi Textiles from one Lucky Huaguang Graphics Co Ltd, China, through Centograph, Sri Lanka.
18. Para 14.6 relates to arraigning of my client, Nippon Color as the Beneficial Owner of the goods in terms of Section 2(26) of the Customs Act, 1962 and therefore makes him liable jointly and severally with the importer, PSRA Graphics India Pvt Ltd in the import of goods. The only ground is that PSRA Graphics India Pvt Ltd imported the goods as per orders of Nippon Color and once again alleges that PSRA Graphics India Pvt Ltd received Rs 2 as commission on the supply, which is total baseless and incorrect allegation. The notice also proposes penalty on the noticee under Sections 112(a), 112(b), 114AA and 117 of Customs Act, 1962.

SUBMISSIONS:

19. It appears that the investigating agency has thoroughly confused itself in the notice by arranging the noticee to be jointly and severally liable for the duty payment demanded from the importer, who has filed the Bills of Entry and also proposed penalties on the noticee.

Basic Facts:

20. The basic fact as also admitted in the impugned notice is that the noticee, Nippon Color is an importer trader of Digital Printing plates along with other goods. The noticee not only directly imports goods from China and Taiwan upon payment of applicable Anti-dumping Duty but also purchases the same from the local market for sale to his customers. During the course of such local market purchases, he has purchased goods from one "PSRA Graphics India Pvt Ltd" (hereinafter referred to as the "Importer"). The goods were purchased based on the Proforma Invoice submitted by the importer and upon confirmation, a proper purchase order was drawn upon the importer along with 20-40% advance amount towards the purchase and paid through banking channels. Thereafter, once the material is dispatched, another 50-60% is paid through banking channels and only after the full goods are cleared and dispatched to warehouse of Nippon, the balance amount is paid through banking channels. The same has been verified by the investigating agency. The goods are supplied to the noticee by the importer through proper GST Bills along with e-way bills to evidence the actual movement of goods to the noticee. We are enclosing copies of all the local purchase invoices, e-way bill copies of all these invoices, bank payment details for all these invoices and the GST Return copies relevant to these local purchase invoices.
21. Therefore, the basic fact remains that the noticee is not concerned whatsoever with the imports done by the Importer or the country of origin of the goods, actual or purported. The goods are further sold in the market after adding margin to the goods. The investigating agency is in possession of the local sale GST invoices and e-way bills of the noticee where the goods were further sold in the local market.
22. It bears reiteration that the goods are sold on Sq. Mtr. basis and not on basis of landed cost plus Commission basis as is being alleged. None of the financial documents indicate any such arrangement between the noticee and the supplier PSRA Graphics India Pvt Ltd. In fact, the value of the goods as purchased from PSRA Graphics India Pvt Ltd are comparable to the price of such goods whether imported or manufactured in India. The investigating agency ought to have examined this aspect of the matter. The same evidences that if these goods are of Chinese origin, then the ADD margin illegally earned by the importer or the noticee (so-called beneficial owner) would be reflected, but it is not so, which shows that the value declared is the correct value and that ADD is not imposable on the goods. Besides, there is no evidence or allegation that there has been cash component transaction in the local market purchase by the noticee to offset the profit earned in so-called evasion of Anti-dumping Duty. Therefore, the basic submission is that when the importer is a local buyer in market and there is no documentary evidence to prove connivance between the importer and the noticee, the charge of being beneficial owner cannot be sustained.

Nippon Color cannot be deemed to be Beneficial Owner:

23. The notice arraigns the noticee as the beneficial owner of the goods as per allegations made in Para 14 of the impugned notice. Para 13.2 alleges that there was a business deal between PSRA Graphics India Pvt Ltd (Importer) and Centograph (Supplier) that Centograph will supply Digital Printing Plates on his invoice and same would be imported by PSRA Graphics India Pvt Ltd and sold to Nippon Color. Thus, the notice arraigns the noticee as the beneficial owner.

The relevant Sections of the Customs are as follows -

(3A) "beneficial owner" means any person on whose behalf the goods are being imported or exported or who exercises effective control over the goods being imported or exported;

(26) "importer", in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes any owner, beneficial owner or any person holding himself out to be the importer;

24. The notice shies from presenting the definition of beneficial owner in Section 3A of the Act, which clearly states that a Beneficial owner is one on whose behalf the goods are being imported. Since the definition of importer as per section 2(26) covers beneficial owner, as defined in Section 2(3A) of the Customs Act, 1962. Hence, importer means any person who brings goods into India from a place outside India.

25. Submission: The definition of Beneficial Owner indicates that the concept is operational only when the goods are being imported or exported and not after the import is completed. English Language is very clear that the word "being" is a present participle and is used as a continuous verb. Therefore, it denotes to the action prior to the completion of import. Once the import is complete and the goods released into the mass of goods of the country, the concept of beneficial owner ceases to exist.

26. In the present instance, there is nothing to show that the importer (PSRA Graphics India Pvt Ltd), is importing goods only on behalf of the noticee. He has not admitted so in his statement nor do the evidences arraigned by the investigating agency suggest so and the fact remains that he has independent contract with his supplier and it is only when the goods are imported, they are being sold by way of GST Invoices and e-way bills are being generated. The importer is separately earning his profit on the imports and is not in the nature of an agent of the noticee. There is no such evidence to this effect in the notice besides the fact that the Importer himself is filing GST returns, the noticee is filing GST returns and selling the goods in turn on GST Invoices.

27. Also, the investigating agency has not recorded the statement of the supplier in Colombo whether he is supplying the goods on behalf of the noticee. The fact remains that even during the recording of the statement of the noticee, no averment was made by the noticee that he is importing the goods through the importer. Neither was any such question asked nor such averment made. Therefore, the question of the noticee being the beneficial owner does not arise.

28. Besides, while the notice makes the allegations that there was a business deal between Centograph and PSRA Graphics India Pvt Ltd for import of plates from invoices of Centograph for supply to Nippon Color. However, it may be seen from the list of relied upon documents (Annexure R) that there is no such business agreement or deal between the parties. The fact of the matter is that the investigating agency had visited both the premises of PSRA Graphics India Pvt Ltd and Nippon Color but failed to find any such agreement or understanding between these parties. In the absence of any documentary or even oral evidence to back this allegation, therefore, the allegation that Nippon Color is a beneficial owner has to fail.

29. The only reason as to why the noticee is being arraigned with the importer of goods is that the noticee is only one of the buyers of the goods imported by the importer. There is no such agreement or document or even oral evidence to this effect that the importer, PSRA Graphics India Pvt Ltd has to sell his entire imports only to Nippon Color. When there is no such agreement or understanding, then making this the only ground for arraigning Nippon Color with PSRA Graphics India Pvt Ltd is without basis or without backing of law.
30. It is regrettable to aver that the investigating agency has **indulged in peddling falsehoods** to justify its stance. It is stated in para 14.3 of the impugned notice that “*Nippon Color used to place written/oral order on PSRA Graphics India Pvt Ltd, **in turn forwarded the proforma invoice issued by Centograph to Nippon Color to verify and get 20% advance amount as mentioned in the Proforma Invoice.*** It is respectfully submitted that this is a completely false allegation made by the investigating agency to justify its notice. The noticee used to receive only the proforma invoice issued by PSRA Graphics India Pvt Ltd on its letterhead and not that of Centograph. No such document was found during the search of the office of the noticee. The copies of all the Proforma Invoices, Purchase order, GST Invoice and bank payment details for each of the transactions is attached for perusal and ready reference. The fact is further reinforced that when the DRI officers raided both the places and checked the computers, not a single proforma invoice or any other document of Centograph was found in the computer of Nippon Color or in any of the papers relating to the imports/purchases by Nippon of such digital printing plates. The officers went through all the emails and other documents available in the computers of Nippon Color but could not find any document relating to Centograph. **Therefore, the allegation is a blatant lie on the part of the investigating agency, which is rather shameful for India’s premier Investigating Agency.** The proceedings are therefore vitiated and liable to be dropped on this ground alone.

Evidence related to imports by some other parties:

31. As far as the sundry evidences peddled in the impugned notice of some documents being found of some other importer such as Mahalakshmi Textiles, PSRA Graphics, ACM Chemicals, NN Graphics, some Mr jack of China, Centograph of Sri Lanka, *et al*, who have no connection whatsoever with the purchases made by the noticee in the open market, the same is of no consequence as far as the demand of duty from the noticee or imposition of penalty on him is concerned. In fact, the fact that the investigation agency could believe that Mr. Jack belongs to China only from his email address viz., 887120433@qq.com thoroughly exposes the gullibility of the investigating officers. The manner in which other parties are importing or have allegedly misdeclared their goods is neither a concern of the noticee nor can be the basis for demanding duty from the noticee. Hence, the same are to be ignored and it is prayed accordingly.

Documents related to PSRA Graphics India Pvt Ltd:

32. The investigating agency has presented certain photocopies of documents of two containers relating to two Bills of Entry filed by the importer, which are said to be that transshipped by way of change of containers at Sri Lanka based on some email correspondence received from the DRI office at Chennai. It is respectfully submitted that such correspondence are of no evidence value

unless the same are accompanied by certificate under Section 138C of the Customs Act, 1962.

33. Even otherwise, it may be seen that it is claimed that Sri Lanka Customs has forwarded photocopies of some correspondences allegedly received by them from some forwarders for change of two containers and the same is addressed by way of a purported email to Chennai DRI. The law in the matter is well settled that any such photocopies of documents cannot be accepted unless the same is certified by the agency sending the same. There appears no such certification by Sri Lanka Customs. Therefore, the documents are of no evidentiary value whatsoever.
34. In this respect, the opinions tendered by the freight forwarders/brokers in their statements to the investigating agency remain what they are, mere opinions by them since they have not seen the original documents. Even the documents purportedly received from Sri Lanka Customs by way of email to the DRI office at Chennai are of no evidentiary value in the absence of any attestation of the same as required by Section 138C of the Customs Act, 1962.
35. Hon'ble Tribunal in the case of Ajit Exports & Ajit Singh Vs CC [2022 (2) TMI 468] (**Annexure**) held that any such photocopies of documents received from foreign sources have to be attested and their authenticity verified before admitting them in evidence. The law is well settled on this score.
36. Hon'ble Tribunal in the case of Vadivel Pyrotech P ltd & ors Vs CCE [2022 (8) TMI 830] (**Annexure**) has held that in terms of Section 65B of Central Excise Act, 1944, which is pari-materia to Section 138B of Customs Act, 1962, any document recovered from devices such as computer printout, mobile device prints such as WhatsApp have to be certified with the exacting particulars and without such certification, the same cannot be taken cognizance of.
37. Besides, it may be seen that these documents were said to be obtained through email correspondence from one mumops1@efficientmarine.com, the authenticity of the email address is not known and seems to be in the nature of private correspondence between the sender and DRI, Ahmedabad. Such correspondence cannot beget the aura of evidence either in terms of the Indian Evidence Act or the Information Technology Act or the Customs Act, itself. It may be noted that even the so-called letters, allegedly from the shipping line to Sri Lanka Customs seeking container changes, are not stamped or sealed or signed by any Sri Lanka Customs Officers or office seal. Hence the authenticity of the same cannot be vouched for. Besides, whether such permission were at all granted is not known. Therefore, the said evidences are of no consequence to either pin the importer or the noticee in any manner.
38. Hon'ble Tribunal in the case of Tradewell and Pankaj Jain Vs CC [2022(2) TMI 370] (**Annexure**) in para 15 of its order has dealt with such WhatsApp Chat said to have been retrieved from the phone of one of the accused in that case and the Hon'ble Tribunal was pleased to hold that such WhatsApp Chat cannot be taken cognizance in the absence of Panchnama showing retrieval of the phone. In the present instance too, there is no documentation of retrieval and certification as mandated in Section 138(c) of Customs Act, 1962 and therefore, the said chat is of no consequence either for valuation or purpose of imposition of penalty on the noticee.
39. Hon'ble Tribunal in the case of Kuber Impex Ltd and Kapil Garg Vs CC [2022 (9) TMI 24] (**Annexure**) held that such computer printouts and other

electronic devices, the procedure prescribed under Section 138(c) of Customs Act 1962 has to be followed, without which the said printouts have not evidentiary value and accordingly set aside the proposal for revaluation of the goods.

- 40.Hon'ble Tribunal in the case of Jeen Bhavani International and Anr Vs CC [2022 (8) TMI 237] (**Annexure**) held set aside the revaluation of the case on the grounds that procedure prescribed under Section 138 of Customs Act, 1962 has not been followed in respect of printouts taken from electronic devices.
- 41.Hon'ble Tribunal in the case of S N Agrotech and Ors Vs CC [2018 (4) TMI 856] (**Annexure**), by placing reliance on Supreme Court Judgment in the case of Anvar P V Vs P. K Basheer [2014 (9) TMI 1007] which interpreted Section 65B of the Evidence Act, 1872, which is pari-materia to Section 138(c) of Customs Act, 1962 held that unless the printouts are certified, the same cannot be taken cognizance and accordingly, allowed the appeal.
- 42.Hon'ble Tribunal in the case of Atul Dhawan Vs CC [2022 (11) TMI 1160] (**Annexure**) held that no panchnama is drawn regarding withdrawal of information from computers/devices, then any such data retrieved cannot be taken cognizance for purpose of adjudicating the duty liability and the imposition of penalty.
- 43.In any case, unless there is some documentary evidence or even oral evidence by way of statement of Importer, PSRA Graphics India Pvt Ltd or the noticee, Nippon Color or the said supplier, Centograph that the noticee was involved in liaising with them in relation to the alleged misdeclaration, no such charge can be brought against the noticee either for demanding duty or for imposition of penalties as proposed in the impugned Notice. Incidentally, it bears mention that not a single document said to have been recovered during the search operations at the noticee or the importer are relied upon in the notice to make any allegations of connivance between them or that any attempt was being made to circumvent Indian Law and customs duty.

Penalty under Section 112(a) & 112(b) of Customs Act, 1962:

- 44.The notice proposes imposition of penalty on the noticee under Section 112(a) and Section 112(b) of Customs Act, 1962. It is respectfully submitted that section 112(a) and 112(b) operate in different fields and cannot be invoked simultaneously. The said sections read as follows –

SECTION 112. Penalty for improper importation of goods, etc.-

Any person, -

(a), or

(b),

- 45.As may be discerned from the above, penalty under Section 112(a) is imposable when the person does or omits to do any act, which renders the goods liable to confiscation. In the present instance, the noticee is nowhere concerned with the import or the import documentation in relation to the goods purchased by him in the local market. There is also no documentary or other evidence to link the noticee with either the buyer or his supplier (importer) in the alleged misdeclarations since no such incriminating document has been found in the search conducted by the investigating agency

at various premises. Therefore, penalty under Section 112(a) cannot be imposed on the noticee.

- 46.As may be seen from the above, Section 112(b) applies only when the person acquires possession, or is concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchase or in any manner dealing with any goods, **which he knows or has reason to believe are liable to confiscation.** The notice does not bring out any such evidence to show that the noticee knew or had reason to believe that the goods which he was buying in the local market for value are liable for confiscation. There is nothing to show that he was aware that the goods are being imported from China or from Sri Lanka or any other country of the world. The investigating agency ought to have garnered demonstratable evidence to show that the noticee knew or had reasons to believe that the goods are liable to confiscation.
- 47.Hon'ble Tribunal in the case of Shri Gajraj Singh Baid Vs CC [2021 (12) TMI 252] (**Annexure**) has set aside the penalty imposed under Section 112 and Section 114AA of Customs Act, 1962 since there was no evidence garnered to show abetment of the person with the importer. There is nothing to show that the person was aware of the acts of omission and commission tendered by the importer and therefore, no penalty can be imposed on him.
- 48.All that the investigating agency demonstrates is to show some email correspondence received from the email address of a purported shipping line and some documents allegedly forwarded by Sri Lanka customs, which do not even bear the stamp or seal of Sri Lanka customs and ask his opinion. He gave his opinion that it appears to be. Whether such documents were in his possession when he purchased the goods in the local market is the moot point for which admittedly, no such documents were found either in his premises or that of the supplier importer. Therefore, it is respectfully submitted that no penalty under Section 112(a) and 112(b) can be imposed on the noticee.

Penalty under Section 114AA of Customs Act, 1962

- 49.The notice proposes imposition of penalty under Section 114AA of Customs Act, 1962. The said section reads as follows –

Section 114AA. Penalty for use of false and incorrect material. -

.....

- 50.It may be seen from the above, that the section applies only when the 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. As far as the first part of the provision is concerned, it obviously does not apply to the noticee.
- 51.As far as the second part of the provision relating to cause to be made, signed or used is concerned, the same also does not apply to the noticee since there is not an iota of evidence in the whole of the impugned notice to show that the noticee knew or intentionally made the importer to make or sign or use any declaration. There is nothing in the notice to show that the noticee was even aware as to the country of manufacture of the goods since the same is not reflected in any of the purchase documents found in his premises by the investigating agency. There is no documentary or oral evidence to show that the noticee has caused to be made, signed or used any declaration, statement

or document. Therefore, no penalty under Section 114AA of Customs Act, 1962 can be imposed on the noticee.

52.Hon’ble Tribunal in the case of Shri Gajraj Singh Baid Vs CC [2021 (12) TMI 252] (**Annexure)** has set aside the penalty imposed under Section 112 and Section 114AA of Customs Act, 1962 since there was evidence garnered to show abetment of the person with the importer. There is nothing to show that the person was aware of the acts of omission and commission tendered by the importer and therefore, no penalty can be imposed on him.

Penalty under Section 117 of Customs Act, 1962:

53.The notice proposes penalty under Section 117 of Customs Act, 1962 on the ground that PSRA Graphics India Pvt Ltd, the importer has failed to provide correct information in terms of Section 17 and Section 46 of Customs Act, 1962 and since no express penalty is provided for the same, it is proposed to penalty the noticee under Section 117 of Customs Act, 1962.

54.It is respectfully submitted that the noticee is not the importer who filed any kind of declarations with the department and hence no case of violation of Section 17 and Section 46 of Customs Act, 1962 can be made against the noticee, who was a buyer of the goods, for value, in the local market, simplicitor. When no such declaration was filed by him, the proposal for imposition of penalty under Section 117 of Customs Act, 1962 cannot be sustained and needs to be dropped. Prayed accordingly.

Cross Examination:

55.It may be noted from the whole of the case that there are no records found incriminating the noticee either from his office or that of importer, PSRA Graphics India Pvt Ltd and no such documents were even found while scanning the computer in the office of the noticee, Nippon Color or that in the office of the importer, PSRA Graphics India Pvt Ltd. The case is only based on statements and opinions tendered by some other importers of such goods, freight forwarders and custom brokers. Therefore, since the whole case is based only on the statements and the conclusions drawn by the investigating officers, we request that we may be allowed to cross examine the following persons

Sr No	Name of person	Reasons
1	SIO in the Directorate of Revenue Intelligence, Ahmedabad	For the conclusions drawn by the officers in making the allegations against the noticee
2	IO in the Directorate of Revenue Intelligence, Ahmedabad	For the conclusions drawn by the officers in making the allegations against the noticee.
3	Officers in Directorate of Revenue Intelligence, Chennai who made the correspondence with Sri Lanka Customs	For the veracity of the documents allegedly received from Sri Lanka Customs

4	Rakesh Chauhan, Director of PSRA Graphics India Pvt Ltd	He is the importer of the goods and the link between him and the noticee needs to be established
5	Rakesh Ajmeri, Proprietor of Mahalakshmi Textiles	To verify whether the documents and his statement relating to his imports are connected in some way with the goods purchased in local market by the noticee
6	Mahesh Patel, Propreitor of Universal Marketing	To verify whether the documents and his statement relating to their imports are connected in some way with the goods purchased in local market by the noticee
7	Joseph G, Director of Nekoda global Logistics India P ltd	To verify whether his statement relating to the imports handled by them are connected in some way with the goods purchased in local market by the noticee
8	Santhosh Chavan, Manager of Worldgate Express Lines International P Ltd	To verify whether his statement relating to the imports handled by them are connected in some way with the goods purchased in local market by the noticee
9	Pramod K Auti, Marketing Executive of Sun Clearing Agency	To verify whether his statement relating to the imports handled by them are connected in some way with the goods purchased in local market by the noticee

56. The Hon’ble Supreme Court in its judgment in the case of CC(I), Mumbai Vs Ganapati Overseas [2023 (10) TMI 364 (SC)] (**Annexure)** held that when any case is based on statements then it is incumbent upon the adjudicating authority to examine whether there was any duress or coercion in the recording of such statement since the adjudicating authority exercises quasi-judicial powers.

Prayer

In view of the above submissions, it is prayed that the proceedings initiated in the impugned notice for demanding duty or imposing penalties under various sections of the Customs Act, 1962 against my client, Nippon Color (Proprietor: Jayant Pardiwala) may be dropped.

31.2 M/s Nippon Color, New Delhi, further submitted their final defence reply dated 16.04.2025, which is reproduced as under -

Submissions:

1. A detailed point-by-point reply to the Show Cause Notice has been submitted vide reply dated 24th June 2024 and the same may be considered for adjudication purposes. Copies of all GST Invoices, e-way bills, Purchase Orders, Proforma Invoices and GST returns have already been submitted with the reply to notice.
2. The proceedings are beyond jurisdiction since as per Section 110AA (d)(ii) of Customs Act, 1962, only an officer duly assigned by the Board can adjudicate

the matter. Notification 28/2022 dated 28.02.2022 only empowers the categories of officers, who can adjudicate such cases of multiple jurisdiction but the actual assignment to a particular officer has still to be done by the Board.

3. The noticee is a buyer of goods for value after pass out-of-customs order and hence once the goods have been given such order, they become one with the mass of goods in India and therefore cease to remain imported goods. The noticee has bought such goods, which are one of the mass of goods in India and hence cannot be saddled with any alleged pre-pass out-of-customs misdemeanors, if any, indulged by the importers. Section 2(25) defining imported goods clearly holds that the definition does not cover goods which have been cleared for home consumption. Hence the purchases made by the noticee were not of imported goods at all.
4. No reasons, whatsoever, have been cited in the impugned notice as to why the duty has to be demanded from the noticee who has purchased the goods on GST Tax Invoices, supported by payment through bank and proper proforma invoice and purchase orders were raised before the supply. These transactions have also been reflected in the GST Returns filed by the noticee and there is no objection whatsoever, even from the GST department. There is nothing in these documents that the noticee has sought to buy China origin CTCP or any such indication even on the supply documents to demonstrate that these are of China origin. Hence the noticee is an innocent buyer for value of the goods in the Indian market.
5. On merits, the whole case of the notice is that some other importer has been found to have some document indicating that the Sri Lanka supplier had supplied goods that the said supplier had imported from China and in one other case, there is allegedly some email correspondence between the importer and some person in China relating to some supplies, which are totally unconnected with the noticee, Nippon Color. These documents have also not been certified under Section 138C of Customs Act, 1962 and therefore in the light of SC Judgments in the case of CC NS III Vs Jeen Bhavani International [2023 (10) TMI 1207(SC)] & CC Import II Vs Junaid Kudia & Anr. [2024 (3) TMI 570 (SC)], no cognizance can be taken of any such documents.
6. It bears mention that the claim in the show cause notice of the investigation by the Sri Lanka Customs into the said supplier company is not complete or is inconclusive since no final report has been supplied to the noticee.
7. The issue of beneficial owner has been fully dealt with by the Hon'ble Madras High Court in the case of C Solomon Selvaraj Vs PCC, Chennai [2023 (10) TMI 904 (Mad)] and the Hon'ble Supreme Court in the case of Nalin Choksey, Appellant Vs CC, Kochi [2024 (12) TMI 687 (SC)] wherein it held that duty can only be demanded from the importer and not the local buyer for value. Even otherwise, the concept of beneficial owner applies only prior to the clearance of goods and not post-clearance as the key word used in the definition is "*being imported*".
8. Noticee contests the allegation that the CTCP Plates were sold on landed cost + Commissioner of Rs. 2.50 Per Sq Mtr as there is nothing to prove this averment in the notice. The GST Tax Invoices and the purchase orders or any other documents do not relate to any such formulation as assumed in the notice. There is nothing to demonstrate that the noticee has appointed M/s PSRA Graphics as his buying commission agent. It is baseless allegation

which is not even supported by the statements of both parties and hence purely imaginary since the SCN did not even bother to demonstrate this so-called commission by tabulating the landing cost and the GST invoice value. It shows that the investigating agency also knew the fallacy of such averment.

9. Also, there is no agreement between the importer M/s PSRA Graphics and the noticee, M/s Nippon Color for import from the Sri Lanka supplier for supply to Nippon Color. Even the searches at offices of both parties did not reveal any such document nor the search of the computers reveal any such document.
10. It is to submit with deepest regret that Para 14.3 of the notice indulges in utter falsehood when it alleges that a proforma invoice of the Sri Lanka supplier was forwarded to Nippon Color to verify and get 20% advance payment. No such document or any such correspondence exists since the same has not even been made part of RUDs or found by the investigating agency. It is really very disgusting when such falsehood is peddled in the show cause notices.
11. As far as confiscation of the imported goods, which are not available are concerned, the adjudicating authority is at liberty to confiscate such goods unavailable goods in the face of Supreme Court judgment in the case of Finesse Fashions Inc.
12. As far as imposition of penalty under Section 112(a) or 112(b) is concerned, since the noticee is not at all related to the import of the said goods, no penalty under either of these sections can be imposed on him. He has only dealt with goods which are already cleared from customs and one of the mass of goods in India. The case laws listed in the reply to show cause notice amply cover the situation and hence no penalty whatsoever can be imposed under these sections.
13. As far as imposition of penalty, under Section 114AA of Customs Act, 1962 is concerned, as already submitted in the reply, there is nothing to demonstrate that the noticee has submitted or caused to be submitted any document, which he knew was false in any material respect. In fact, he has not done any business with customs at all in the course of imports by M/s PSRA Graphics India P Ltd. The case laws listed in the reply to show cause notice amply cover the situation and hence no penalty whatsoever can be imposed under these sections.
14. Regarding penalty under section 117 of customs Act, 1962, the notice does not bring out any violation of any section of the Customs Act, 1962 that has been violated by the noticee but wherein no penalty has been prescribed for such violation. Therefore, no penalty under Section 117 of Customs Act, 1962 can be imposed on the noticee.
15. We have sought cross-examination of various persons in our reply to the notice spelling out the reasons as to why they need to be cross-examined and request that the matter may be decided only after their cross-examination. We place reliance on the judgment of Hon'ble Supreme Court in the case of CC (I), Mumbai Vs Ganapati Overseas [2023 (10) TMI 364 (SC)].
16. Accordingly, it is prayed that the proceedings initiated against the noticee, Nippon Color may kindly be dropped.

submitted their defence submission dated 07.07.2024 in reply to the notice in the matter, which is reproduced as under –

Para 1 to 5 of the reply reproduces brief facts of the case, hence not repeated here for the sake of brevity.

Imposition of Anti-Dumping Duty & Imports by PSRA Graphics

6 It is understood that the Anti-Dumping Duty was imposed by the Government of India vide Notification No. 02/2020-Customs (ADD) dated 30.01.2020 and Notification No. 21/2020-Customs (ADD) dated 29.07.2020 issued by the Ministry of Finance, Govt. of India. As noted earlier, the Noticee does not have any direct imports or any purchases from Cento Graph, Sri Lanka. Before the imposition of Anti-Dumping Duty, the Noticee used to order CTCP Plates from one M/s PSRA Graphics, who was importing the CTCP Plates from outside India. During that period, the Noticee was not aware about the origin of the goods and it was anyway inconsequential as there was no Anti-Dumping Duty on CTCP Plates even if the same was imported from China.

7 It is clear from the records that after the imposition of Anti-Dumping Duty from China, we have not given any orders to PSRA Graphics for the import of Offset Digital Plates. Last order was placed by the Present Noticee on PSRA Graphics was much before imposition of Anti-Dumping Duty.

8 That prior to the imposition of the Anti-Dumping Duty, we had given one purchase Order for only one container of goods, i.e. Offset Digital Plates, from M/s PSRA Graphics India Private Limited. In this regard, the Noticee places on record the following documents -

(i) The Order for 1 container of CTCP Plates was placed on PSRA Graphics on September 9, 2019. The price was agreed at INR 215 per square meter of CTCP Plates landed cost including the customs duty but exclusive of GST. Accordingly, the total consideration was roughly agreed to be at 50,00,000/- (+GST). It may be noted here that the total sheets in a container may vary and a container may contain 23,000 sq mt to 28,000 sq mt depending on the shape of CTCP Plates packed inside the container at the time of export from the port of origin. The final amount is calculated depending on the actual quantity of CTCP Plates imported in the container As per the terms agreed between the parties, the Customs duty was payable by the supplier and the agreed cost included Customs Duty. Further, as noted above, the Anti-Dumping Duty was imposed much later in February, 2020 and there was no reasonable information regarding the imposition of Anti-dumping duty on the said goods.

(1) As per the understanding between the parties, the Noticee was to pay around 20% to the supplier i.e. PSRA. Accordingly, the Noticee also made an advance payment of INR 10,00,000/- on September 9, 2019, towards the import of CTCP Plates. PSRA Graphics, in turn, placed an order on the Cento Graph, Sri Lanka

(iii) Further, another amount of INR 10,00,000/- was paid to PSRA Graphics on December 18, 2019 towards the import of a container of CTCP Plates This payment was made after the Order was confirmed to have been Shipped by M/s PSRA [Copy of a self-certified ledger of M/s PSRA Graphics as maintained by the Noticee is enclosed as Annexure-3]

(iv) Further Cento Graph issued a Performa invoice dated December 19, 2019, which also mentions the advance payment of 12.435 USD ie. INR 10,00,000/- paid by the Noticee as an advance [Copy of the Proforma Invoice dated December 19, 2020 issued by Cento Graph to PSRA Graphics is enclosed as Annexure-3]

(v) The above payments can also be verified by the bank account statements of the Noticee as well as all the payments made through banking channels.

9. From the above, it is clear that the Noticee placed the Order much before the Government of India imposed anti-dumping duty. During the entire transaction, the Noticee was never informed that the CTCP Plates were imported from China. In any case, there was no Anti-Dumping Duty during the said period on any import of CTCP Plates from China

10. Thereafter, it is common knowledge that the COVID-19 pandemic struck globally in December 2019 and January 2020 Therefore, it was informed by M/s PSRA Graphics that the Shipment of CTCP Plates, which was shipped in December 2019, was delayed indefinitely The Noticee also tried to cancel the Order, however, due to advance given by the Noticee, the Order could not be cancelled or else the Supplier would have forfeited the amount

11 Ultimately, PSRA Graphics imported the CTCP plates in May 2020 (after the Covid-19 restrictions were a bit relaxed) and thereafter supplied them to the Noticee. The Noticee was nowhere involved in the Import or clearance of the said goods from Customs and hence, there was no occasion for Noticee to verify as to whether the goods were of Chinese Origin We were given to understand that the goods are imported from Sri Lanka After the importation of goods, a Commercial Invoice was issued by Cento Graph, which also mentions the Performa Invoice issued earlier [A copy of the Commercial Invoice dated May 6, 2020, is enclosed as Annexure-5] This commercial invoice also provides reference to the earlier proforma invoice issued by M/s Cento Graph

12. After the said imports, the Noticee came to know from other dealers that M/s PSRA Graphics may be engaged in the import of goods of Chinese origin or routed through China Accordingly, the Noticee immediately stopped the imports from M/s PSRA and its' proprietor Shri Rakesh Chauhan. Thus, after the said shipment there is no other import shipments purchased by the Noticee from PSRA Graphics. There is also no allegation in this regard in the SCN

Investigation by the Customs Department

13. A reading Department of Revenue Investigation conducted an investigation on PSRA Graphics The SCN alleges that M/s PSRA Graphics was importing these plates manufactured in China, which attract Anti-Dumping Duty (ADD). The company was routing these imports through a supplier in Sri Lanka to evade the ADD imposed on Chinese-manufactured goods

14 In this regard, two Statements dated 07.02.2023 and 29.05.2023 from Shri Vikas Wadhawan, the proprietor of Suman Graphics were also recorded. In the statement dated 07.02.2023, Mr Vikas Wadhwan stated the following -

He never imported the goods from Cento Graph, Sri Lanka, but he purchased the goods from M/s PSRA Graphics India Private Limited, which was imported by M/s PSRA Graphics India Private Limited from M/s Cento Graph, Sri Lanka.

He came in contact with Shri Rakesh Chauhan of M/s PSRA Graphics India Private Limited in around mid-2018 through one of the dealers of Offset Printing Materials.

During the meeting, initially Shri Rakesh Chauhan informed him that they manufacture various chemicals used in printing industries. Further, Shri Rakesh Chauhan informed us that they were also importing CTCP Plates from Sri Lanka, which were of Spanish origin. During the meeting, he informed me that he could supply the Spanish-origin CTCP Plates/ Printing Plates to him and also gave the landing cost of goods and wanted Rs. 2-3 per Sqm as commission for the supply of goods. The rate given by Shri Rakesh Chauhan was good as per the market price, so he gave him a verbal order for One Container of CTCP Plates. Thereafter, he used to give him verbal orders of CTCP Plates as per our requirement and purchase approximately 4 containers of CTCP Plates.

He never placed any order directly to Shri Llyod Harridge, owner of M/s Cento Graph, Sri Lanka. He gave verbal order to Shri Rakesh Chauhan only but once he received a mail from M/s Cento Graph regarding early payment to Shri Rakesh Chauhan and copy of said mail was sent to Shri Rakesh Chauhan. He stated that thereafter, he never received any direct mail from M/s Cento Graph

Initially he was not aware that the Printing Plates supplied by M/s PSRA Graphics India Private Limited to us were of Chinese origin but after purchasing 04 containers he came to know from other dealers that goods imported M/s PSRA Graphics India Private Limited were of Chinese origin or routed through China, and he immediately stopped the purchase from Shri Rakesh Chauhan.

He met Shri Rakesh Chauhan in the office of one of the dealers of Printing materials. At that time, Mr Llyod Haridge was also present, and he also negotiated rates of CTCP Plates with Mr Llyod Harridge. Rakesh Chauhan gave us imported Offset Digital Plates after importing (from M/s Cento Graph, Sri Lanka and Charged Rs. 2.5 per Sqm in addition to all landing costs, including duly & other charges. He also gave advance payment to Shri Rakesh Chauhan for the import of goods and thereafter used to get the remaining 80% before receipt of goods. He further stated that we never gave orders directly to Mr. Llyod Harridge, but we gave verbal orders to Shri Rakesh Chauhan only and never issued purchase orders Shri Rakesh Chauhan used to send Performa Invoice to us about total payment.

15. Another statement was recorded from Mr. Vikas Wadhawan on 29.05.2023, wherein he was shown certain communications between Rakesh Chauhan and Mr. Lloyd Harridge, which were not even marked to him. In the statement, he stated that he is aware of the fact these CTCP Digital printing plates were supplied by M/s. Cento Graph, Sri Lanka to M/s PSRA Graphics India Private Limited were originally imported from China,

Allegations contained in the SCN

16 That a bare reading of the SCN suggests that there are no documentary evidence against the present Noticee The entire case of the Department is based upon the incorrect appreciation of facts, and no documents were recovered from the Noticee's premises indicating that the present Noticee knowingly indulges in any practices for circumventing the provisions of the Customs Act. The SCN records the following allegations in the SCN-

► That the importer had knowingly and deliberately indulged in suppression of facts and had wilfully misrepresented/misstated the material facts regarding the producer/manufacturer of goods imported by them, in the declarations made in the import documents, including Checklists presented for filing of Bills of Entry presented before the Customs at the time of import for assessment and clearance, with an intent to evade payment of applicable Customs Duty. Therefore, the Anti-dumping duty not paid is liable to be recovered jointly & severally from M/s PSRA and M/s. Nippon Colour M/s ACM Chemicals & M/s Suman Graphics, the beneficial owners, by invoking the extended period of five years as per Section 28 (4) of the Customs Act, 1962, in as much as the Anti-dumping duty is short paid on account of wilful misstatement as narrated above

PSRA Graphics in connivance with M/s Nippon Colour, M/s. ACM Chemicals & Suman Graphics, the respective beneficial owners of the goods, have imported Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates valued at Rs. 8,97,03,963/- (Rs. 6,71.51,179/- as detailed in Annexure-A & Rs. 2,25,52,784/- as detailed in Annexure-B to this notice) by deliberately resorting to misstatement & suppression of the material fact that the said "goods were manufacture by M/s Cento Graph, Sri Lanka, in contravention of the provisions of Section 46 (4) of the Customs Act, 1962. In terms of Section 46(4) of the Customs Act, 1962, the importer was required to make a declaration as to the truth of the contents of the Bills of Entry submitted for assessment of Customs duty, which in the instant case, 'M/s PSRA' had failed to fulfil in respect of the imports of Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates through Mundra port (INMUN1) and Nhava Sheva Port (INNSAL1)

► For these contraventions and violations, the goods fall under the ambit of 'smuggled goods within the meaning of Section 2(39) of the Customs Act, 1962 and are liable for confiscation under the provisions of Section 111(m) of the Customs Act, 1962. Further, since the goods have been imported in violation of the conditions of Notification No. 02/2020-Customs (ADD) dated 30.01.2020 and Notification No. 21/2020-Customs (ADD) dated 29.07.2020 issued under Section 9A of Customs Tariff Act, 1975 the goods appear liable to confiscation under Section 111(0) of the Customs Act 1962

► The aforesaid acts of suppression of facts and wilful misstatement by M/s PSRA in connivance with M/s Nippon Colour, ACM Chemicals & M/s. Suman Graphics, beneficial owners of the goods, had led to evasion of Customs duty (Anti-dumping duty including IGST of Rs. 3,24,40,946/- thereby rendering them liable for penalty under Section 114A of the Customs Act, 1962, in as much as! the Customs duty amounting to Rs. 3.24 40.946/- was evaded by reason of wilful misstatement and suppression of facts with a malafide intention

► All the aforesaid acts of omission and commission on the part of 'M/s PSRA' in connivance with M/s. Nippon Colour, M/s ACM Chemicals & M/s. Suman Graphics, beneficial owners of the goods, have rendered the subject goods totally valued at Rs. 8,97,03,963/- (as detailed in Annexure-A & B to this notice) liable for confiscation under Section 111(m) and 111(o) of the Customs Act, 1962

► M/s PSRA and M/s. Nippon Colour, M/s. ACM Chemicals & M/s. Suman Graphics, beneficial owners of the goods are therefore liable to penalty under Section 112(a) and 112(b) of the Customs Act, 1962. In the present

case, it is also evident that the actual facts were only known to M/s P(SRA and M/s. Nippon Colour, M/s ACM Chemicals& M/s. Suman Graphics about the product and its actual producer. However, it appears that 'M/s PSRA knowingly and intentionally made, signed or used the declaration, statements and/or documents and presented the same to the Customs authorities, which were incorrect in as much as they were not representing the true, correct and actual producer/manufacturer/country of origin of the imported goods, and have therefore rendered themselves liable for penalty under section 114AA of the Customs Act, 1962 also.

► Since 'M/s PSRA' is in connivance with M/s. Nippon Colour, M/s. ACM Chemicals & M/s. Suman Graphics, beneficial owners of the goods, have violated the provisions of Sections 17 and 46 of the Customs Act, 1962, which was their duty to comply, but for which no express penalty is elsewhere. provided for such contravention or failure, they shall also be liable to penalty under Section 117 of Customs Act, 1962 However, since, M/ s, Nippon Colour, M/s. ACM Chemicals & M/s Suman Graphics are proprietorship firms, penalties, as discussed foregoing, are proposed to be imposed on the proprietors, and no separate penalties are proposed on the firms

► it appears that Shri Vikas Wadhawan, Proprietor of M/s. Suman Graphics in connivance with Shri Rakesh Kumar Chauhan, director of 'M/s PSRA and Mr Llyod Harridge of M/s Cento Graph, Sri Lanka by adopting a modus as described in preceding paras, have involved himself in the conspiracy of mis-declaring the actual name of producer manufacturer of Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates imported by 'M/s PSRA'. He was in constant touch with the overseas supplier of goods, Mr. Llyod Harridge, who routed the Chinese goods through his firm M/s Cento Graph, Sri Lanka and arranged documents of M/s Cento Graph along with Country of origin from Sri Lanka to Shri Rakesh Kumar Chauhan

► Shri Vikas Wadhawan had full knowledge about the producer/ manufacturer of the goods imported in the name of 'M/s PSRA', and aided 'M/s PSRA' to evade Anti-dumping duty imposed vide Notification No. 02/ 2020-Customs(ADD)dated 30 01 2020 issued under Section 9A of Customs Tariff Act, 1975 on imported Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates of Chinese origin. All the aforesaid acts of omission and commission on the part of Shri Vikas Wadhawan have rendered the imported goods liable for confiscation under Section 111(m) and (o) of the Customs Act, 1962. Further, he had consciously dealt with the said goods, which he knew or had reasons to believe were liable to confiscation under the Customs Act of 1962. By these acts Shri Vikas Wadhawan, Proprietor of M/s. Suman Graphics has rendered himself liable to penalty under provisions of Section 112(b) of the Customs Act, 1962

Submissions

A. That there can be no duty demand from the present Noticee as the Noticee is neither an "importer on record" nor a beneficial owner of the goods.

A1 At the outset, it is humbly submitted that the present Noticee has not imported the CTCP Plates ie the Impugned goods proposed for confiscation under the present SCN and hence they are not liable to discharge any obligation in relation to the said goods. The Indian Customs regulations apply only to the importer who is obliged to ensure compliance We submit that we are not importer in relation to the Impugned goods, and accordingly, we are not liable for any compliance under the Customs Law

A.2 The definition of 'importer' is provided under Section 2(26) of the Customs Act. The definition, as applicable to the period covered in the SCN, states

(26) -importer, in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes (any owner, beneficial owner] or any person holding himself out to be the importer,

A.3 From a bare reading of this definition, it is clear that the term importer refers to a person who at any time between

(i) their importation and

(ii) clearance for home consumption, is either

An importer:

Owner,

Beneficial owner, or

A person holding himself out to be the importer;

A.4 Thus, a bare reading of the aforesaid definition provides that either an importer, owner or a person holding himself to be an importer at any time during the importation and clearance for home consumption alone is considered to be the importer of goods.

A.5 Therefore, we submit that inter alia we are not the importer of the goods. Till the time the goods were actually handed over by the PSRA to the present Noticee, we were not concerned about the importation of goods. We are neither the actual or beneficial owner the goods. The Noticee was not even aware as to the date or port of importation of goods. In view of the above, the present Noticee cannot be said to be the importer of the goods

A.6 In this regard, reliance is placed on the judgment in the case of Nalin Z. Mehta v. CC, Ahmedabad, reported at 2014(303) E.L. T. 267 (Tri. Ahmd). In this judgment, the Hon'ble Tribunal has held that when the Bill of Entry is not filed by a person, he cannot be held as an importer under Section 2(26) of the Act.

"10. Secondly, in our view, the definition of importer as mentioned in Section 2(26) of Customs Act, 1962 would not cover the Noticee, as it is undisputed that the Noticee had not filed any Bill of Entry. We find that the issue seems to be settled in favour of the assessee by the following decisions. The relevant paragraphs in the judgments are also reproduced.

11. In view of the above reproduced ratio of various judgments, it has to be concluded that an importer under Section 2(26) is a person who has filed the Bills of Entry for the clearances and has paid the Customs duty. The above said judgments also lay down a ratio that an IEC code holder cannot be denied the clearances of consignments if he has filed the Bills of Entry. In these appeals before us, it is undisputed that Bills of Entry are not filed by the appellant herein and in our considered view, he cannot be held as an importer"

[Emphasis Supplied]

A.7 The ratio of the said judgment is squarely applicable in the present case since in the present case also, we have neither filed the bill of entry nor held ourselves to be the importer at anytime. Thus, we cannot be held to be the importer of the goods in the present case. Accordingly, no duty or any other Customs' compliance liability can be imposed on us

A.8 We further place reliance on the judgment in the case of Biren Shah v. Collector of Customs, Bombay reported at 1994 (72) E.L. T. 660 (Tribunal). In the said judgment, the appellant therein had caused goods to be imported in the name of M/s Vikram Overseas who were holders of a pass book. Bills of entry were filed by M/s Vikram Overseas. But later they had refused to clear the goods. The Appellant claimed that he was the real person importing the goods. The suppliers had offered to transfer the documents in his name and argued that he should be allowed to file the bill of entry. The department refused the request, confiscated the goods and auctioned the same. Before the Hon'ble Tribunal it was claimed that in the face of the developments where the Appellant claimed to be the importer, and also held the documents, he should be treated as an importer in terms of Section 2(26) of the Act. However, refuting the said claim, the Tribunal held as follows -

"102 "No doubt, Section 2(26) permits anyone holding himself out to be the importer between the date of importation and clearance of the goods. But here, Mis. Vikram Overseas, in whose name the goods have been manifested have by filing a Bill of Entry on 21-11-1990, already held themselves out to be the importer. In such circumstances, we are to consider only the claim of Shri Biren Shah for treating him to be the importer. We cannot persuade ourselves to accept him either as a person, who held out as an importer by getting the documents in his name at the time of arrival of the goods. M/s Vikram Overseas only have filed the B/E and held themselves out to be the importer. If they disclaimed the goods, the Department cannot substitute another person as importer, in the context of the provisions of Sec. 48 of the Customs Act, whereunder if the notified importer does not clear the goods or abandon the goods, the authorities having custody of the goods can only sell the goods by auction and the law does not permit substitution of another importer. Be that as it may, in a case where a fraud has been detected in the import, the name of the importer cannot be changed in the manifest and any such amendment is not permissible under Section 30(3) of the Customs Act."

[Emphasis Supplied]

A.9 In a judgment in the case of RS Impex Vs CC, New Delhi, reported at 2017-VIL-728-CESTAT-DEL-CU, the Ld. Tribunal held that when the appellant asserts that he did not import goods and did not hold himself to be the importer of such goods, then it is for the Revenue to categorically establish that the Noticee was indeed importer of the goods. In absence of such proof, no duty demand or penal consequences is applicable with reference to the impugned goods against the

A 10 From the above judgments, it is clear that only a person filing the bill of entry can be held to be an importer of goods. The legal position arising from the aforesaid decisions has also been endorsed in the following judgments

► Simal Kumar Mehta v. CC, Mumbai, 2011 (270) E.L. T. 280

► Dhirubhai N. Sheth v. CC, Bombay-1995 (75) E.L. T. 697

Ashwin Doshi v. CCE, Goa - 2004 (173) E.L. T. 488

► J.B. Trading Corporation v. UOI-1990 (45) E.L. T. 9 (Mad.)

► Chaudhary International v. CC, Bombay-1999 (109) E.L. T. 371

Hamid Fahim Ansari v. CC, Nhava Sheva - 2009 (241) E.L. T. 168 (Som.)

► Proprietor, Carmel Exports & Imports v. CC, Cochin - 2012 (276) E.L. T. 505 (Ker.)

A. 11 in view of the above judgments, GDPK not having filed the bills of entries cannot be held to be importer in the present case

► That the Present Noticee does not qualify to even be the 'beneficial owner' of the Imported Goods

A.12 That it is submitted that the term 'Beneficial owner is defined under section 2(3A) of the Customs Act as the person on whose behalf the goods are being imported or exported or who exercises effective control over the goods being imported or exported. It is however submitted that the said definition does not apply to the present Noticee As the goods were imported by M/s PSRA and neither the ownership or the actual control was with the present Noticee. The present Noticee had no right over the said goods till its' delivery by M/s PSRA to the present Noticee and hence the present Noticee cannot be deemed to be the 'beneficial owner of the said goods.

A 13 It is further submitted that 'importer' under the Customs law, is a contemporaneous concept. As noted earlier, as per the definition of 'importer', the concept of importer is qualified by time between importation of goods and clearance for home consumption. Accordingly, the ownership (whether beneficial or otherwise) or possession of goods with any party, subsequent to the clearance of goods are in consequential as far as the status of importer is concerned.

A 14 In this regard, reliance is placed on the judgment of the Madras High Court in the case of J.B. Trading Corporation v. Union of India, reported at [1990 (45) E.L. T. 9 (Mad.)]. In the said case, one Mis. Continental Silk House had filed bills of entry through their CHA. The importer was found to be non-existent. The licences were found to have been obtained by fraud and misrepresentation on the strength of fabricated documents. Both customs and the CCE had issued show cause notice to Mis Continental Silk House for confiscation of the goods and for cancellation of the licence, respectively Both the importer and the CHA confirmed that they had filed the bills of entry at that time when they were not aware of any offences being committed in regard to such importation. At this stage, Mis. J.B. Trading Corporation filed another bills of entry for the same goods claiming that the suppliers had transferred the goods to them. They were in possession of fresh bills of lading, invoices etc in their name. They also had the requisite licences. They had filed bill of entry in terms of Section 46 of the Act. M/s. J.B Trading Corporation filed writ petitions before the Madras High Court for directions to be made to the Customs to process the bills of entry and to permit them to clear the goods on payment of duty The Hon'ble High Court however rejected the said claim and held that the concept of importer is limited to period before clearance of goods. Accordingly, M/s J.B Trading Corporation cannot be held to be importer The Hon'ble High Court held as follows:

"In my considered view, as rightly contended by the Learned Senior Standing Counsel for the Central Government, the words, namely, 'at any time between their importation and the time when they are cleared for home consumption' occurring in Section 2(26) are important. It has already been noted that the goods had arrived on 27-9-1986 on which date the importation had become complete having crossed the customs barrier. At that relevant time it was only Mis. Continental Silk House which was the importer and for that alone the goods were intended. As a matter of fact the bills of entry had been filed by Mis. Jeena & Co They still stand. Those bills have not been cancelled; nor were the imported goods abandoned. In law therefore no other person can claim to be the importer of the goods except the person shown in the Manifest originally as seen from the above Tabular Statement against Line Nos. 150, 151 and 152 After the completion of importation on 27-9-1986, there cannot be another importer for the very same goods."

[Emphasis Supplied)

A 15 To similar effect is the decision of the Hon'ble Tribunal in the case of Schlumberger Asia Services Ltd. v. CC. (Adj.), Mumbai, reported at 2015 (330) E.L. T. 369 (Tri. Mumbai) The Hon'ble Tribunal has held that till such time that the goods are cleared for home consumption in addition to the natural meaning of the term importer ie. the person who causes the import the owner of the goods or any other person holding himself out to be the importer can elect himself to act as an importer Once one of the three persons has elected to act as an importer, the other two cannot by any stretch of imagination be called as importers, particularly after the clearance of the goods

A 16 We would like to further point out that the following judgments are to similar effect.

► In Re: Yousuff Kasim Sait, 2003 (161) E.L. T. 1069 (Sett. Comm.)

► P.A. Sadiq v. CC, Cochin, 2008 (229) E.L. T. 424 (Tri. - Chennai)

► CC, Jamnagar v. Dev Krupa Ship Breaking, 2007 (210) E.L. T. 591 (Tri. -Mumbai)

A.17 In the present case, we understand that the Importer-on-record i.e. M/s PSRA Graphics is available When the importer on record is available, duly, if any must be recovered only from the actual importer only i.e. M/s PSRA Graphics. There is no reason to demand the duty from the present Noticee who is not at all concerned with the import of the goods. Hence, no duty is recoverable and not from the present Noticee. The present SCN is liable to be set aside on this ground alone

B. That no penalty under Section 112(b) of the Customs Act is liable to be imposed on the Noticee.

B.1 It is submitted that the present SCN proposes to impose penalty under Section 112(a) and Section 112(b) of the Act on the Noticee. It is submitted that the said proposals are arbitrary and incorrect. Section 112 of the Customs Act deals with imposition of penalty in case of improper importation of goods. The relevant portion of Section 112 of the Act is reproduced hereinbelow for ready reference:

"Section 112.. Penalty for improper importation of goods, etc. - Any person, -

(a), or

(b)]

B.2 It is submitted that Section 112 provides for imposition of penalty in two cases. Section 112(a) deals with a situation wherein a person in relation to any goods, does or omits to do any act, which would render such goods liable to confiscation under Section 111

B.3 It is submitted that the goods i.e. CTCP Plates, which are the subject matter of the present case, have not been imported by the Noticee Further, the Noticee has not issued any document including invoices in relation to the imported goods. Thus, there is no question of the Noticee doing or omitting to do an act, which renders the goods liable for confiscation. Given this, Section 112(a) of the Act is not applicable in the present case Hence, the SCN proposing to impose penalty under Section 112(a) of the Act is totally untenable, arbitrary and illegal Without prejudice to the above submissions, the Noticee in the following paragraphs will submit that the ingredients for invocation of Section 112(a) of the Act are not met in the present case

► The Department has failed to establish any act or omission on part of the Noticee under the Customs Act.

B.4 A10 It is submitted that the SCN has failed to specify any act or omission on the part of Noticee, which has rendered the goods liable for confiscation. The SCN merely quotes the provisions of Section 112(a) without specifying as to how the said provision is violated by the Noticee.

B.5 It is submitted the sine qua non for imposition of penalty under Section 112(a) of the Act is performance of an act or omission by the person as a result of which the goods are rendered liable for confiscation. Reliance in this regards is placed on judgment of the Hon'ble Tribunal in P. Subba Rao v. Commr. of Cus& S.T. Vishakhapatnam 2017 (358) E.L.T. 1083 (Tri. -Hyd.) wherein the Tribunal held that Section 112(a) of the Act can be invoked only when there is an abetment or omission to render the goods liable for confiscation. Reliance is further placed on the judgment of the Hon'ble Tribunal in Rajan Arora v. Commr. of Customs 2017(352) E.L.T. 37 (Tri.-Del.) wherein the Tribunal categorically held that there should be a clear evidence to the conclusion that the Noticees by their specific act or omission of any act, abetted the illegal importation of the offending goods so as to be made liable for penalty under Section 112(a) of the Act.

B6 Further, in the judgement of Hon'ble High Court of Kerala in the case of O.T. Enasu v. Union of India, reported at 2011 (272) E.L.T. 51 (Ker.), Hon'ble High Court held that unless it is established that a person has, by his omissions or commissions, led to a situation where duty was sought to be evaded, there cannot be an imposition of penalty in terms of Section 112(a) of the Act.

B.7 Here, it is further important to note that the SCN has alleged that the Importer on Record i.e. PSRA Graphics has failed to declare the correct origin of the goods on Bills of Entry at the time of import, which has led to the goods being liable for confiscation. In such circumstances, it is clear that the acts/omission of the importer on record has led to the goods being liable for confiscation and not any acts of the Noticee. It is thus submitted that the present Noticee is not liable for any penalty under Section 112(a) of the Act. The proposal to levy penalty under Section 112(a) of the Act is liable to be set aside on this ground alone.

C. That the Penalty under Section 112(b) of the Act is not applicable in absence of the clear evidence regarding Noticee's knowledge about liability of the goods to confiscation.

C1 That without prejudice to the above submissions, it is humbly submitted that the Penalty under Section 112(b) of the Act is not applicable in absence of any clear evidence that the Noticee had knowledge regarding the liability of the goods being liable for confiscation. It is submitted that there is no material or evidence cited in the show cause notice to suggest that the knew or had reasons to believe that the goods were liable for confiscation.

C.2 The Hon'ble Tribunal in the case of Mahender Jain v. Commissioner of Customs, New Delhi, reported at 2014 (313) E.L.T. 174 (Tri. - Del.) has held that from the perusal of this section, it will be seen that for imposition of penalty on a person under Section 112(b) of the Act, the following conditions must be satisfied:

(i) The person must have acquired possession of or must be in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing or in any other manner dealing with any goods which are liable for confiscation under Section 111 of Customs Act, 1962.

(ii) The person must have knowledge or have reason to believe that the goods acquired by him or dealt with by him in the manner as mentioned above, are liable for confiscation under Section 111 i.e. he has knowledge or has reason to believe that any one or more of the contraventions mentioned in Clause (a) to (p) of Section

111 have been committed in respect of the imported goods acquired or dealt with by him.

C3 Thus, for the imposition of penalty under Section 112(b) of the Act, it is necessary to prove that the person had knowledge or had reason to believe that the goods acquired or dealt with by him are liable for confiscation under Section 111.

C.4 It is vehemently submitted that the Noticee was not at all aware about violations of any Customs provisions by importers. The Noticee had placed the order of the goods much before imposition of the Anti-Dumping Duty and hence it cannot be alleged that the Noticee knowingly involved itself in the evasion of duty.

C5 It is clear from the records that after the imposition of Anti-Dumping Duty from China, we have not given any orders to PSRA Graphics for the import of Offset Digital Plates. Last order was placed by the Present Noticee on PSRA Graphics was much before imposition of Anti-Dumping Duty.

C.6 That prior to the imposition of the Anti-Dumping Duty, we had given one purchase Order for only one container of goods, i.e. Offset Digital Plates, from M/s PSRA Graphics India Private Limited. In this regard, the Noticee places on record the following documents -

(vi) The Order for 1 container of CTCP Plates was placed on PSRA Graphics on September 9, 2019. The price was agreed at INR 215 per square meter of CTCP Plates. Accordingly, the total consideration was roughly agreed to be as follows <<here we must provide a break up as to how we arrived at the cost>> including the Customs Duty rate existing at that time and GST. As noted above, the Anti-Dumping Duty was imposed much later in February, 2020 and there was no reasonable information regarding the imposition of Anti-dumping duty on the said goods

(vii) As per the understanding between the parties, the Noticee was to pay around 20% to the supplier i.e. PSRA. Accordingly, the Noticee also made an advance payment of INR 10,00,000/- on September 9, 2019, towards the import of CTCP Plates. PSRA Graphics, in turn, placed an order on the Cento Graph, Sri Lanka.

(viii) Further, another amount of INR 10,00,000/- was paid to PSRA Graphics on December 18, 2019 towards the import of a container of CTCP Plates. This payment was made after the Order was confirmed to have been Shipped by M/s PSRA. [Copy of a self-certified ledger of M/s PSRA Graphics as maintained by the Noticee is enclosed as Annexure-3]

(ix) Further, Cento Graph issued a Proforma invoice dated December 19, 2019, which also mentions the advance payment of 12,435 USD i.e. INR 10,00,000/- paid by the Noticee as an advance. [Copy of the Proforma Invoice dated December 19, 2020 issued by Cento Graph to PSRA Graphics is enclosed as Annexure-3]

(x.) The above payments can also be verified by the bank account statements of the Noticee, as well as all the payments made through banking channels.

C.7 From the above, it is clear that the Noticee placed the Order much before the Government of India imposed anti-dumping duty. During the entire transaction, the Noticee was never informed that the CTCP Plates were imported from China. In any case, there was no Anti-Dumping Duty during the said period on any import of CTCP Plates from China.

C8 Thereafter, it is common knowledge that the COVID-19 pandemic struck globally in December 2019 and January 2020. Therefore, it was informed by M/s PSRA Graphics that the Shipment of CTCP Plates, which was shipped in December 2019, was delayed indefinitely. The Noticee also tried to cancel the Order, however, due to

advance given by the Noticee, the Order could not be cancelled or else the Supplier would have forfeited the amount

C9 Ultimately, PSRA Graphics imported the CTCP plates in May 2020 (after the Covid-19 restrictions were a bit relaxed) and thereafter supplied them to the Noticee. The Noticee was nowhere involved in the Import or clearance of the said goods from Customs and hence, there was no occasion for Noticee to verify as to whether the goods were of Chinese Origin. We were given to understand that the goods are imported from Sri Lanka After the importation of goods, a Commercial Invoice was issued by Cento Graph, which also mentions the Performa Invoice issued earlier. [A copy of the Commercial Invoice dated May 6, 2020, is enclosed as Annexure-5 This commercial invoice also provides reference to the earlier proforma invoice issued by M/s Cento Graph.

C. 10 Apart from that the Noticee had no reasons to believe that the goods imported by M/s PSRA are of Chinese origin or are imported in violation of the Customs Law provision. The Noticee was never involved in the import of goods.

C 11 There is no evidence produced in the Impugned Noticee that the Noticee was aware about any such violation by the Importer The Noticee comes into possession of goods only when the importation of goods was already completed. It is submitted that the Noticee for the first time became aware about violations much after May 2020 from other buyers and after receiving the said information, the Noticee has not placed any orders on PSRA Further, the Department has failed to establish that the importer-on-record has informed the Noticee that the goods were imported without payment of Anti-Dumping Duty. In such circumstances it is clear that the Noticee was not aware that any goods handled by them are liable for confiscation

C 12 In this regard, reliance is placed on the judgment in the case of East West Freight Carriers Pvt. Ltd. v. CC. (Import), Mumbai, 2014 (303) E.E.T. 454 (Tri. - Mum.) wherein it is held that in absence of any knowledge as to the goods being liable for confiscation, a person dealing with the goods cannot be made liable for penalty under Section 112(b) Relevant part of the said judgment is extracted below

"The next issue for consideration relates to penalties imposed on the importers or the partners/proprietors of the importing firms and other persons involved in the transaction such as the Original Licence holder and its director, CHA firm and its director, licence broker and so on, under Section 112(a) and/or 112(b) of the Customs Act, 1962 and also on those persons who are one way or the other connected with the transactions. Penalty under Section 112(a) is attracted when 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 111 or abets the doing or omission of such an act. Penalty under Section 112(b) is imposed when a person acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under Section 111. The penalty imposable in the case of dutiable goods other than prohibited goods is an amount not exceeding the duty sought to be evaded on such goods or Rs. 5,000/-whichever is greater The penalties imposed on the various persons involved are much less than the ceiling prescribed Since it is a case of organized racket in advance licensing scheme with an intent to evade huge amount of Customs duty by suppression and fraud, we are of the view that no leniency needs to be shown in the instant case with respect to the quantum of penalty imposed on the appellants. Accordingly, we uphold the penalties imposed on all the appellants under Sections 112(a) and 112(b) of the Customs Act, 1962"

[Emphasis Supplied]

C. 13 In support of the above submission, reliance is also placed on the following judgments

►Liladhar Pasoo Forwarders v. CC, Mumbai, 2000 (122) E.L.T. 737 (Tri.)

Arokiaraj v. CC, Chennai, 2004 (168) E.L.T. 336 (Tri. - Chennai)

Ravish Kamath v. CC, Bangalore, 2009 (234) E.L.T. 238 (Kar.) [Maintained in 2016 (338) ELT A26 (SC)]

C 14 Further reliance is placed on the judgment in the case of Kamdeep Marketing v. Collector of Customs, Delhi reported in 2004 (165) E.L.T. 206 (Tribunal), which is in the context of Rule 209A of Central Excise Rules, 1944, which is identical to Section 112(b) of the Act. In the said case, the Hon'ble Tribunal held that the sine qua non for a penalty on any person under the above rule is that either he has acquired possession of any excisable goods with the knowledge or belief that the goods are liable to confiscation under the Central Excise Act or Rules or he has been in any way concerned in transporting, removing, depositing, keeping, concealing, selling or purchasing or has in any other manner dealt with any excisable goods with such knowledge or belief. To similar effect is the judgment of Hon'ble Tribunal in the case of Castrol India Ltd. v. CCE, Vapi 2008 (222) ELT 408. The Noticee further places reliance upon the decision of the Hon'ble Supreme Court in Uniworth Textiles Ltd. v. CCE, Raipur 2013 (288) ELT 161 (SC) wherein it has been held similarly

C. 15 It is submitted that the demand cannot be sustained merely relying upon assumptions and presumption without any positive evidence It is a well settled dictum that burden to prove lies on the person who alleges it. In this regard, the Noticee wishes to place reliance on the judgement of the Hon'ble Apex Court in the case of Uniworth Textiles Ltd v. CCE, Raipur, 2013 (288) ELT 161 (SC), wherein it is observed that burden to prove lies on the person who alleges it. Having failed to prove, the demand is not sustainable and thus liable to be set aside

C.16 That it is humbly submitted that Section 112 is substantially similar to Section 168 of Sea Customs Act, which was interpreted by the Supreme Court in the case of Radha Kishan Bhatia v. Union of India, 2004-178-ELT-8-SC to mean that the burden of proof upon the department to establish knowledge is very high.

9. The circumstances referred to by the Punjab High Court appellate Bench may be sufficient for holding that the appellant knew that he was carrying smuggled gold and that he was thereby committing some offence. But we are unable to say how these circumstances lead to the conclusion that he must be 'concerned in the importation of that gold. It is not invariably the case that smuggled things are carried by the smuggler himself or by someone who had taken steps for the smuggling of those goods. They can be carried by persons who had nothing to do with the smuggling or illegal importation of the goods into the country and had come to possess them subsequently even with the knowledge that they were smuggled goods.

11. We therefore hold that a mere finding of fact that a person is in possession of smuggled goods does neither imply that the Collector of Customs had considered the question of the person's being concerned in the commission of the offence of illegal importation of the goods nor in any way justifies the conclusion that the person must have been so concerned. Other circumstances indicating that the person had some connection with the importation of the goods prior to their actual import have to be established. In the present case no such circumstances have been alleged which would connect the appellant with the importing of the smuggled gold recovered from

his person There is no mention of any such circumstances in the order of the Collector or even in the reply affidavit filed in the High Court by the Assistant Collector of Central Excise and Land Customs, New Delhi, though the appellant had said in ground No. C of the writ petition that there was absolutely no material before respondent No. 3 on which he could have come to a finding that the petitioner had imported the said gold

[Emphasis Supplied]

C. 17 In the present case, the department has failed to demonstrate that the Noticee has acted with clear knowledge regarding non-duty payment on the part of the Importer-on-record

D. That the Noticee neither knew nor had any 'reasons to believe' that the goods imported by such large corporations are liable for confiscation.

D.1 That as submitted earlier, the Noticee had no knowledge about goods being liable for confiscation. The department has failed to produce any evidence in this regard that the Noticee was informed by the Importer-on-Record i.e. PSRA Graphics that the imported goods are liable for confiscation. It is submitted that the Department cannot merely assume that the Noticee had reasons to believe about the goods being liable for confiscation. On the other hand, Section 112 requires subjective satisfaction of the said condition with cogent evidence.

D2 In this regard, reliance is placed on the judgment of the Hon'ble Supreme Court in the case of Tata Chemicals Limited v. Commissioner of Customs (Preventive), Jamnagar, 2015 (320) E.L.T. 45 (S.C.), wherein the meaning of "reason to believe" was explained by opining it to be not the subjective satisfaction of the officer concerned, for "such power given to the officer concerned is not an arbitrary power and has to be exercised in accordance with the restraints imposed by law" and that such belief must be that of an honest and reasonable person based upon reasonable grounds Similarly, in Assistant Collector of Customs v. Charan Das Malhotra, 1983 (13) E.E.T. 1477 (S.C.), the Supreme Court held that reasonable believe to be relevant and not extraneous.

D3 Further the Hon'ble Supreme Court in the case of Kewal Krishan v. State of Punjab, 1993 (67) E.L.T. 17 (S.C.), has clarified that confiscatory power based on 'reason to believe' has to be exercised only on the satisfaction based on certain objective material.

D.4 While dealing with the expression 'reason to believe in relation to another confiscatory statute, i.e. Narcotic Drugs and Psychotropic Substances Act, 1985, Supreme Court in Aslam Mohammad Merchant v. Competent Authority and Others, (2008) 14 SCC 186, opined that proper application of mind on the part of the competent authority is imperative prior to issuance of a show cause notice, intending to confiscate the goods. Also there has to be some material leading to formation of some opinion or reason to believe for such action cannot be taken on mere ipse dixit and roving enquiry is not contemplated in law. Further "It is now a trite law that whenever a statute provides for "reason to believe", either the reasons should appear on the face of the notice or they must be available on the materials which had been placed before him "

D5 In this regard, reliance is also placed on the judgment in the case of CC (Prev.), W.B. v. Sanjib Kr. Deb, 2018 (359) E.L.T. 325 (Cal.), wherein it is held that even for Section 112 (b) of the Customs Act, there must be evidence to demonstrate that the person was involved in illegal smuggling or illegal importation of goods.

D.6 In view of the above, it is humbly submitted that the present Noticee had no reasons to believe that any goods are liable for confiscation and accordingly the Impugned SCN is liable to be set aside

E. Penalty under Section 112(b) of the Act cannot be imposed without presence of mala fide intent.

E 1 It is submitted that the provisions of Section 112(b) of the Act also require that the person dealing with the goods should have knowledge or have reason to believe that the goods are liable to confiscation. This knowledge of goods being liable to confiscation pre-supposes intent of unlawful gain or mens rea on the part of the accused. It is a settled law that mala fide intent is one of the key ingredients for the purpose of imposing penalty under the said provision. Reliance in this regard is placed on the following judgments

East West Freight Carriers v. CC, 2014 (303) ELT 454 (Tri- Mum)

► R.N. Lall & Bros. v. CC (Port), Calcutta, 2001 (137) E.L.T. 723 (Tri.-Kol)

E2 Further, it is a settled principle of law that no penalty can be imposed when no benefit has accrued to the assessee Reliance in this regard is placed on the judgment of Uni-Sankyo Ltd. v. CC, 2004 (169) E.L.T. 195 (Tri. - Mum.) wherein the Hon'ble Tribunal, while setting aside the penalty, held as follows

"So far as the imposition of penalty is concerned I note that, the appellants themselves have not done any act of commission or omission and had any express knowledge of the fact that, the overseas supplier would effect the despatch through a courier mode which would be a violation of Exim policy The appellants are regular importers and no extra benefit was available to them in the process of imports through courier mode, instead of regular air cargo mode Hence, there are no grounds for sustaining the penalty imposed."

E.3 Reliance in this regard is further placed on the judgment in the case of Commissioner of Customs (import) v. Trinetra Impex Pvt Limited, 2020-372-ELT-332-Del where it was held that there is an inherent element of 'mean rea' in Section 112 which must necessarily be proved before penalty is imposed -

11 In respect of the show cause notice dated 8-7-2011, the imposition of the penalty has been made under Section 112(a) of the Act in respect of the goods which have been held to be liable to be confiscated under Section 111 of the Act. Here, the imposition of the penalty on the CHA is founded on the ground that he has abetted the offence Though, for imposition of penalty in respect of the cases falling under Section 112(a) of the Act, mens rea may not be required to be proved as condition precedent, however, when it comes to imposition of the penalty on an abettor, it is necessary to show that the said essential element/ingredient is present. [Ref. Amritlakshmi Machine Works v. The Commissioner of Customs (Import), 2016 (335) ELT 225 (Bom.)].

12. In the present case, there is no element of mens rea or conscious knowledge which can be attributed to the CHA. The investigation carried out by the CBI and other facts reveal that the CHA acted bona fide and merely facilitated the imports on the strength of the documents which were handed over to him by the importer. There is no sufficient material on record to show that the CHA was actively involved in the fraudulent avilment of the exemption by the importer, warranting levy of personal penalty. Therefore, we do not find any ground to interfere with the findings of the Tribunal vis-à-vis the respondent

4 Therefore, in absence of the Noticee having dealt with the Noticee without mens rea, the provisions of Section 112(b) of the Act are not invocable and no penalty

under the said Rule can be imposed upon the Noticee. It is already submitted that the Noticee is not involved in import of such CTCP Plates. It is further submitted that the violation if any is procedural in nature as the goods were in any case exempt from duty. The Noticee does not stand to gain anything by alleged non-declaration by the importer. Further, the present Noticee have fully cooperated in the investigation. In the above circumstances, the Noticee cannot be held liable for any penalty under Section 112(b) of the Act.

That there is no statutory obligation to verify the compliance to Customs Procedure on the Noticee.

E.5 That as discussed above, the Noticee had no reason to believe that the imported goods are liable for confiscation. The Impugned SCN however have interpreted the provisions in a manner which casts an obligation on the present Noticee to actively verify as to whether the goods have been imported by following the Customs procedure. It is submitted that there is no obligation under the law for the present Noticees to verify as to whether the importer on record has fulfilled the customs obligations. The Noticee is neither a Customs House Agent (CHA) nor providing importer on record services to the Importers for being liable to ensure the Customs compliances. In such circumstances it would be totally unreasonable to cast an obligation on the Noticee to actively verify in each case as to whether the Imports are made properly or not.

E6 Based on the above, it is submitted that the unreasonable expectations of the Department are misplaced and not legally sustainable. In this regard, reliance is placed on the judgment of the Tribunal in the case of Luxmi Metal Industries v. Commissioner of Central Excise, Delhi-II - 2013 (287) E.L.T. 487 (Tri.-Del.) in relation to fraudulent avilment of credit. In the said case the Tribunal held that when the buyer purchased goods from registered dealer under proper invoice, there being no dispute about the credentials of the cenvatable invoices issued by the registered dealer and accompanying goods, it was held that the buyer cannot be expected to go beyond that to verify and find out as to whether the registered dealer had purchased the same legally or not and in such facts, the denial of CENVAT Credit was set aside in favour of the assessee.

E7 Reliance in this regard is also placed on the following judgments

- Rinox Engg. v. CCE, Chandigarh-1, 2014 (304) E.L.T. 436 (Tri. - Del.)
- CCE, Kanpur v. R.H.L. Profiles Pvt. Ltd., 2013 (292) E.L.T. 313 (Tri. -Del.)

E.8 In view of the above, it is submitted that there is no obligation cast upon the present Noticee to verify the customs compliances and a party cannot be expected to go beyond the statutory obligations and perform due diligence in each case. There is no legal backing to the allegations contained in the SCN other than the basis of assumptions and presumptions. SCN is liable to be set aside on this ground alone.

- In absence of clear evidence to the contrary, Good faith must be presumed on the part of the Noticee.

E9 That as submitted earlier that as per Section 112(b) of the Act, the department has primary burden of proof to establish that the any party knew or had reasons to believe that the goods handled by them are liable for confiscation. In the present case the department has failed to prove the said fact. In absence of conclusive evidence in this regard, it must be presumed that the party acted in good faith while dealing in goods and not otherwise. It is submitted that the design of Section 112 of the Customs Act is such that it presumes good faith on the party unless the contrary is established by the Department.

E 10 In the present case, there is no evidence or reason as to why the Noticee would know or harbor any belief that the goods were violating the customs law. The department has failed to establish that there was any monetary consequences for the Noticee irrespective of the level of compliance by the importers. It may be noted that the lease rental for the Noticee would remain the same and there was no benefit to the Noticee or any other related entity on account of whether Customs duty was paid or not. Accordingly, the Noticee was not aware as to whether the Customs compliances were undertaken in relation to the Imported goods or not.

11 It is submitted that the department has to provide the proof of presence of mala fide intent and not the other way round. In this regard reliance is placed on the following judgments, wherein it was held that in absence of mala fide intent penalty is not imposable and positive evidence must be produced in relation to mala fide of the party:

► Panjrath Road Carriers v. CC, Ludhiana, 2018 (359) E.L.T. 408 (Tri. -Chan.)

Similarly, sale of the goods to M/s Arisudana Industries Limited by M/s Garg International, M/s. Garg Acrylic and M/s. SMN Industries cannot reflect any malafide on the purchaser, in the absence of any evidence to show that he was aware of the clearances of the goods under Target Plus Scheme. Any purchaser in the ordinary course of business, cannot be held liable to penal action on the ground that the goods involved were tainted and cleared by the original importer with a mala fide intention. As such, imposition of penalty upon him is also set aside

► Rajan Virjee & Co. v. CC (General), Mumbai, 2008 (231) E.L.T. 323 (Tri. -Mumbai)

E.11. Once the goods are cleared through Customs on payment of duty. adjudged by the Deputy Commissioner and the goods are not available, it cannot be presumed that they were not bona fide baggage and are liable to confiscation under Section 111(d) of the Customs Act, 1962. It cannot be held arbitrarily that the appellant aided and abetted the passenger in clearance of non bona fide baggage and impose penalty

► CC, (Import), Mumbai v. P.N. Shah Adhesives, 2017 (347) E.L.T. 333 (Tri. - Mumbai)

► SPL Technologies Pvt. Ltd. v. Pr. CC. (Preventive), NCH, New Delhi, 2019 (368) E.L.T. 756 (Tri. - Del.)

► HLPL Global Logistics Pvt. Ltd. v. CC. (Gen.), New Delhi, 2018 (364) E.L.T. 427 (Tri. - Del.)

12 In view of the above, it is submitted that the burden of proof is on the department to establish the mala fide on the part of the Noticee and in absence of such proof bona fide or good faith would be assumed in favour of the Noticee

F. That Penalty cannot be imposed merely on the basis of statements without corroborative evidence.

F1 Without prejudice to the above, it is submitted that the imposition of penalty under Section 112(b) of the Act merely on the basis of uncorroborated and unsubstantiated statements is arbitrary and illegal. It fairly transpires that the SCN has confirmed the imposition of penalty based on statements given by certain third-party employees Apart from the said statements, there is not even a single documentary evidence against the present Noticee, which implicates the present Noticee that goods have been purchased the goods with the knowledge that the same were liable for confiscation. On the contrary, when the order was placed by the Noticee there was no Anti-dumping duty on the said goods.

F.2 It is submitted that the Department has not provided any further evidence to prove that the Noticee has committed any act in order to be liable for penalty under Section 112(b) of the Act. It is a settled principle of law that penalty cannot be imposed only on the basis of third-party statements/ statements of co-accused, unless the same is corroborated by evidence. Reliance is placed on the judgment of the Hon'ble Tribunal passed in the case of Orient Enterprises v. Collector of Customs 1986 (23) E.L.T. 507(Tri.) wherein it was held that exculpatory statement of co-accused or co-conspirator is always tainted with falsehood because he twists the story or colors the version in a way so as to show himself innocent and paints his companion as the perpetrator of the crime. The statement of such a person loses its evidentiary value and is unworthy of credence against the co-accused. The said decision was subsequently upheld by the Hon'ble Supreme Court as reported in 1997 (92) E.L.T. A69 (S.C.).

F.3 The Hon'ble Supreme Court in the case of CC v. Bhanabhai Khalpabhai Patel, [1995 (75) E.L.T. 508 (S.C.)] held that statement of co-accused cannot be taken without corroborative piece of evidence and any charge based only on such statement cannot be the basis for imposing penalty.

F4 Reliance is further placed on the following judgments which are to the similar effect

- Sanjay Nigam v. CC, Lucknow, 2005 (192) ELT 891 (Tri.-Del)
- Narayan Das v. CC, Patna. 2004 (178) ELT 554 (Tri-Cal)
- Anisur Rahaman v. CC. (Prev.), 2003 (160) ELT 816 (Tri.-Cal)

F5 Reliance in this regard is also placed on the recent judgment of the Madras High Court in the case of Jet Unipex, v. CC, Chennai, 2020 (5) TMI 506 - Madras High Court, wherein the Court held that the case of the department cannot solely be based on the inculpatory statements of witnesses and noticee alone without corroborative evidences and the department must provide an opportunity for cross-examination.

70 As indicated above, adjudication proceedings under the Customs Act, 1962 cannot solely be based on the inculpatory statements of witnesses and noticee alone. Such statements can be only used for corroborating the case which the Department proposes to establish before the quasi-judicial authorities.

71 The department is bound to prove the case based on balance of probabilities as per well-recognised principle of law in the case of departmental adjudications.

72. It is therefore made clear that in case primary reliance is to be placed on the statements of the 2 employees of the 2 CHA's for passing adjudication order, the 1st respondent shall issue suitable summons for cross examination by the petitioner before passing such order.

[Emphasis Supplied]

F.6 In view of the settled principle of law, it is reiterated and humbly submitted that the imposition of penalty under Section 112(b) of the Act merely on the basis of uncorroborated statements is arbitrary and illegal.

G. Department has failed to discharge the burden of proof and the entire proceedings are illegal and without jurisdiction.

G1 Without prejudice to the above submissions, it is submitted that the Department has failed to discharge the burden of proof in the present case. As per settled law the burden to prove is on the person who alleges the averment. Accordingly, in the

present case, the burden of proof is on the Department to demonstrate that the goods have been illegally imported. Apart from the certain uncorroborated statements and baseless allegations, there is not even a single documentary evidence against the present Noticee, which establishes that the present Noticee is guilty of any misconduct. On the other hand, all the evidence prove that the Noticee has no role in any import of goods and improper importation is a procedural violation by the Importer-on-record. In absence of burden of proof being discharged by the Department, there is no reason to impose penalty on the present Noticee and the Impugned SCN must be aside on this ground alone.

G.2 In this regard, reliance is also placed on the judgment in the case of *Amba Lal v. Union of India*, [1983 (13) E.L.T. 1321 (S.C.)], wherein, the Apex Court had held that ordinarily burden of the onus to prove the case against the Noticee is on the Customs authorities. Relevant part of the said judgment is extracted below:

"8. We cannot also accept the contention that by reason of the provision of Section 106 of the Evidence Act, the onus lies on the appellant to prove that he bought the said items of goods into India in 1947. Section 106 of the Evidence Act in turn does not apply to a proceeding under the said Act. But it may be assumed that the principle underlying the said section of universal application, Under that section, when any fact is especially within the knowledge of any person, the burden of proving that fact is upon him. This came in *Shanbhu Nath Mehra v. State of Ajmer*, 1956 S.C.R. 199 after considering the earlier Privy Council decision in the interpretation of Section 106 of the Evidence Act observed at Page 204 (of S.C.R.) thus - "The Section cannot be used to undermine the well established rule of law that save in a very exceptional class of cases, the burden is on the production and never shifts of Section 106 of the Evidence Act is applied, then by availing of the fundamental principles of criminal law, prudence must equally be involved. If so, it follows that the onus to prove the case against the appellant is on the Customs authorities and they failed to discharge the sentence"

G3 In this regard, it is submitted that the Hon'ble Supreme Court in the case of *CC v. South India Television (P) Ltd.* 2007 (214) ELT 3 (SC) has held that when the price declared by the importer is sought to be challenged, the authorities must conduct detailed enquiries and adduce evidence as to contemporaneous imports supporting the price claimed by the Department. Further, the Hon'ble Supreme Court in *Eicher Tractor (supra)* and *Sounds N. Images v. CC*, 2000 (117) E.L.T. 538 (S.C.) has also held that burden of proof is on the Department to establish that the price declared is not as per Section 14 of the Act. Therefore, in the absence of contemporaneous imports supporting the price as claimed by the Department, the price declared by the importer cannot be rejected. Reference may also be made to the following decisions of Hon'ble Supreme Court:

► *Collector v. Sai Impex*, 1996 (84) E.E.T. A47 (S.C.);

CC, Bombay v. Nippon Bearings (P) Ltd. 1996 (82) E.L.T. 3 (S.C.)

► *Union of India v. Kalyani Dey*, 2000 (126) E.L.T. 319 (Cal.)

CC v. J. D. Orgochem Ltd. [2008 (226) ELT 9 (SC)].

► *CC, Mumbai v. Mahalaxmi Gems*, 2008 (231) E.L.T. 198 (S.C.)

G4 From the above judgments, it is clear that burden of proof is on the department to provide that there has been any duty evasion or violation of provisions. The said burden of proof must be discharged with the use of positive and documentary

evidences. Once the department discharges the said proof, only then does the burden of proof shifts to the Noticee

G.5 That, in the present case, the department has failed to discharge the burden of proof by any positive evidence. The department, except for the statements from the importers, has not provided any single documentary evidence to establish that the goods have been imported in violation of the provisions of the Act. Even the statements could have been obtained by the department under coercion or threat. Further, the department has also failed to prove that the Noticee has any role in abetting the said offence. It is thus submitted that burden of proof cast upon the department has not been discharged by the department.

G.6 The law has very clearly laid down the framework of enquiry and also the obligation under the Act. Reference is made to Section 123 of the Act, wherein the manner in which, in respect of the good seized under the Act under the belief that they are smuggled goods, the burden of proof is to be carried out. Section 123 of the Act very clearly lays down that it applies only to gold, watches and other notified goods. If the seized goods are covered within these categories then the burden of proof is upon the person from whom the goods have been seized to prove that they are not smuggled goods. It has been judicially interpreted that the consequence of this provision is that in respect of all other goods, it is upon the customs officer to establish that the goods in question have been smuggled into India. Given that the goods are not covered within the category of notified goods, clearly the burden of proof was upon the Customs department

7 It is submitted that Section 123 crystalizes the right of the assessee and fixes the burden on Department. The said provision is extracted below for the sake of clarity:

SECTION 123. Burden of proof in certain cases. (1) Where any goods to which this section applies are seized under this Act in the reasonable belief that they are smuggled goods the burden of proving that they are not smuggled goods shall be -

(a) in a case where such seizure is made from the possession of any person,

(1) on the person from whose possession the goods were seized, and

(ii) if any person, other than the person from whose possession the goods were seized, claims to be the owner thereof, also on such other person,

(b) in any other case, on the person, if any, who claims to be the owner of the goods so seized

(2) This section shall apply to gold, and manufactures thereof, watches, and any other class of goods which the Central Government may by notification in the Official Gazette specify.

[Emphasis Supplied]

As per the above provision, the burden of proof is on the assessee only in certain cases, which are enumerated above. Furthermore, there is no express provision in the law placing onus on the Department to prove that the goods are smuggled in respect of non-notified goods under Section 123 of the Act. Since the onus of proof is on the owner in respect of notified goods, in respect of non-notified goods, the onus is on the Department. The scope and nature of the onus cast by Section 123 of the Act, though indirectly has to be interpreted by taking into account facts and circumstances of individual cases.

G.9 In this regard, reliance is placed on the judgment in the case of *Rajesh Surana v. Commissioner of Customs, Chennai*, 2004 (178) E.L. T. 987 (Tri.-Chen.), wherein it is held that burden of proof is on the department in case of non-notified goods:

5. After examining the records and considering the submissions, we find that the main allegation in the show cause notice was that the goods had been illicitly imported by M/s. Rukma Industries Ltd. In other words, it was alleged that the goods had been smuggled

In this context, the question whether the goods had been notified under Section 123 of the Customs Act, 1962 becomes relevant. In their reply to the show cause notice, the appellants pleaded that the goods were not so notified and it was contended that the burden was on the Department to establish smuggling. From the impugned order, however, it appears that the basic issue raised by the party was evaded. Ld. Counsel has made out a forceful case on the strength of case law (vide supra). All the cited decisions are to the effect that, in respect of non-notified goods, the Revenue is required to show, by producing positive evidence that the goods are of smuggled nature. In the instant case no such evidence is available on record. The goods have been held to have been smuggled by the appellants merely on the ground that they had not produced documentary evidence of lawful acquisition thereof. The decision runs against the law laid down in the aforesaid cases. Therefore, the confiscation of the goods under Section 111/119 of the Customs Act cannot be sustained and, consequently, the penalties as well as the demands of duty also require to be set aside. It is ordered accordingly. The appeals are allowed with consequential reliefs to the appellants

[Emphasis Supplied]

G.10 In this regard, reliance is also placed on the following judgments, which reiterate the above settled position of law:

- CC (P), Mumbai v. Dinesh Raysoni, 2005 (192) E.L. T. 565 (Tri. - Mumbai)
- CC, Hyderabad v. J. T. Parekh and Co. [2004 (167) E.L. T. 77 (Tri. - Mum)].
- Manikchand Prasad v. CC, Patna [2003 (161) E.L. T. 848 (Tri. - Kolkata)]
- Dinanath Maurya v. CC, Lucknow [2001 (131) E.L. T. 203 (Tri. - Kolkata)].

Ashok Kumar Jain v. CC (Preventive), Kolkata [2003 (159) E.L. T. 683 (Tri. - Kol.)].

- CC (Prev.), Mumbai-VI v. Tararam Prajapati. 2005 (191) E.L. T. 179 (Tri. -Mum.)

G 11 It is thus submitted that Section 123 of the Act only applies in case of notified goods. The Impugned goods i.e. Intermediate Bulk Containers are not notified goods and hence the burden of proof remains on the department. Further, since the department has failed to discharge the burden of proof in the present case, the Noticee is not liable to discharge any burden of proof and the Impugned SCN is liable to be set aside on this ground alone.

G.12 It is further submitted that in the present case, no verification of the goods in question has been undertaken, much less discharging the burden that these are in the nature of smuggled goods. On the contrary, the proceedings have culminated in stressing upon the fact that the Noticee has failed to discharge the obligation of establishing that appropriate duty and customs compliances were undertaken at the time of their import. It is submitted that such an approach is not just faulty but in fact is contrary to law.

H. No penalty under Section 117 can be imposed on the Noticee

H1 It is further submitted that penalty under Section 117 of the Act is also not applicable in the present case. It is submitted that Section 117 of the Act imposes

penalty for contravention not expressly provided under the Act. Section 117 of the Act is reproduced herein below:

SECTION 117 Penalties for contravention, etc., not expressly mentioned -

Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding [one lakh rupees]."

H.2 It is submitted that Section 117 of the Act provides for imposition of penalty in cases where the person acts on contravention or abets in contravention of the provisions of the Act and where no penalty for such contravention is contained in the Act. As can be seen, the main condition for imposition of penalty under Section 117 of the Act is contravention of the provisions of the Act.

► The SCN does not contain any specific allegations for imposition of general Penalty under Section 117

H3 It is submitted that in the present SCN, no case has been made out for imposition of penalty on the Noticee under Section 117. It is submitted that the SCN is very vague and non-specific. The SCN has nowhere provided as to how the Noticee is liable to penalty under Rule 117. It is a settled law that charges against the assessee have to be clearly and unequivocally spelt out in the SCN and where the very allegations were vague and non-specific, demand or penalty ought to have not been confirmed. Reliance in this regard is placed on the decision in case of CCE, Bangalore v Brindavan Beverages (P) Ltd., reported at 2007 (213) ELT 487 (SC), wherein the Supreme Court held that when the show cause notice are not specific and are on the contrary vague, fake details and/or unintelligible, that is sufficient to hold that the Noticee was not given proper opportunity to meet the allegations indicated in the show cause notice

H.4 Further reliance in this regard is placed the following judgments of the Hon'ble Supreme Court-

► HPL Chemicals vs CCE, 2006 (197) ELT 324 (SC)

Metal Forgings vs UOI, 2002 (146) ELT 241 (SC)

► Amrit Foods vs CCE, UP 2005 (190) ELT 433 (SC).

H5 In the present case, the department has levelled bald allegations against the Noticee without providing sufficient evidence of alleged contravention, in absence of which, the levy of penalty proposed against the Noticee is liable to be set aside. Further, the Noticee is not in a position to defend the said allegation as the charge against the Noticee itself is not clear from the SCN

► Penalty under Section 117 cannot be imposed along with penalty under Section 112

H.6 It is submitted that the proposal to impose penalty under Section 117 along with penalty under Section 112 is bad in law. It is submitted that Section 117 of the Act is residuary in nature and can be invoked only in the situation when no express penalty is provided, elsewhere in the Act. This can be clearly ascertained from the Section itself, which reads "where no express penalty provision is elsewhere provided for such contravention"

H7 In the present case, the SCN also proposes to levy penalty under Section 112 of Act against the Noticee. Given this, the invocation of provisions of Section 117 of the

Act is bad in law Reliance in this regard is placed on the judgment of the Hon'ble Tribunal in Commissioner of Customs & Excise, Ghaziabad v. Ruby Impex 2017 (357) E.L.T. 1239 (Tri. - AIL).

H.8 Basis the above, it is submitted that simultaneous imposition of penalty under Section 112 and 117 is bad in law and therefore, deserves to be set aside.

PRAYER

In view of the foregoing, the Noticee prays that:

(A) an opportunity of personal hearing be given to us before passing any order on the subject SCN

(B) an opportunity to cross examine the witnesses be provided before any adverse order is passed

(C.) the proceedings initiated in the aforesaid SCN may be set aside and the proposal to impose penalty be dropped

(D) the Noticee reserves its right to file additional submissions and documents at any stage prior to the adjudication of SCN.

31.4 Shri Tara Chand Aggarwal, Prop. of M/s ACM Chemicals, Delhi, submitted his defence submission dated 29.07.2024, in reply to the notice, which is reproduced as under –

GROUND OF DEFENCE

The impugned show cause notice has been issued to the noticee without proper appraisal of the facts revealed during the investigation conducted by the DRI. The impugned show cause notice has attempted to implicate an innocent business entity based on hearsay evidence and without appreciating the fact that the conduct of the noticee is not questionable as he has acted in the interest of his business which is his fundamental right. It is the choice of the noticee to conduct his business legally, in a way that helps his business to grow, keeping in view the tough competition every business has to face. If a businessman like the noticee is held guilty of buying from a source which provides him the best rates for his purchases, then it will not be possible for any business to develop. Keeping in view the complexities of import procedures, it is not always feasible for a business to engage in direct imports as they have other priorities. The noticee denies all the unsubstantiated allegations levelled against him and his firm and seeks leave to defend his case on the following grounds amongst others which may be considered in the alternative wherever necessary:

GROUND A: THE NOTICEE IS THE BUYER OF THE IMPUGNED GOODS AND CANNOT BE CONSIDERED AS "THE BENEFICIAL OWNER".

The department has concluded in the para 14.6 of the impugned SCN that:

14.6 From facts as emerged herein above, it appears that M/s. Nippon Colour, M/s. ACM Chemicals & M/s. Suman Graphics were the actual beneficial owners of the goods ie. Digital Offset Printing Plates imported through 'M/s PSRA. All the goods were imported by M/s PSRA' as per order placed/ given by M/s. Nippon Colour, M/s. ACM Chemicals & M/s. Suman Graphics as well as total amount given in advance by M/s. Nippon Colour, M/s. ACM Chemicals & M/s. Suman Graphics. All the landing cost of goods was given by respective buyers viz. M/s. Nippon

Colour, M/s. ACM Chemicals & M/s. Suman Graphics to Rakesh Kumar Chauhan of 'M/s PSRA'. In all these transactions, Shri Rakesh Kumar Chauhan of 'M/s PSRA' used to get Rs. 2 per Sqm as commission only. M/s. Nippon Colour, M/s. ACM Chemicals & M/s. Suman Graphics being the beneficial owners of the goods as discussed herein above, also thus appears to qualify as the 'importer' in terms of Section 2(26) of the Customs Act, 1962.

As clearly stated above it appears that the department had regarded the noticee as a "beneficial owner" of the impugned goods. However, the term "importer" as defined in Section 2(26) of the Customs Act, 1962 which states that:

"(26)"importer", in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes [any owner, beneficial owner or any person holding himself out to be the importer,"

It is pertinent to note here that the above definition of 'importer' refers to "any owner, beneficial owner or any person holding himself out to be the importer" only "in relation to any goods at any time between their importation and the time when they are cleared for home consumption". Therefore, the definition of importer relates to such an entity which can be proved to be the owner or beneficial owner of the goods only during the period such goods are imported and till the time such goods are cleared for home consumption. Any person who is related to the imported goods outside the period of importation and the time of their clearance for home consumption cannot be termed as an "importer" as per the above definition.

In the present case, the noticee has purchased the impugned goods after the same had been imported and cleared for home consumption by noticee no.1 viz. M/s PSRA Graphics India Private Limited. The noticee placed order for purchase of the impugned goods with noticee no. 1 and not with the foreign supplier. Also, the noticee was in no manner related to the impugned goods during the period of importation of the same and till the clearance of the same for home consumption by noticee no. 1. The impugned goods have been imported by noticee no.1 on their IEC and it was they who filed the Bills of entry and cleared the goods for home consumption on payment of customs duty after following due process of import. In fact, it was noticee no. 1 who offered to sell the impugned goods to the noticee on a profit margin of Rs. 2 to 3 per sqm. and the noticee accepted the same on finding the rates offered as good price. It is also important to note that had the noticee not accepted the rates offered by noticee no. 1, noticee no. 1 would have sold the same to some other buyer as there is no prohibition of importation or sale of the said goods and noticee no.1 was evidently engaged in the sale of the said goods being a non-user themselves of the said goods.

In this context, attention is also drawn to the definition of "imported goods" as defined in Section 2(25) of the Customs Act, 1962 which reads as below:

"imported goods" means any goods brought into India from a place outside India but does not include goods which have been cleared for home consumption;"

As may be observed from the above definition of imported goods', such goods which have already been cleared for home consumption are excluded from the definition of 'imported goods' Therefore, the impugned goods which the noticee purchased from noticee no. 1 do not even fall in the category of

'imported goods' as the same have been purchased from noticee no. 1 after clearance for home consumption.

Thus, the noticee was neither the owner of the impugned goods at the time of import thereof nor the beneficial owner of the said goods and at the same time, goods which the noticee purchased from noticee no. 1 did not at all fall in the category of 'imported goods' and the department's attempt to attach any liability as to the alleged improper import of the impugned goods to the noticee is not sustainable.

Further, a "beneficial owner" has been defined in Section 2(3A) of the Customs Act, 1962 as under:

(3A) beneficial owner" means any person on whose behalf the goods are being imported or exported or who exercises effective control over the goods being imported or exported;

The allegation that the noticee was the 'beneficial owner' in respect of the impugned goods also does not hold water since the department has not adduced any corroborative evidence to prove that the noticee was the person on whose behalf the impugned goods had been imported or that the noticee exercised any control over the goods being imported by noticee no.1. It is rather a case where noticee no.1 has been importing the impugned goods for trading and the noticee had been purchasing the said goods as per their requirements and their commercial interests.

The above averment is supported by the following judicial pronouncement:

In the CESTAT (Delhi)

Customs Appeal No.51059 of 2022-SM

FINAL ORDER NO.51104/2022

ATUL DHAWAN

Versus

PRINCIPAL COMMISSIONER, CUSTOMS-NEW DELHI(PREV)

16. Having considered the rival contentions, I find that admittedly, it is a case of town seizure. The goods found or available in the open market are presumed to be duty paid unless otherwise proved by the Department. Admittedly, in the facts of the instant case, Revenue have not brought any material on record that the goods seized from the shop/godown premises of the appellant, were not duty paid. Admittedly, the appellant have neither placed purchase orders with the foreign suppliers nor have made any payment to such foreign suppliers. Admittedly, the appellant have procured the goods from the importer(s) located in India after such importers brought the goods to the open market post out of charge granted by the Customs Department. I further find that all the suppliers, whose bills the 14 appellants have produced in support of the goods lying in his godown, have confirmed supply of goods against those invoices, although there are minor distortion in the statements. In view of the documentary evidence, oral evidence have got less weight and documentary evidence being more reliable cannot be ignored. As the appellant admittedly is not the importer, as defined under the provisions of the Customs Act, the impugned order confiscating the goods and demanding duty is bad in law and on facts.

17. Further, re-valuation done on the basis of the statements is bad in law and on facts. That the appellant cannot be held as importer as the appellant have identified the particular goods available with the particular manufacturer/supplier available in the foreign country and thereafter, purchased the goods by placing orders with the importers located in India.

19. In view of the aforementioned findings and observations, I allow this appeal and set aside the impugned order. The appellant shall be entitled to consequential benefits in accordance with law.

b) 2012 (276) E.L.T. 505 (Ker.)

PROPRIETOR, CARMEL EXPORTS & IMPORTS

Versus

COMMR. OF CUS., COCHIN

15. Coming to the submission that the appellant is only a "name lender" for the import of goods by one Anwar, we shall presume for the time being that the appellant is only a name lender, but the actual beneficiary of the import is one Anwar. We called upon learned counsel for the respondents to place the relevant provision which prohibits such an activity on the part of an Import Export Code Number holder. Learned counsel for the respondents categorically made a statement that he is not able to place any such prohibition in law except Section 7 of the Foreign Trade (Development and Regulation) Act, 1992, which reads as follows :-"7. Importer-exporter Code Number. - No person shall make any import or export except under an Importer-exporter Code Number granted by the Director General or the officer authorised by the Director General in this behalf, in accordance with the procedure specified in this behalf by the Director General".

The expression "import" occurring in the said section means bringing into India of goods as defined under Section 2(e). There is nothing in the law which requires an importer to be either the consumer or even the buyer of the goods also. Even otherwise, we are of the opinion that it is a matter of common sense that no importer would consume all the materials imported. Necessarily, the goods imported are meant for sale to the consumer, in which case, if an importer, who enjoys the facility of I.E. Code imports certain goods in the normal course of business on the strength of a contract entered by such importer with either a consumer or a trader who eventually sells the imported goods to consumers. We do not understand what can be the legal objection for such a transaction especially where the import of such goods is otherwise not prohibited by law. At any rate, if the respondents have any tenable legal objection on that count, the respondents must pass an appropriate order indicating the legal basis on which the action is proposed and also the nature of the action proposed for such perceived violation of law on the part of the respondents after giving a reasonable opportunity to the importer to meet the case against him. Instead of proceeding to determine the duty leviable on the imported goods by following the appropriate procedure or passing an order of confiscation if they believe that they are justified in the facts and circumstances, the respondents, it appears, are indefinitely detaining the goods without any appropriate order being passed thereon. Such a course of action, in our opinion, is absolutely illegal.

c) 1990 ELT (45) 9

J.B TRADING CORPORATION

Versus

UNION OF INDIA

14. In my considered view, as rightly contended by the learned Senior Standing Counsel for the Central Government, the words, namely, 'at any time between their importation and the time when they are cleared for home consumption' occurring in Section 2(26) are important. It has already been noted that the goods had arrived on 27-9-1986 on which date the importation had become complete having crossed the customs barrier. At that relevant time it was only M/s. Continental Silk House which was the importer and for that alone the goods were intended. As a matter of fact, the bills of entry had been filed by M/s. Jeena & Co. They still stand. Those bills have not been cancelled; nor the imported goods were abandoned. In law, therefore, no other person can claim to be the importer of the goods except the person shown in the Manifest originally as seen from the above Tabular Statement against Line Nos. 150, 151 and 152. After the completion of importation on 27-9-1986, there cannot be another importer for the very same goods.

GROUND B.

DUTY DEMAND JOINTLY AND SEVERALLY IS NOT SUSTAINABLE

In this case, a demand of Customs duty of Rs. 1,38,01,352/- has been raised jointly and severally against the noticee and M/s PSRA Graphics India Pvt. Ltd. (the importer) under Section 28(4) of the Customs Act, 1962 read with notification no. 21/2020-Customs (ADD) dated 29.07.2020 along with applicable interest under Section 28AA of the Act *ibid* vide para 30(iii) of the impugned SCN, without mentioning the amount individually demanded from either of them.

However, it is submitted that the demand of customs duty jointly and severally against the noticee and the importer is not sustainable in the present case as they are two separate legal entities with distinct identification, separate accounts and independent owners.

Legally speaking, it is the responsibility of the Authority issuing show cause notice to clearly quantify the demand of customs duty that is proposed to be recoverable from a particular person/entity, even in a case where customs duty is held to be recoverable from two or more different entities.

However, in the instant case, the Authority issuing the impugned show cause notice has proposed that the noticee and M/s PSRA Graphics India Pvt. Ltd. were jointly and severally liable to pay Rs. 1,38,01,352/- as the anti-dumping duty, allegedly not paid, along with the interest due thereon as the department contemplates both these entities to be importers/ beneficial importer and accordingly, duty has been demanded from both, which is legally unsustainable.

The above averment is supported by the following judgments/orders-

a) 2017 (358) E.L.T. 1214 (Tri. - Del.)

IN THE CESTAT, PRINCIPAL BENCH, NEW DELHI

[COURT NO. I]

Justice Dr. Satish Chandra, President and Shri B. Ravichandran,

Member (T)

THAR DRY PORT

Versus

COMMISSIONER OF CUSTOMS, JODHPUR

[Final Order Nos. C/A/54604-54621/2017-CU(DB), dated 5-7-2017 in Appeal Nos. C/50671, 50795, 50847-50849, 50884-50889, 51863-51864, 50856, 50960, 51085 & 52417/2015-DB and C/50282/2016-DB]

"Importer - Deemed importer - Overvaluation of goods by exporter for availing higher DEPB benefit Original licence holder, before transfer of licence not a 'deemed importer' prior to introduction of Section 28AAA in Customs Act, 1962 w.e.f. 28-5-2012 Transferee of licence who imports goods to be regarded as 'importer' - Duty cannot be demanded from exporter. [para 9] Demand - Overvaluation of goods by exporter for availing higher DEPB benefit - DEPB scrips purchased by importers bonafidely -Duty cannot be imposed jointly and severally on more than one person i.e. exporter as well as transferee of licence Original authority having not properly arrived at, the identity of the person from whom, duty demand can be confirmed and ordered recovery of such duty jointly and severally, matter remanded back to original authority to first examine this legal issue to fix the liability, if any, on the identified persons specifically- Section 28 of Customs Act, 1962. (paras 10, 11, 12]

Penalty No act or omission on part of custodian, Thar Dry Port, brought out warranting penalties either under Customs Act, 1962 or Regulation 12(8) of Handling of Cargo in Customs Areas Regulations, 2009. (para 15]

Appeals disposed of"

b) 2006 (206) E.L.T. 537 (Tri. - Mumbai)

IN THE CESTAT, WEST ZONAL BENCH, MUMBAI

Smt. Archana Wadhwa, Member (J) and Shri S.S. Sekhon,

Member (T)

BAJAJ TRADING

Versus

COMMISSIONER OF CUS. (E.P.), MUMBAI

[Order No. S/243/2006-WZB/C-II(C.S.T.B.), dated 2-3-2006 in Appeal No. C/16/2006]

Stay/Dispensation of pre-deposit Licence obtained by fraud -

"Duty confirmation jointly and severally against original licensee and transferee Prima facie found that this was impermissible - Unconditional stay granted especially as show cause notice was served after expiry of extended period - Section

129E of Customs Act, 1962. [para 1]

Stay granted"

c) 2013 (293) E.L.T. 124 (Tri. - Del.)

IN THE CESTAT, PRINCIPAL BENCH, NEW DELHI

[COURT NO. III]

Ms. Archana Wadhwa, Member (J) and Shri Sahab Singh,

Member (T)

RIMJHIM ISPAT LTD.

Versus

COMMISSIONER OF CENTRAL EXCISE, KANPUR

[Final Order Nos. 55823-55830/2013-EX(BR)(PB), dated 25-2-2013 in Appeal Nos. E/1827-1831 and 1864-1866/2011]

"Demand and penalty Clandestine removal - Joint liability.

Duty imposed jointly and severally on two companies without segregating amount confirmed against each - Duty cannot be demanded jointly and severally from two different legal entities, one manufacturing ingots and other manufacturing flats following decisions in Hiren R. Kapadia [2013-TIOL-198-CESTAT-Mum.), Sree Arovinth Steels Ltd. (2007 (216) E.LT. 332 (Tri.-Chennai)) and Famous Textile (2005 (190) E.L.T 361 (Tri-Mum.)) holding individual duty liability to be segregated separately against each different individual and common order of joint demand in respect of different assesseees cannot be upheld -Impugned order set aside and matter remanded to adjudicating authority for fixing individual liability separately Sections 11A and 11AC of Central Excise Act, 1944. [paras 5, 6] Appeal allowed."

d) 2020 (372) E.L.T. 663 (Guj)

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

Sonia Gokani and Gita Gopi, JJ.

LILARAM ARJANDAS ASUDANI

Versus

UNION OF INDIA

R/Special Civil Application No. 18018 of 2018, decided on 3-3-2020

"12. In the opinion of this Court, the stand taken by the respondents is in clear violation of the directions issued by the CESTAT. The CESTAT, after due regard to the material placed before, held that the adjudicating authority was not justified in imposing duty liability on the Noticee-appellants jointly and severally. It also held the action of the respondent authority of not providing the Noticee-appellants the relevant documents/evidences so as to enable them to defend themselves to be violative of the principles of natural justice and accordingly, directed the respondent authority to furnish all the relevant documents and to complete assessment within the period stipulated in the order."

e) 2017 (358) E.L.T. 1214 (Tri. Del.)

IN THE CESTAT, PRINCIPAL BENCH, NEW DELHI

[COURT NO. I]

Justice Dr. Satish Chandra, President and Shri B. Ravichandran, Member(T)

THAR DRY PORT

Versus

COMMISSIONER OF CUSTOMS, JODHPUR

Final Order Nos. C/A/54604-54621/2017-CU(DB), dated 5-7-2017 in Appeal Nos. C/50671, 50795, 50847-50849, 50884-50889, 51863-51864, 50856, 50960, 51085 & 52417/2015-DB and C/50282/2016-DB

"Demand - Overvaluation of goods by exporter for availing higher DEPB benefit - DEPB scrips purchased by importers bonafidely Duty cannot be imposed jointly and severally on more than one person ie, exporter as well as transferee of licence - Original authority having not properly arrived at, the identity of the person from whom, duty demand can be confirmed and ordered recovery of such duty jointly and severally, matter remanded back to original authority to first examine this legal issue to fix the liability, if any, on the identified persons specifically - Section 28 of Customs Act, 1962. [paras 10, 11, 12]"

GROUND 3: ALLEGATION OF CONNIVANCE WITH THE IMPORTER (NOTICEE NO. 1) NOT SUSTAINABLE –

The allegation in various paragraphs of the impugned SCN that the noticee in connivance with the importer indulged in misstatement/misdeclaration/suppression of the fact that the impugned goods were of Chinese origin and had been imported fraudulently through Sri Lanka to evade the Anti-Dumping Duty is not based on any substantive evidence and without any corroboration. However, the allegations in the impugned SCN cannot be substantiated on account of the following:

I. It has been, inter alia, stated by the noticee in his statement dated 05.01.2023 that around June, 2020, when Shri Rakesh Kumar Chauhan of the importer firm came to his office for marketing of CTCP Plates, he informed the noticee that they had been importing CTCP Plates from Sri Lanka and he could supply the same to the noticee on commission basis and finding the rates good, the noticee placed their order and later Shri Rakesh Kumar Chauhan informed the noticee that the importer had imported the goods from M/s Cento Graph, Sri Lanka whose owner was one Lloyd Harridge. The above uncontroverted statement clearly indicates that notice no.1 was the actual importer and the noticee herein had only purchased the said goods from the importer. There was no ITC restriction on the trading of the impugned goods imported by the noticee no. 1 and an importer importing goods for trading purposes, sells the imported goods to various buyers on a certain margin of profit. Also, disclosure of the details of supplier by the noticee no. 1 to the noticee is something done in a very normal course of business. The department cannot claim any illegality in such trading (Para 12.1.2. of the SCN refers)

II. It was further stated by the noticee that when he informed Shri Rakesh Kumar Chauhan of some complaints received from his customers, Shri Chauhan came to his office and sent a mail to some person named Mr. Jack with CC to M/s Cento Graph regarding the complaints.

This is very much indicative of the fact that the notice had to contact noticee no.1 to inform him of the complaints raised by his customers and then it was Shri Chauhan of noticee no. 1 who contacted somebody named Mr. Jack. Therefore, it is evident that the noticee had no knowledge of the impugned

having been supplied by Mr. Jack of China. Had the noticee known Mr. Jack, he would have contacted Mr. Jack himself whom he would not have addressed as 'some person' (Para 12.1.3. of the SCN refers)

III. He further stated that the correspondence held between Shri Rakesh Chauhan, Mr. Jack of China, Mr. Lloyd Harridge of M/s Cento Graph and their firm related to the quality of CTCP digital printing plates which were purchased by them from M/s PSRA Graphics India Pvt. Ltd. and the same were imported by M/s PSRA Graphics from M/s Cento Graph, Sri Lanka and his firm was related to the quality of the impugned goods which were purchased by them from M/s PSRA Graphics and the same had been imported by M/s PSRA Graphics from M/s Cento Graphics. Here again, the noticee has clearly stated that they have purchased only those impugned goods which had been imported by noticee no. 1. The noticee has nowhere admitted to his role or involvement in the imports done by noticee no. 1. (Para 12.1.4 of the SCN refers)

IV. The noticee's further statement that he was aware that the impugned goods were of Chinese origin and routed through Sri Lanka is not an admission of guilt on part of the noticee. In fact, the noticee came to know this fact only when some quality issues cropped up and the noticee was compelled to take up the issue with noticee no. 1 who in turn took up the matter with Mr. Lloyd Harridge of M/s Cento Graph and one Mr. Jack of China for resolving the issue. Except on this occasion, noticee no. 1 never revealed the Chinese origin of the impugned goods to the noticee and the noticee was always under the impression that the goods were of Sri Lankan origin. Further, noticee no. 1 never disclosed to the noticee that they had evaded Anti-Dumping Duty on the impugned goods by misdeclaring the real origin of the goods. Also, being a domestic buyer and seller, the noticee had no knowledge that the impugned goods attracted Anti-Dumping duty. Therefore, the noticee cannot be held liable for evasion of Anti-Dumping duty, intentionally or unintentionally and it cannot be concluded that he was aware of the impugned goods being routed through Sri Lanka.

(Para 12.1.5 of the SCN refers)

In his statements dated 25.08.2022, 09.01.2023, 10.01.2023 & 27.04.2023, referring to the noticee, Shri Rakesh Kumar Chauhan, Director, M/s PSRA Graphics stated that he had also arranged import of Offset Printing Plates/ CTCP Plates for the noticee through his firm as a broker and charged Rs. 3 per sqm in addition to the landing cost including duty & other charges and that the noticee knew Mr. Lloyd Harridge, owner of M/s Cento Graphics, Sri Lanka and personally called to Mr. Lloyd Harridge to negotiate rates of CTCP Plates and that the noticee had made advance payments and he (noticee no. 1) arranged import of 9 containers of CTCP Plates to M/s ACM Chemicals. (Para 13.9 of the SCN refers)

The above statement of the co-accused (noticee no. 1) is uncorroborated statement which cannot be used against the noticee to implicate him in the alleged illegal import or in the evasion of Anti-Dumping duty by noticee no. 1. The noticee has never been involved in any type of import whatsoever and is simply a buyer the impugned goods in the normal course of trading. The factual position is that the impugned SCN does not adduce any evidence, documentary or otherwise to corroborate the allegation of connivance of the noticee with the importer (noticee no. 1) and therefore, no liability can be attributed to the noticee in respect of any offence committed by the noticee no. 1.

The noticee places reliance on the following judicial pronouncements in support of his submission-

(i) 2023 (385) E.L.T. 722 (Tri. - Kolkata)

IN THE CESTAT, EASTERN BENCH, KOLKATA [COURT NO. II] S/Shri P.K. Choudhary, Member (J) and K. Anpazhakan, Member (T)

GOBINDA DAS

Versus

COMMISSIONER OF CUSTOMS (PREV.), KOLKATA

Final Order No. 75415/KOL/2023, dated 12-5-2023 in Appeal No. C/75921/2019

"Gold smuggling Penalty Appellant-accused was implicated solely based on statement of co-accused from whose possession gold was recovered Co-accused had stated that he was carrying gold at instance of accused on consideration and was required to hand over same to a person as instructed by him There being no corroborative evidence to establish that accused had instructed co-accused to carry gold to another person, hence merely on basis of statement of co-accused and conversation between them on mobile phone number that was found to have been registered in name of some other person and not in name of accused, it could not be concluded that co-accused was carrying gold for and on instructions of accused - In absence of corroborative evidence, statement of co-accused was weak evidence and not sufficient to implicate accused It was more so when adjudicating authority had neither examined co-accused nor provided opportunity of his cross-examination to accused in terms of Section 138B of Customs Act, 1962 Further, inference drawn by adjudicating authority that accused and proprietor of a gold shop from where seizure of gold effected in another case booked after twenty days of initial seizure from possession of co-accused were one and same person, was not acceptable as same was not supported with any evidence - If both persons were one and same, co-accused in his statement could have stated name of accused as Govinda Das as proprietor of said gold shop instead of as Govinda Babu - Hence accused was wrongly implicated in smuggling and imposition of penalty on him under Section 112(b) of Customs Act, 1962 was not justified and was to be quashed - Section 112(b) of Customs Act, 1962. [paras 1, 3, 15 to 23]"

(ii) 2003 (160) E.L.T. 816 (Tri. - Kolkata)

IN THE CESTAT, EASTERN BENCH, KOLKATA Smt. Archana Wadhwa, Member (J)

ANISUR RAHAMAN

Versus

COMMR. OF CUS. (PREV.), WEST BENGAL

Order No. A/491/KOL/2003, Stay Order No. S/340/KOL/2003, and Misc. Order No. M/339/KOL/2003, dated 30-6-2003 in Appeal No. CSM/76/2003

"Penalty Customs Evidence, corroborative evidence Statement of co-accused Car carrying contraband goods i.e. ball bearings used by appellants travel agency till 5.15 P.M. under car duty slip bearing No. 373 Car duty slip bearing

No. 374, produced by the driver is forged and fabricated - Driver's statement being in the nature of uncorroborated statement of a co-accused, cannot be made the sole basis for penalising the appellant - No other evidence to show the appellants involvement in transportation of ball bearings found - Penalty set aside -Section 112 of Customs Act, 1962. [paras 8, 9]"

Appeal allowed

(iii) 2019 (366) E.L.T. 634 (All.)

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

Shabihul Hasnain and Alok Mathur, JJ.

COMMISSIONER OF CUS. (PREVENTIVE), LUCKNOW

Versus

SHAKIL AHMAD KHAN

Customs Appeal Nos. 3-5 of 2018, decided on 5-2-2019

Evidence - Confessional statement of co-accused - It is not substantive evidence against another co-accused - It can at best be used for assurance to Court In absence of any substantive evidence, it was inappropriate to base conviction of accused on statements of co-accused Section 108 of Customs Act, 1962. [para 25]"

(iv) 2017 (358) E.L.T. 850 (Tri. - Hyd.)

IN THE CESTAT, REGIONAL BENCH, HYDERABAD

[COURT NO. I]

Shri M.V. Ravindran, Member (J)

MOHD. ABDUL QAYYUM

Versus

COMMISSIONER OF CENTRAL EXCISE, HYDERABAD

Final Order Nos. A/30609-30610/2017, dated 4-5-2017 in Appeal Nos. C/406-407/2009

"Penalty - Foreign currency Seizure of foreign currency from person who stated that the same was given to him by appellants for sending to Dubai No concrete evidence against appellants that foreign exchange sought to be illegally exported provided by them Entire case built upon the statement of co-accused without any corroboration Penalty set aside Section 114(1) of Customs Act, 1962. [2008 (230) E.L.T. 439 (Tribunal) relied on]. [paras 8, 9]"

Appeal allowed"

V. The statement of Shri Rakesh Kumar Chauhan that the noticee and other noticees were well aware of the imposition of Anti-Dumping duty but had misused them for the purpose of evasion of Anti- Dumping duty and created a layer to hide themselves is nothing but an attempt to shift his own responsibility to the noticee and other noticees. The impugned SCN has adduced no evidence to support this theory and in fact, noticee no. 1 has himself stated that he used to contact Mr. Lloyd Harridge, owner of M/s Cento

Graphic for placing purchase order of plates with whom he came in contact during an exhibition in Delhi about 15 years back (Ref: para 5.2 of the SCN); that the imported offset printing plates were sold to the domestic printing units with a small additional margin (Para 5.1 of the SCN refers);

VI. It is further submitted that para 14.1 of the impugned SCN clearly states that "in view of the evidence and facts discussed in the foregoing paras, it appears that 'M/s PSRA' had imported Digital Offset Printing Plates/ CTCP Digital Printing Double Layer Plates falling under CTH 84425090 of Chinese origin by routing through Sri Lanka based company M/s Cento Graph to evade Anti-Dumping duty leviable on import of Digital Offset Printing Plates produced by China based manufacturer".

VII. It is also worth notice that para 14.2 also clearly states that "Shri Rakesh Kumar Chauhan of M/s PSRA Graphics India Pvt. Ltd., New Delhi negotiated business deal with Mr. Lloyd Harridge owner of M/s Cento Graphics, Sri Lanka according to which Mr. Lloyd would supply the goods under the invoice of his company and goods would be imported through M/s PSRA and same would be sold to buyer in India". This is also abundantly indicative of the fact that it was noticee no. 1 who did all the negotiations and made all the arrangements with the Sri Lankan supplier for his benefit. The goods so imported had been sold to the domestic buyers in the normal course of business who are in no way liable for any infringement of law.

VIII. What is stated in para 20 of the impugned SCN is not at all sustainable as it states that "From the aforesaid, it appears that the importer had knowingly and deliberately indulged in suppression of facts and had wilfully misrepresented/ mis-stated the material facts regarding the producer/manufacturer of goods imported by them, in the declarations made in the import documents including check lists presented for filing of bills of entry presented before the customs at the time of import for assessment and clearance, with an intent to evade payment of applicable customs duty. Therefore, the Anti-Dumping duty not paid is liable to be recovered jointly & severally from M/s PSRA' and M/s Nippon Colour, M/s ACM Chemicals & M/s Suman Graphics, the beneficial owners

It is evident from the above finding of the investigating agency that it was M/s PSRA (noticee no. 1) who is the importer and who is to be held responsible for suppression or misrepresentation of facts, if any. However, for all the misdeeds committed by noticee no. 1, the impugned SCN, in the same para and in the same breath, holds the noticee and the other co-noticees as jointly and severally liable for the alleged evasion of Anti-Dumping duty. This conclusion by the investigating agency is not sustainable in the face of the fact that the findings do not adduce any direct and reliable corroborative evidence to prove any connivance of the noticee with noticee no. 1. In fact, the noticee has not made any declaration of any sort to the customs authorities nor were they under any obligation to make any declaration or disclosure to the customs authorities. Therefore, the question of any suppression or misdeclaration by the noticee does not arise

Similar baseless and unfounded allegations have been made in para 21 to para 25 of the impugned SCN against the noticee which stand uncorroborated with any tangible or intangible evidence on record. The noticee is neither an importer nor a beneficial owner of the impugned goods. They are simply a

trader and have bought the impugned goods from noticee no. 1 for the purpose of trading and no other role can be attributed to them.

GROUND 4: NO PENALTY IMPOSABLE AS ALLEGATIONS NOT CORROBORATED:

The noticee submits that as the allegations against them are not corroborated by any sustainable evidence, no penalty is imposable on them under Section 112(a), 112(b), 114AA and 117 of the Customs Act, 1962.

Section 112(a) & (b) are reproduced below-

"SECTION 112. Penalty for improper importation of goods, etc.-

Any person,

(a) 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 111, or abets the doing or omission of such an act, or

(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111,"

However, in the noticee's case, he is neither the importer nor has he abetted in any conduct of the noticee no. 1 who is the actual importer, he is not liable to penalty under Section 112(a). Similarly, the noticee is not liable to penalty under Section 112(b) as he neither knew nor had a reason to believe that the impugned goods were liable to confiscation under Section 111 as he has purchased the said goods in good faith from noticee no. 1 whom he genuinely expected to be an honest trader and importer. The uncorroborated statement and other evidence referred to in the impugned SCN as to the knowledge of the noticee of the improper import of the impugned goods is not supported by any sustainable direct evidence.

The noticee places reliance on the following decisions in support of his submission: -

(i) 2023 (385) E.L.T. 722 (Tri. Kolkata) / (2023) 7 Centax 201 (Tri. Kolkata)

IN THE CESTAT, EASTERN BENCH, KOLKATA

[COURT NO. II]

S/Shri P.K. Choudhary, Member (J) and K. Anpazhakan, Member (T)

GOBINDA DAS

Versus

COMMISSIONER OF CUSTOMS (PREV.), KOLKATA

Final Order No. 75415/KOL/2023, dated 12-5-2023 in Appeal No. C/75921/2019

"Gold smuggling Penalty Appellant-accused was implicated solely based on statement of co-accused from whose possession gold was recovered - Co-accused had stated that he was carrying gold at instance of accused on consideration and was required to hand over same to a person as instructed by him - There being no corroborative evidence to establish that accused had instructed co-accused to carry gold to another person, hence merely on basis

of statement of co-accused and conversation between them on mobile phone number that was found to have been registered in name of some other person and not in name of accused, it could not be concluded that co-accused was carrying gold for and on instructions of accused - In absence of corroborative evidence, statement of co-accused was weak evidence and not sufficient to implicate accused It was more so when adjudicating authority had neither examined co-accused nor provided opportunity of his cross-examination to accused in terms of Section 138B of Customs Act, 1962-Further, inference drawn by adjudicating authority that accused and proprietor of a gold shop from where seizure of gold effected in another case booked after twenty days of initial seizure from possession of co-accused were one and same person, was not acceptable as same was not supported with any evidence - If both persons were one and same, co-accused in his statement could have stated name of accused as Govinda Das as proprietor of said gold shop instead of as Govinda Babu Hence accused was wrongly implicated in smuggling and imposition of penalty on him under Section 112(b) of Customs Act, 1962 was not justified and was to be quashed - Section 112(b) of Customs Act, 1962. (paras 1, 3, 15 to 23/"

(ii) 2018 (362) E.L.T. 465 (Bom.)

IN THE HIGH COURT OF JUDICATURE OF BOMBAY AT GOA

G.S. Patel and Nutan D. Sardessai, JJ.

CIABRO ALEMAO

Versus

COMMISSIONER OF CUSTOMS, GOA

Customs Appeal No. 3 of 2005 with C.A. Nos. 4-7 of 2005, decided on 11-10-2017

"Penalty - Smuggling of gold - Evidence - Snatching of recovered gold - Case of department is that accused persons had smuggled gold and were present at Beach where gold had landed, but on interception/recovery by lone Customs officer, fled with gold after snatching same from him HELD Only evidence that accused were indulging in smuggling of gold is statement of Customs officer claiming happening of aforesaid facts - No other evidence, documentary or otherwise, available - Other witnesses mentioned in show cause notice who had allegedly witnessed entire incidence of recovery and snatching or naming of other co-accused, were either never produced for cross-examination or had already retracted from their statements On other hand, statements of various other witnesses indicating that accused named by Customs officer, except one, were present elsewhere and not at Beach where smuggled gold had allegedly landed -Even in respect of presence of this one accused, witness subsequently retracted from his statement Settled that a penalty cannot be imposed by relying on uncorroborated statements Further, facts narrated by Customs officer also leave many questions unanswered Penalty on all accused set aside as smuggling of gold not established more so when goods don't exist - Section 112 of Customs Act, 1962. [paras 34, 35, 36, 38, 62, 63]"

(iii) 2017 (347) E.L.T. 565 (Tri. - Ahmd.)

IN THE CESTAT, WEST ZONAL BENCH, AHMEDABAD

Dr. D.M. Misra, Member (J) and Shri P.M. Saleem, Member (T)

NARENDRA RAVAL

Versus

COMMISSIONER OF CUSTOMS, AHMEDABAD

Final Order No. A/10455/2016-WZB/AHD, dated 17-5-2016 in Application No. C/Others/10302/2016 in Appeal No. C/13694/2014

"Penalty Imposition of Smuggling Seizure and absolute confiscation of rough diamonds found in possession of two jewellers without invoice and mandatory Kimberley Process certificate required for import of rough diamonds Appellant, a Kenyan citizen, named as owner of seized diamonds by one of the co-accused, denying any connection with smuggling of impugned diamonds - HELD: Not disputed that the two co-accused stayed in guest house of appellant for a month - However no supporting or corroborating evidence to establish involvement of appellant in smuggling Initial statements of co-accused retracted on cross-examination as given under duress and later they denied any role of appellant in smuggling of said goods - Call records of calls between appellant and co-accused not incriminating, in view of admittance by co-accused that said calls relating to finding a place in Gujarat for starting an orphanage -Statement of other two witnesses regarding visit to Kenya and holding meetings on 25-3-2011 with appellant regarding sale of rough diamonds, proved factually incorrect, as passport entries and certificate by concerned official from Tanzania evidencing that appellant out of Kenya on said date - Appellant cannot be held guilty of offence on basis of uncorroborated initial statements of co-accused Impugned order set aside Section 112(a) of Customs Act, 1962. (paras 6, 7]

Appeal allowed"

Provisions of Section 114AA are also reproduced below: -

"Section 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 purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods."

It is evident from the records of the case that the noticee's role in the entire episode is that they purchased the impugned goods which they considered to be on offer from the noticee no. 1 on reasonable rates. The noticee has only dealt with the noticee no. 1 for purchase of the said goods and have not involved themselves in any activity related to the import of the said goods and therefore, they are relatable only to the post-import activity which does not come within the purview of the provisions of the Customs Act, 1962.

It is categorically submitted that the noticee did not make any declaration and did not sign any document for submission to the customs authorities. Thus, the provisions of Section 114AA cannot be invoked against the noticee. The impugned SCN also does not adduce any evidence whatsoever (except when there was some complaint regarding the quality of the goods) to indicate that the noticee was ever in contact with the foreign supplier or the noticee ever placed any order or negotiated with the foreign supplier Therefore, the proposal to impose penalty on the noticee under Section 114AA of the Customs Act, 1962 is not sustainable. The noticee places reliance on the following judicial pronouncements in this regard_

(i) 2024 (387) E.L.T. 91 (Tri. - All.)

IN THE CESTAT, REGIONAL BENCH, ALLAHABAD

[COURT NO. I]

Shri Sanjiv Srivastava, Member (T)

WAQAR

Versus

COMMISSIONER OF CUSTOMS (PREVENTIVE), LUCKNOW

Final Order No. 70083/2023, dated 6-9-2023 in Appeal No. C/70723/2019

"Penalty - Gold smuggling - Gold bars were concealed in appellant's shoes and socks - Appellant carrying gold in fact had not made any declaration to Customs Authorities as was required under Customs Act, 1962- No document etc., was produced by him which was found to be materially wrong Ingredients for invocation of provisions of Section 114AA ibid being absent, penalty under said section was not justified Section 114AA of Customs Act, 1962 (para 4.7]"

(ii) 2022 (382) E.L.T. 65 (Tri. Mumbai)

IN THE CESTAT, WEST ZONAL BENCH, MUMBAI

S/Shri P. Dinesha, Member (J) and Sanjiv Srivastava, Member (T)

A.V. GLOBAL CORPORATION PVT. LTD.

Versus

ADDITIONAL DIRECTOR GENERAL (ADJUDICATION), DIRECTORATE OF REVENUE INTELLIGENCE, MUMBAI

Final Order Nos. A/85491-85498/2022-WZB, dated 28-2-2022 in Appeal Nos. C/85759, 86106, 86107, 86143-86146/2017 & 88039/2018

"Customs: Penalties under Section 114AA of Customs Act, 1962 having been mechanically imposed by adjudicating authority without determining existence of any declaration, statement or document which is false or incorrect in material particulars, was to be set aside."

(iii) 2018 (363) E.L.T. 411 (Tri. - Del.)

IN THE CESTAT, PRINCIPAL BENCH, NEW DELHI

[COURT NO. IV]

S/Shri S.K. Mohanty, Member (J) and B. Ravichandran, Member (T)

PRAMOD KUMAR

Versus

COMMISSIONER OF CUSTOMS, NEW DELHI

Final Order No. C/A/58188/2017-CU(DB), dated 4-12-2017 in Appeal No. C/52912/2016-CU(DB)

Confiscation and penalty Misdeclaration Post parcel with declaration of contents as 'artificial gift items' by overseas supplier - Importer did not made

any false declaration with regard to actual content in parcel, filed proper documents for assessment of Bill of Entry, and paid applicable duty HELD: As valuation of goods was enhanced and they were not accompanied by correct declaration of contents, goods were liable to confiscation with option for redemption As there was no fraudulent misdeclaration, penalty was not imposable Sections 82, 111(m), 112, 114AA and 125 of Customs Act, 1962. (paras 6, 7,8]

(iv) 2015 (316) E.L.T. 549 (Mad.)

IN THE HIGH COURT OF JUDICATURE AT MADRAS

R. Sudhakar and G.M. Akbar Ali, JJ.

R. KISHORE NAGAARUR

Versus

ADDL. COMMR. OF CUS. (EXPORTS), CHENNAI

C.M.A. No. 2705 of 2014, decided on 24-9-2014

Penalty for unlawful attempt to export Smuggling using IE code of another firm Record indicating that person was responsible for sourcing bogus bill for misdeclared goods to support unlawful attempt to export Fact that payments were made by consignee, who was sister of that person, confirmed by sister and father of that person Proprietor of the another firm stated that he had consented to improper export only for individual gain per container Complicity of that person confirmed by Customs House Agent, who stated that false invoice were handed to him by that person, and shipping bills were filed on his instructions Penalties imposed by original authority, sustained by Tribunal under Section 114(i) but set aside under Section 114AA of Customs Act, 1962 on ground that person had not signed or used declaration for export of goods HELD There was attempted export by way of mis-declaration contrary to prohibition imposed by law - Hence, levy of penalty under Sections 114(i) ibid was proper Just because Tribunal set aside penalty under Section 114AA ibid, penalty under Section 114(i) ibid could not be set aside as complicity of that person was proved.

(paras 19, 20, 21, 22]

(v) 2014 (314) E.L.T. 828 (Tri. - Mumbai)

SUKETU JHAVERI

Versus

COMMISSIONER OF CUS. (IMPORT), NHAVA SHEVA

[Final Order Nos. A/107-109/2013-WZB/C-IV(SMB), dated 27-12-2012 in Appeal Nos. C/980, 986-987/2010-Mum]

Penalty Imposition of Use of IEC of some other person -Violation of Section 114AA of Customs Act, 1962- Violation only in case of any use of false document, statement or declaration made intentionally for import transactions - Use of IEC of some other person not an offence under said provision as held in case of Hamid Fahim Ansari [2009 (241) E.L.T. 168 (Bom.)] Penalty not imposable under Section 114AA ibid Impugned order set aside. (para 8)

Appeals allowed.

In view of the above submissions, no penalty under Section 114AA is imposable on the noticee as he has not signed any declaration/document for presentation before the Customs authorities.

PRAYER

The Noticee, therefore, prays: -

(1) The Hon'ble Commissioner of Customs, Mundra Port, Kutch, Gujarat-370421 may be pleased to drop the proceedings initiated against them vide SCN F. GEN/ADJ/COMM/481/2023-Adjn, dated 31.05.2024. NO.

(ii) That the noticee may be allowed to cross-examine Shri Rakesh Kumar Chauhan, Director of M/s PSRA Graphics India Private Limited (Noticee no. 2) as he has made false allegations against the noticee regarding his involvement in the alleged evasion of Anti-Dumping duty;

(iii) That the Hon'ble Adjudicating authority may grant an opportunity of Personal Hearing to the noticee before deciding the instant matter.

31.5 M/s PSRA Graphics Limited and its Director Shri Rakesh Chauhan, vide their letter dated 14.09.2024, submitted their defence submission, which is reproduced as under -

“ That the M/s P.S.R.A. Graphics India Private Ltd was importing CTCP and CTP Thermal Offset Printing Plates from M/s Cento Graph, Sri Lanka selling to the Domestic Printing Units. It is further clarified that M/s Cento Graph had issued the invoice in which it is specifically written that the country of origin of goods is from Sri Lanka / Spain, European Union and hence M/s PSRA, who was importing goods from the M/s Cento Graph is importing on the assumption that the said goods is originated from Sri Lanka and M/s PSRA does not know that the same goods which they are importing is from Republic of China and from the perusal of the Show Cause Notice, it only appears that the M/s Cento Graph has committed fraud by issuing fake invoices but no conclusion can be drawn that the goods are originated from China. A copy of the invoice generated by M/s Cento Graph is being filed herewith and marked as Annexure NO.2 to this reply.

That all the evidence which was relied by the Authorities for issuing a show cause notice has only shown that the M/s Cento Graph is routing goods from China through Sri Lanka by using fake invoices bills and the M/s PSRA was importing goods with good and strong belief that the goods were originated in Sri Lanka as it is clear from the invoices which was issued by the M/s Cento Graph.

That the statements made by M/s Mahalaxmi Textiles that the I.E.C. of Mahalaxmi Textiles was used by Sri Rakesh Kumar Chauhan is only a bald statements and no evidence was given in support of his statement on the per contra that M/s Mahalaxmi Textiles was in contact with M/s Cento Graph and they are in contact and they know about the origin of the goods but the M/s PSRA don't know anything about the origin of the goods and they were in strong belief that goods were originated from Sri Lanka as it is mentioned in the invoices.

That the M/s Mahalaxmi Textiles is directly in contact with the M/s Cento Graph and they are the beneficiaries of this transactions and they have used M/s PSRA only as an intermediately and they don't know about the origin of the goods.

That after issuing of the Show Cause Notice dated 31.05.2024; many documents have been relied upon by the authorities for issuing a Show Cause Notice under Section 28 (4) of the Customs Act 1962 and the same has been sought by the M/s PSRA so that the proper reply can be given by the M/s PSRA but the same has not been supplied to the M/s PSRA, which prejudices the right to reply of M/s PSRA. A copy of the application for demanding the documents relied by the authorities to issue the show cause notice is hereby annexed and marked as Annexure No.3 to this reply.

That right to reply and right to get the essential documents which are relied to issue a Show Cause Notice is one of the cardinal principles of Quasi Judicial Proceedings and denial of same is a violation Natural Justice.

That the Hon'ble Apex Court in A.K. Kripa v. Union of India (1970) 1 SCR 457 has held that "keeping in view the expending origin of the principle of natural justice the same has to be applied in quasi Judicial proceedings and hence any authority or Tribunal for deciding any issue has to abide by the principles of Natural Justice".

That the Hon'ble Supreme Court in Apparel Export Promotion Council v A.K. Chopra (1999 (1) SCC 759), this Court observed: "It is a fundamental requirement of law that the doctrine of natural justice be complied with and the same I has, as a matter of fact turned out to be an integral part of administrative Jurisprudence of this Country. The judicial process itself embraces a fair and reasonable opportunity to defend".

That the Hon'ble Supreme Court in the case of Managing Director ECIL, Hyderabad and others vs. B. Karunakar and others, 1993 SCC 727 has held that "Hence the incidental questions raised above may be answered as follows:-

(1). Since the denial of the report of the Inquiry Officer is a denial of reasonable opportunity and a breach of the principles of natural justice, it follows that the statutory rules, if any, which deny the report to the employee are against the principles of natural justice and, therefore, invalid. The delinquent employee will, therefore, be entitled to a copy of the report even if the statutory rules do not permit the furnishing of the report or are silent on the subject"

That the Hon'ble Apex Court in Channabasappa Basappa Happali v State of Mysore (AIR 1972 SC 32) recorded the need of compliance of certain requirements in a departmental enquiry: at an enquiry, facts have to be proved and the person proceeded against must have an opportunity to cross-examine witnesses and to give his own version or explanation about the evidence on which he is charged and to lead his defence.

That as per the law laid down by the Hon'ble Supreme Court in the above mentioned cases it is crystal clear that it is the obligation of the respondents to supply the requisite documents which were relied by the Respondents to issue a Show Cause Notice to the person against whom Show Cause Notice was issued, so that he shall have the chance to cross examine the documents and after that furnish the reply to the Show Cause Notice but in the absence same it pre-judies the right to file a reply and hence it is a violation of principle of natural justice.

That it is a humble request to kindly provide the documents which were relied by the authorities for issuing the Show Cause Notice so that proper reply can be filed.

That is further pertinent to mention here that Rakesh Kumar Chauhan, Director of M/S P.S.R.A. Graphics India Pvt. Ltd. was arrested on 10.01.2023 under Section 104 of the Customs Act read with section 135 of the Act and was released

on bail on 21.03.2023 on the ground that the authorities have not able to submit the charge-sheet on time and the Learned Court enlarged Rakesh Kumar Chauhan on bail and hence it is clear that the respondent authorities are only trying to harass and misusing various legal forums to harass Rakesh Kumar Chauhan, Director of M/S P.S.R.A. Graphics India Pvt. Ltd. A copy of the order of bail is being filed herewith and marked as Annexure No. 4 to this Reply.

Therefore, it is further it is clarified that M/S P.S.R.A. Graphics India Pvt. Ltd. is not involved in any kind of anti-dumping activities and has carried out his business as per the law of the land.”

31.6 M/s PSRA Graphics Limited and its Director Shri Rakesh Chauhan submitted their final defence submission received in this office via email dated 10.03.2025, which is reproduced as under –

The first few parts of the reply were repeated from the first reply dated 14.09.2024, hence not reproduced herewith for the sake of brevity. Other relevant portion is reproduced below –

“

That the statements made by M/s Mahalaxmi Textiles that the I.E.C. of Mahalaxmi Textiles was used by Sri Rakesh Kumar Chauhan is only a bald statements and no evidence was given in support of his statement on the per contra that M/s Mahalaxmi Textiles was in contact with M/s Cento Graph even before our company was registered and were importing goods from M/s Cento Graph with his partner Dhanversha Impex since 2016-2017 and they are in contact and they know about the origin of the goods but the M/s PSRA don't know anything about the origin of the goods and they were in strong belief that goods were originated from Sri Lanka /European Union as it is mentioned in the invoices & country of origin.

That the search was conducted on 13.06.2022 on the premises of the office to the M/s PSRA Graphics India Pvt. Ltd. in which the statement of Mr. Rakesh Kumar Chauhan was recorded in which they have categorically stated that neither he nor any of his employee of his company is involved in anti-dumping activities, they are only intermediaries and various companies like M/s Centro Graph, Sri Lanka place order for purchase and the same use to deliver to other companies and further authorities didn't carried out proper search and some relevant which were given by the Rakesh Kumar Chauhan were not take into consideration.

That the invoice of consignment and country of origin also show that the products are originated from the Sri Lanka/ Spain, European Union and not from the Republic of China and the same invoices had been handed over to me ie M/s PSRA for carrying out business and it further clarified the invoice has been issued by the different companies from whom the M/s PSRA carry out transaction.

That the Cento Graph, Sri Lanka and M/s Mahalaxmi Textiles were carrying out the transaction and they have issued the invoices and the M/s PSRA is only an intermediary and in the Invoices it is clearly mention the goods had been originated from Sri Lanka and EU Spain and in the invoices it is no where mention that the goods are of Republic of China and from perusal of the documents it is M/s PSRA were not involved in anti dumping duties.

That Shri Rakesh Ajmeri, Proprietor of M/s Mahalaxmi Textiles had admitted in panchnama dated 13.06.2022 that M/s G Mahalaxmi Textile is dealing with the M/s Cento Graph, Sri Lanka and all the invoices are issued by the Cento Graph, Sri Lanka and all the transaction had been done by M/s Mahalaxmi Textiles and Cento

Graph, Sri Lanka directly and M/s PSRA has no role nor have any kind of knowledge of invoices.

That from the Panchnama dated 13.06.2022 of Shri Rakesh Ajmeri, Proprietor of M/s Mahalaxmi Textiles had clearly stated that all the anti dumping activities are being done by the M/s Mahalaxmi Textiles, Cento Graph, Sri Lanka and Mr. Lloyd Harridge and M/s PSRA don't have any role in it and M/s Mahalaxmi Textile is in directly contact with Cento Graph, Sri Lanka and Mr. Lloyd Harridge and it is further clarified that no concrete incriminating evidence was found against the M/s PSRA and hence no criminal or civil liability can be fastened upon M/s PSRA.

That a letter was received to the DRI, Chennai, in which Sri Lankan Customs mentioned M/s Cento Graph that certain materials were imported from China, reworked, and then sent to India. However, on the other hand Sri Lankan Customs failed to provide the relevant import documents from China, and the same has been forwarded to PSRA for further action.

That from the aforesaid facts and circumstances it is crystal clear that the CO and other documents provided by M/s Cento Graph are original and true, with all supporting documents in original form submitted to the department. Overall, the investigation is based on assumptions, and there are no relevant documents in relation to PSRA. Additionally, the graphics have been provided by Customs.

That it is crystal clear from all the documents that M/s PSRA is only an intermediary and they never had any intention of forging documents nor evasion any kind of tax as the same is law abiding juristic person and not involved in any kind of illegal activity.

That M/s PSRA is doing his business as per the law of this country and as far as evasion of anti dumping duty is concerned the same has not done any act which is illegal, the same is only intermediary and all the goods that are routed through, my client had don't any information.

That none of the documents and chats of whatsapp shows that M/s PSRA had not any intention of evading anti dumping duty neither they had forged any documents in furtherance of the act.

Therefore, it is further it is clarified that M/S P.S.R.A. Graphics India Pvt. Ltd. is not involved in any kind of anti-dumping activities and has carried out his business as per the law of the land.

32. Personal Hearing

32.1 Personal hearing in the matter was given to all noticees on 12.03.2025, 16.04.2025 and 29.04.2025. However, except on 29.04.2025, none of the noticees appeared for personal hearing on the given dates. On the hearing held on 29.04.2025, M/s PSRA Graphics (represented by Shri Rakesh Chauhan), M.s Suman Graphics (represented by Advocate Shri Shankey Agarwal) appeared via virtual mode.

32.2 Shri Rakesh Chauhan, Director of M/s PSRA Graphics Limited, appeared via virtual mode before the Commissioner, Customs Mundra, wherein he reiterated his earlier defence submissions dated 14.09.2024 and 10.03.2025 and requested to drop the proceedings in toto.

32.3 Shri Sanjay Singhal, Advocate, representing M/s. Nippon Color, Mumbai (Noticee No. 03), appeared before before the Commissioner, Customs Mundra for

scheduled hearing on 29.04.2025 at 11.30 AM, in the matter of PSRA Graphics India Private Limited and Others. He reiterated the submissions as made in their Preliminary reply dated 24.06.2024 and their final reply dated 16.04.2025. Accordingly, he submitted that they are not beneficial owners and hence, neither duty can be demanded from them nor penalty be imposed as they are buyers post import.

32.4 Shri Shankey Agarwal, Advocate, representing M/s.Suman Graphics, New Delhi, appeared before the Commissioner, Customs Mundra for scheduled hearing on 29.04.2025, in the matter of PSRA Graphics India Private Limited and Others. He reiterated the submissions as made in their Preliminary reply dated 07.07.2024. Accordingly, he submitted that they are not beneficial owners and hence, neither duty can be demanded from them nor penalty be imposed as they are buyers post import.

32.5 None of the other noticees appeared on any of the personal hearing dates nor sought any adjournment in the matter. Hence, no more personal hearings were given to any of the remaining noticees.

33. DISCUSSION AND FINDINGS

After having carefully gone through the Show Cause Notice, relied upon documents, submissions made by the Noticees and the records available before me, I now proceed to decide the case. The main issues involved in the case which are required to be decided in the present adjudication are as under:-

- i. Whether 492378 Sq.m. of goods valued at Rs.8,97,03,963/- (Rupees Eight Crore Ninety Seven Lac Three Thousand Nine Hundred Sixty Three only) as per Column No. 4 of the Table in Para-29 and as detailed in Annexure A & B, attached to the notice which have been cleared, should not be held liable to confiscation under Section 111(m) and (o) of the Customs Act, 1962.
- ii. Whether differential Customs duty (Anti-dumping duty & IGST) amounting to Rs.12,31,467/- (Rupees Twelve Lac Thirty One Thousand Four Hundred Sixty Seven Only) as per Column No. 5 at Sr. No. 01 of the Table in Para-29 and as detailed at Sr. No. 01 in Annexure-A, attached to the notice, is liable to be demanded and recovered jointly and severally from M/s PSRA Graphics India Private Limited; and M/s. Suman Graphics under Section 28(4) of the Customs Act, 1962, read with conditions of Notification No. 02/2020-Customs (ADD) dated 30.01.2020 alongwith applicable interest under Section 28AA of the Act *ibid*;
- iii. Whether differential Customs duty (Anti-dumping duty & IGST) amounting to Rs.1,38,01,352/- (Rupees One Crore Thirty Eight Lac One Thousand Three Hundred Fifty Two Only) as per Column No. 5 at Sr. No. 02 of the Table in Para-29 and as detailed at Sr. No. 02 to 08 in Annexure A, attached to the notice is liable to be demanded and recovered jointly and severally from M/s PSRA Graphics India Private Limited; and M/s. ACM Chemicals under Section 28(4) of the Customs Act, 1962 read with conditions of Notification No. 21/2020-Customs (ADD) dated 29.07.2020 alongwith applicable interest under Section 28AA of the Act *ibid*;
- iv. Whether differential Customs duty (Anti-dumping duty & IGST) amounting to Rs.1,74,08,127/- (Rupees One Crore Seventy Four Lac Eight Thousand One Hundred Twenty Seven Only) as per Column No. 5 at Sr. No. 03 & 4 of the Table in Para-29 and as detailed at Sr. No. 09 to 13 in Annexure A and Annexure-B, attached to the notice, is liable to be demanded and recovered jointly and severally from M/s PSRA Graphics India Private Limited; and M/s. Nippon Color, under Section 28(4) of the Customs Act, 1962 read with conditions of Notification No. 21/2020-Customs (ADD) dated 29.07.2020 alongwith applicable interest under Section 28AA of the Act *ibid*;
- v. Whether penalty liable to be imposed upon M/s PSRA Graphics India Private Limited, G/F, 80E/G-2, Rajendra Nagar Indus. Area, Mohan Nagar, Ghaziabad, Uttar Pradesh-201007, under Section 112(a), 112(b), 114AA and 117 of the Customs Act, 1962 separately for their role as discussed in the notice;
- vi. Whether penalty liable to be imposed upon Shri Rakesh Kumar Chauhan, Director of M/s PSRA Graphics India Private Limited G/F, 80E/G-2, Rajendra Nagar Indus. Area, Mohan Nagar, Ghaziabad, Uttar Pradesh-201007 under Section 112(a), 112(b), 114AA and 117 of the Customs Act, 1962, separately for his role as discussed in the notice;
- vii. Whether penalty is liable to be imposed upon Shri Jayant Ramesh Pardiwala, Proprietor of M/s. Nippon Color, 219, High Tech Ind. Centre, caves road, Jogeshwari, Mumbai-400060, under Section 112(a), 112(b), 114AA and 117 of the Customs Act, 1962, separately for his role as discussed in the notice;

- viii. Whether penalty is liable to be imposed upon Shri Tara Chand Aggarwal, Proprietor of M/s ACM Chemicals, WZ-131, Ground floor, Naraina village, near Tikona park, Ring road, Delhi- 110028, under Section 112(a), 112(b), 114AA and 117 of the Customs Act, 1962, separately for his role as discussed in the notice;
- ix. Whether penalty is liable to be imposed upon Shri Vikas Vadhawan, Proprietor of M/s. Suman Graphics, 2B-9, Gurunanak House, Ranjit Nagar, Commercial Complex, New Delhi-110008, under Section 112(a), 112(b), 114AA and 117 of the Customs Act, 1962, separately for his role as discussed in the notice;
- x. Whether penalty is liable to be imposed upon M/s Cento Graph, No. 5, John Keells Housing Scheme, Potherwara Road, Malabe, Sri Lanka under Section 112(a) and 114AA of the Customs Act, 1962, separately for their role as discussed in the notice;
- xi. Whether penalty is liable to be imposed upon Mr. Llyod Harridge, owner of M/s Cento Graph, No. 5, John Keells Housing Scheme, Potherwara Road, Malabe, Sri Lanka under Section 112(a) and 114AA of the Customs Act, 1962, separately for his role as discussed in the notice;
- xii. Whether penalty is liable to be imposed upon M/s Worldgate Express Lines International Pvt. Ltd., 7th floor, Sharda Terrace (warden House), Sector 11, Plot No. 65, CBD Belapur, West, Navi Mumbai, Maharashtra-400614, under Section 112(a) and 114AA of the Customs Act, 1962, separately for their role as discussed in the notice;
- xiii. Whether penalty is liable to be imposed upon M/s Worldgate Express Lines Lanka Pvt. Ltd., No. 23, 1st Floor, Palm Grove, Colombo-03, Sri Lanka, under Section 112(a) and 114AA of the Customs Act, 1962, separately for their role as discussed in the notice;

34. After having framed the main issues to be decided, now I proceed to deal with each of the issues herein below. The foremost issue before me to decide in this case is whether the differential Customs duty (ADD+IGST) is liable to be recovered from the noticees on the goods imported by them alleged to be of Chinese origin.

34.1. I find that the Show Cause Notice alleges that the importer M/s. PSRA Graphics having address at G/F, 80E/G-2, Rajendra Nagar Indus. Area, Mohan Nagar, Ghaziabad, Uttar Pradesh-201007, had imported the impugned goods declared as “Digital Offset Printing Plates” under Chapter Heading 84425090 of Custom Tariff Act, 1985 and cleared the impugned goods without payment of anti-dumping duty as specified under Notification No. 02/2020-Customs (ADD) dated 30.01.2020 and Notification No. 21/2020-Customs (ADD) dated 29.07.2020 by declaring Country of Origin as Sri Lanka.

34.2. I find that as per Notification No. 02/2020-Customs (ADD) dated 30.01.2020 and Notification No. 21/2020-Customs (ADD) dated 29.07.2020 issued under Section 9A of Customs Tariff Act, 1975, read with Rules 13 and 20 of the Customs Tariff, the Anti-dumping duty applicable on Digital Offset Printing Plates originating in, or exported from People’s Republic of China and imported into India and Digital Offset Printing Plates manufactured in China and imported into India from other countries is as under:

(i) As per Notification No. 02/2020-Customs (ADD) dated 30.01.2020

S. No.	Tariff Item	Description	Country of Origin	Country of Export	Producer	Amount (USD/
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						SQM)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	84425090	Digital Offset Printing Plates	People's Republic of China	People's Republic of China	Lucky Huaguang Graphics Co. Ltd.	0.52
2	84425090	Digital Offset Printing Plates	People's Republic of China	People's Republic of China	Kodak China Graphic Communications Co. Ltd.	Nil
3	84425090	Digital Offset Printing Plates	People's Republic of China	People's Republic of China	Shanghai Strong State Printing Equipment Limited	0.57
4	84425090	Digital Offset Printing Plates	People's Republic of China	People's Republic of China	Fujifilm Printing Plate (China) Co. Ltd.	Nil
5	84425090	Digital Offset Printing Plates	People's Republic of China	People's Republic of China	Any other product except S. No. 1 to 4 mentioned above	0.57
6	84425090	Digital Offset Printing Plates	People's Republic of China	Any country other than People's Republic of China	Any	0.57

(ii) As per Notification No. 21/2020-Customs (ADD) dated 29.07.2020

S. No	Tariff Item	Description	Country of Origin	Country of Export	Producer	Amount (USD/ SQM)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	84425090	Digital Offset Printing Plates	People's Republic of China	People's Republic of China	Lucky Huaguang Graphics Co. Ltd.	0.55
2	84425090	Digital Offset Printing Plates	People's Republic of China	People's Republic of China	Kodak China Graphic Communications Co. Ltd.	Nil
3	84425090	Digital Offset Printing Plates	People's Republic of China	People's Republic of China	Shanghai Strong State Printing Equipment Limited	0.60
4	84425090	Digital Offset Printing Plates	People's Republic of China	People's Republic of China	Fujifilm Printing Plate (China) Co. Ltd.	Nil
5	84425090	Digital Offset Printing Plates	People's Republic of China	People's Republic of China	Any other product except S. No. 1 to 4 mentioned above	0.77
6	84425090	Digital Offset Printing Plates	People's Republic of China	Any country other than People's Republic of China	Any	0.77

34.3 From the above Anti-dumping duty structure, it is clear that the Digital Offset Printing Plates/ CTCP Digital Printing Double Layer Plates falling under CTH 84425090 of Chinese Origin, when exported from People's Republic of China or any other countries other than People's Republic of China and imported into India, which is produced by any other producer except S.No. 01 to 04 mentioned in the Column no. (6) of the table in the Notification No. 02/2020-Customs (ADD) dated 30.01.2020, the Anti-dumping duty @ 0.57 USD per SQM is leviable effective from 30.01.2020 for a period of six months. Further, the said Anti-

dumping duty was enhanced from @ 0.57 USD per SQM to @ 0.77 USD per SQM on the goods i.e. Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates of Chinese Origin produced by any producer, exported from any other countries other than People's Republic of China and imported into India by Notification No. 21/2020-Customs (ADD) dated 29.07.2020 effective from 29.07.2020 for a period of five years.

34.4 In the present case, I observe that the goods, CTCP Plates, were imported by M/s PSRA Graphics from M/s. Cento Graph, Sri Lanka vide below mentioned Bill of entries for their beneficial owners M/s. Nippon, M/s. AMC Chemicals and M/s. Suman Graphics. –

Sr. No.	Custom House Code	BE No. & Date	Name of Importer & Beneficial Owner	Supplier from Sri Lanka	Description of Goods
1	INMUN1	7644613 dtd 12.05.2020	M/s. PSRA Graphics & M/s. Suman Graphics	M/s. Cento Graph	CTCP PLATES
2	INMUN1	8338541 dtd 31.07.2020	M/s. PSRA Graphics & M/s. ACM Chemicals	M/s. Cento Graph	CTCP PLATES
3	INMUN1	8664435 dtd 01.09.2020	M/s. PSRA Graphics & M/s. ACM Chemicals	M/s. Cento Graph	DIGITAL OFFSET PRINTING PLATE
4	INMUN1	8664458 dtd 01.09.2020	M/s. PSRA Graphics & M/s. ACM Chemicals	M/s. Cento Graph	DIGITAL OFFSET PRINTING PLATE
5	INMUN1	8741443 dtd 08.09.2020	M/s. PSRA Graphics & M/s. ACM Chemicals	M/s. Cento Graph	DIGITAL OFFSET PRINTING PLATE
6	INMUN1	2111013 dtd 25.12.2020	M/s. PSRA Graphics & M/s. ACM Chemicals	M/s. Cento Graph	DIGITAL OFFSET PRINTING PLATE
7	INMUN1	2886720 dtd 23.02.2021	M/s. PSRA Graphics & M/s. ACM Chemicals	M/s. Cento Graph	CTCP DIGITAL DOUBLE LAYER OFFSET PLATES
8	INMUN1	3025073 dtd 05.03.2021	M/s. PSRA Graphics & M/s. ACM Chemicals	M/s. Cento Graph	CTP DIGITAL DOUBLE LAYER OFFSET PLATES
9	INMUN1	8196964 dtd 17.07.2020	M/s. PSRA Graphics & M/s. Nippon Color	M/s. Cento Graph	CTCP PLATES
10	INMUN1	9005816 dtd 30.09.2020	M/s. PSRA Graphics & M/s. Nippon Color	M/s. Cento Graph	DIGITAL OFFSET PRINTING PLATE
11	INMUN1	2111011 dtd 25.12.2020	M/s. PSRA Graphics & M/s. Nippon Color	M/s. Cento Graph	DIGITAL OFFSET PRINTING PLATE
12	INMUN1	3025057 05.03.2021	M/s. PSRA Graphics & M/s. Nippon Color	M/s. Cento Graph	CTCP DIGITAL DOUBLE LAYER OFFSET PLATES
13	INMUN1	3322782 dtd 27.03.2021	M/s. PSRA Graphics & M/s. Nippon Color	M/s. Cento Graph	CTCP DIGITAL DOUBLE LAYER PLATES
14	INNSA1	3207676 dtd 19.03.2021	M/s. PSRA Graphics & M/s. Nippon Color	M/s. Cento Graph	CTCP DIGITAL OFFSET PLATES
15	INNSA1	3275318 dtd 24.03.2021	M/s. PSRA Graphics & M/s. Nippon Color	M/s. Cento Graph	CTP THERMAL DIGITAL DOUBLE LAYER OFFSET PLATES
16	INNSA1	3400230 dtd 01.04.2021	M/s. PSRA Graphics & M/s. Nippon Color	M/s. Cento Graph	CTCP DIGITAL DOUBLE LAYER PLATES
17	INNSA1	3587750 dtd 16.04.2021	M/s. PSRA Graphics & M/s. Nippon Color	M/s. Cento Graph	CTP THERMAL DIGITAL DOUBLE LAYER OFFSET PLATES

34.4.1 As the importer cleared the impugned goods without payment of Anti-dumping duty by declaring COO as Sri Lanka, a letter dated 27.10.2022 was addressed by DRI Chennai to the Director General of Customs, Central Intelligence Directorate, Sri Lanka Customs, Colombo 11, Sri Lanka requesting them to provide the details / documents required for carrying on the investigation. In response to DRI Chennai letter dated 27.10.2022, the Director General of Customs, Central Intelligence Directorate, Sri Lanka Customs vide letter dated 07.12.2022 informed that during their investigation against M/s Cento Graph, they have observed that M/s. Cento Graph in Sri Lanka, are importing containers from China and reworking the containers in Colombo to ship the same in India. The relevant portion of reference letter CIU/DRI/DRI/20/2022 dated 25.11.2022 received from the Sri Lanka Customs is reproduced below:

SRI LANKA CUSTOMS
Customs House, No.40, Main Street, Colombo 11,
SRI LANKA

To: Mr. Vikram Chand Meka, Additional Director, Directorate of Revenue Intelligence, T. Nagar, Chennai- 600 017, India.	From: Mr. A.R.Senadeera, Director of Customs, Central Intelligence Directorate, Sri Lanka Customs, Colombo 11, Sri Lanka.
FAX: 0091-44-2815-1740	FAX: 0094-11-2472423
DATE: 25 th November 2022	CALL: 0094-11-2221430
PAGES: 01	E-MAIL: ciu@customs.gov.lk
YOUR REF: DRI/CZU/VIII/26/180/2022	OUR REF: CIU/DRI/DRI/20/2022
SUBJECT: Re: Indo-Sri Lankan Customs - Request for details/ documents in respect of export consignments of Sri Lankan exporter M/s. Cento Graph to certain Indian importers - Reg.	

Greetings from Sri Lanka Customs!

Dear Sir,

The Central Intelligence Directorate of Sri Lanka Customs avails this opportunity to compliment Indian Customs for extending an excellent co-operation in matters of Customs mutual assistance and invited kind attention to your letter Ref No. **DRI/CZU/VIII/26/180/2022** dated 27th October 2022 on the above subject.


02. At the moment Sri Lanka Customs has initiated the investigation against the company **M/s. Cento Graph**. During the course of the investigation it is observed that the exporter **M/s. Cento Graph** in Sri Lanka, importing containers from China and rework the containers in Colombo to ship the same to India.


03. Sri Lanka Customs will forward you the full report and the documents you requested at the earliest possible completion of our investigation.

Sri Lanka Customs once again compliments the Directorate of Revenue Intelligence, India, and extends assurance of its highest consideration.

Thank you.

Yours sincerely,


A.R. Senadeera
Director of Customs
Central Intelligence Directorate
For Director General of Customs


A.R. Senadeera
Director of Customs
Sri Lanka Customs
Colombo 11.

Seen D.V. 11/11/23
Seen and Read 10/11/23
Seen and Read 09/10/23
Seen Jayesh 10/12/23
Route and Sign 11/12
Seen 17/04/23
Seen 11/04/23

From the report submitted by the Central Intelligence Directorate, Sri Lanka, Customs, it is evident that the goods dispatched by M/s. Cento Graph, Sri Lanka to India were of Chinese Origin which they had reworked in different containers and the same were afterwards shipped to India and cleared by M/s. PSRA Graphics & their beneficial Owners.

34.4.2 Further, I find that vide letter Reference: CIU/DRI/DRI/20(2)/2022 dated 30th Dec. 2022 (reproduced below), the Central Intelligence Directorate, Sri Lanka, Customs, forwarded a number of documents, such as – Performa Invoices, COO Certificates, Inward and Outward BLs and copies of applications submitted by M/s Eagle Global Express Pvt. Ltd. (a freight forwarder working

for M/s. Cento Graph) to Sri Lanka, Customs for rework of containers.



SRI LANKA CUSTOMS
Customs House, No.40, Main Street, Colombo 11,
SRI LANKA
Telephone: 0094-11-2221430, Fax: 0094-11-2472423



Our Reference: CIU/DRI/DRI/20(2)/2022

Date: 30th December 2022

Your Reference: DRI/CZU/VIII/26/180/2022

To : Mr. Vikram Chand Meka,
Additional Director,
Directorate of Revenue Intelligence,
T.Nagar, Chennai - 600 017,
India,

Greetings from Sri Lanka Customs!

Dear Sir,

Subject: Indo-Sri Lankan Customs – Investigative Assistance

The Central Intelligence Directorate of Sri Lanka Customs avails this opportunity to compliment Indian Customs for excellent cooperation in Customs mutual assistance and invited kind attention to your letter Ref No. **DRI/CZU/VIII/26/180/2022** dated 27th October 2022 on the above subject. We write, further to our letter dated 25th November 2022, concerning the Investigative Assistance requested by DRI.

2. Sri Lanka Customs has initiated an investigation against the company **M/s. Cento Graph**. During the course of the investigation, it is observed that the exporter **M/s. Cento Graph** in Sri Lanka, importing containers from China and reworking the containers in Colombo to ship the same to India.

3. In response to your request, the following certified true copy documents are forwarded by Sri Lanka Customs for a successful investigation carried out by DRI.

- i) Performa Invoices
- ii) Country of Origin Certificates
- iii) Inward and Outward Bills of Lading

DK
7/7/23

Seen & Recd
21/01/23
Jeyaraj Seen

Seen
16/04/23

Seen
17/04/23

Seen
(Rk Lak)
27/04/23

Seen & Recd
10/4/23

Seen
11/04/23

Seen
Jeyaraj
30/04/23

iv) Copies of the applications made by M/s Eagle Global Express (Pvt) Ltd. to the Sri Lanka Customs for rework of containers

4. Sri Lanka Customs will forward you a full report and rest of the documents you requested at the earliest possible completion of our investigation.

Sri Lanka Customs once again compliments the Directorate of Revenue Intelligence, India, and extends assurance of its highest consideration.

Thank you.

Yours sincerely,



A R Senadeera

Director of Customs

Central Intelligence Directorate

For the Director General of Customs



Seen & Read
10/4/23
(Manning to file)

Blank
11/04/23

Seen & Read
20/04/23
22/04/23

Seen
17/04/23

Seen
20/04/23
22/04/23

Seen
27/04/23

D.V.
7/7/23

From the perusal of the above documents, including Proforma Invoices and Bill of Ladings, I observe that M/s Cento Graph, Sri Lanka, had purchased CTCP & Digital Offset Printing Plates of Chinese Origin from M/s Zhejiang Senhai New Material Co. Ltd., Zhejiang, China, M/s Henan Baotu Printing Materials Co. Ltd., Henan, China, etc. and after reworking the containers in Sri Lanka, they shipped the said goods to M/s PSRA Graphics. Sample copy of one such Proforma Invoice dated 26.08.2022 issued by M/s. Zhejiang Senhai New Material Co. Ltd in the name of M/s. Cento Graph and Bill of Lading evidencing sourcing of plates by M/s. Cento Graph from the Chinese firm as provided by Sri Lanka, Customs is reproduced as under –

PROFORMA INVOICE

Zhejiang Senhai New Material Co.,Ltd.

ADD.No:208,Changxing 2nd Road,Songyang County,Lishui City,Zhejiang Province China.

Tel/Fax:021-64307280

Proforma Invoice

Sold To : CcntoGraph
NO:05,John Keells Housing Scheme,Potherwara Road.
Malabe,Sri Lanka.
Address : Sri Lanka
Contact : Lloyd Harridge.
Telephone No. :+94721418415
Mobile :+94774533541

Date : 26/08/2022

PI NO:QHPE220552 B

Items	Description	SPECIFICATI ON SIZE (mm)	THICK NESS (mm)	Sheets	SQM	PRICE/S QM FOB	AMOUNT USD
1	CTCP Digital Double plate	510 X 645	0.30	4500	1480.25	\$ 2.85	4218.75
2	CTCP Digital Double plate	530 X 650	0.30	3000	1033.50	\$ 2.85	2945.48
3	CTCP Digital Double plate	550 X 650	0.30	1500	536.25	\$ 2.85	1528.31
4	CTCP Digital Double plate	560 X 670	0.30	4000	1500.80	\$ 2.85	4277.38
5	CTCP Digital Double plate	600 X 730	0.30	2400	1051.20	\$ 2.85	2995.92
6	CTCP Digital Double plate	605 X 760	0.30	5000	2299.00	\$ 2.85	6552.15
7	CTCP Digital Double plate	615 X 724	0.30	1900	845.99	\$ 2.85	2411.88
8	CTCP Digital Double plate	715 X 915	0.30	2500	1635.55	\$ 2.85	4661.35
9	CTCP Digital Double plate	770 X 1030	0.30	2750	2181.03	\$ 2.85	6215.92
10	CTCP Digital Double plate	820 X 1030	0.30	2218	1873.56	\$ 2.85	5339.65
TOTAL:FOB SHANGHAI,CHINA				29,768	14,437.17		41,145.93

REMARKS:

TERMS & CONDITIONS :

Price Terms : FOB SHANGHAI,CHINA
Payment : 100% in advance by TT as deposit Before Shipping.
Packing : Export Standard Seaworthy Packing(with label of customer's)
Lead Time: About 20 days(According to this quantity.)
Shipping Time: On the way to sea port.

Bank Information :

BENEFICIARY: Zhejiang Senhai New Material Co, Ltd.
BENEFICIARY'S BANK: ZHEJIANG TAILONG COMMERCIAL BANK.
ADDRESS: No:188,NANSUAN ROAD, LUQIAO DISTRICT,TAIZHOU,ZHEJIANG,P.R.China.
SWIFT NO.: ZJTLCNBH
ACCOUNT NO. : 33060040201090003716



Seen
D/L
7/12/23

Seen
D/L
27/04/23

Seen
D/L
10/04/23

Seen
D/L
11/04/23

Seen
D/L
3/10/23



BILL OF LADING - CHINA TO SRI LANKA

Shipper
HEJIANG SENHAI NEW MATERIAL CO., LTD
ADD: 208, CHANGNING 2ND ROAD, SONGYANG COUNTY,
LISHUI CITY, ZHEJIANG PROVINCE

Consignee(Complete name and address)
CENTOGRAPH
ADD: NO 5, JOHN KEELS HOUSING SCHEME,
POTHUARAWA ROAD, MALABE SRI LANKA.
MR. LLOYD HARRIDGE
MOBILE: +94721418415

Notify Party(Complete name and address)
SAME AS CONSIGNEE

Pre-carriage by
Place of receipt
NINGBO, CHINA

Ocean vessel
NAVIOS JASMINE V.900W
Port of loading
NINGBO, CHINA

Port of discharge
COLOMBO, SRI LANKA
Place of delivery
COLOMBO, SRI LANKA

B / L No.
WOLSZSE22040879

SINOOCEAN GROUP LTD.
COMBINED TRANSPORT
BILL OF LADING

SHIPPED on board in aparent good order and condition (unless otherwise indicated) the goods or packages specified herein and to be discharged at the mentioned port of discharge of as near thereto as the vessel may safely get and be always afloat.
The weight, measure, marks and numbers, quality, contents and value, being particulars furnished by the Shipper, are not checked by the Carrier on loading.
The Shipper, Consignee and the Holder of this Bill of Lading hereby expressly accept and agree to all printed, written or stamped provisions, exceptions and conditions of this Bill of Lading, including those on the back hereof.
IN WITNESS whereof the number of original Bills of Lading stated below have been signed, one of which being accomplished, the Other(s) to be void.

Mark & Numbers	Number and kind of Packages	Description of goods	Gross Weight(kgs)	Measurement(M³)
	24 PALLETS		22198.00 KGS	22.000 CBM
DALL07		SHIPPER'S LOAD & COUNT & SEAL		
PALLET: 1-10 MUMBAI		1X20'GP (F.C.L.) S.T.C CY/CY		
PALLET: 11-24 PUNE		DIGITAL OFFSET PRINTING PLATES		

SAY TOTAL ONE TWENTY FT.GP CONTAINER ONLY

ABOVE PARTICULARS FURNISHED BY SHIPPER

Freight & Charges
WORLDGATE EXPRESS LINES LANKA (PVT) LTD
NO : 23 1ST FLOOR, PALM GROVE
COLOMBO 03 SRI LANKA
TEL : +94 - 11 5759001/2 FAX : +94 - 11 2391996

IN WITNESS whereof the number of original Bills of Lading stated above have been signed, one of which being accomplished, the other(s) to be void.

Place and date of issue
SHENZHEN, CHINA APR 11, 2022

Signed for on behalf of the Carrier
AS AGENT FOR THE CARRIER: NA

TERMS AND CONDITIONS AS PER ORIGINAL BILL OF LADING

SHIPPED ON BOARD
APR 11, 2022
FREIGHT COLLECT

TRUE COPY
No. 04/01/2023
Central Intelligence - Sri Lanka Customs

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Further, the documents provided by Sri Lanka Customs shows that M/s. Eagle Global Express (Pvt) Ltd, a freight forwarder in Sri Lanka was reworking the containers imported from China by M/s Cento Graph, Sri Lanka, for India and exporting the changed containers to India. In their application (reproduced below), M/s. Eagle Global Express (Pvt) Ltd informed to the Central Intelligence Directorate that the subject shipment originated from China and was destined for Nhava Sheva, India, as there are no immediate connecting vessel services available from Colombo to India on current shipping line, this shipment will be reworked in Colombo and stuffed into a container service that offers an immediate service to NHAVA SHEVA, India.

13th OCT 2021

The Director General of Customs,
Sri Lanka Customs,
Colombo 01.



Dear Sir,

Re: REWORK of Container 01X20' for Shipping Liner Change
(TRANSHIPMENT TWO WAY SPECIAL OPERATION)
FULL T/S Container: SEGU1585959/20FT – 21 PLTS – 22492.000KG
VESSEL: STRAIT MAS V: W004 OF ETA 06.10.2021
BL No. DXK2109108A

This has reference to the above described shipment which originated from Shanghai, China and is destined to NHAVA SHEVA, INDIA

As since there are no immediate connecting vessel services available from Colombo to INDIA on current shipping line, this shipment will be reworked in Colombo and stuffed into a container service that offers an immediate service to NHAVA SHEVA- INDIA as follows.

We are now planning to ship this container on the below mentioned vessel.

Vessel: : EVER UNITY
Voy : W179
ETA CMB : 15.10.2021
EXPORT CONTAINER NO: CAXU6270882/ 20'

Kindly grant your permission to re-work the above said transshipment container at SLPA BQ Warehouse, under custom supervision.

Kindly note that for the re-work empty container (cont.no: CAXU6270882/ 20') will be brought from the outside of the port premises in to the BQ Warehouse by our transporter.

We have appointed E.R.CUSTOMS CLEARING to carry out the above operation on behalf of us.

Furthermore we hereby guarantee to pay all charges involved in this regard.

Thanking you
Yours faithfully,



CC: OIC / Transshipment Warehouse - Sri Lanka Customs
Chief Logistics Manager – SLPA
Chief Superintendent – BQ Warehouse, SLPA
Chief Security Manager – SLPA

EAGLE GLOBAL EXPRESS (PVT) LIMITED


Corporate Office | 281-1/1, R A De Mel Mawatha Colombo 03 | Sri Lanka | 094 115 422000
Airport Office | 261 Colombo Road Liyanagemulla Seeduwa | Sri Lanka | 094 115 234745
Biyagama Office | No.582/A, Walgama, Malwana | Sri Lanka | 094 115 232594
Moratuwa Office | No.283, Galle Road, Idama, Moratuwa | Sri Lanka | 094 115 299799
Homagama Office | 114/1/18 High Level Road Homagama | Sri Lanka | 094 115 921235

SERVE VALUES

www.eagleglobex.com

Two more examples / instances are reproduced below which reveals the modus operandi of M/s. Cento Graph to ship the Chinese Origin plates to India by hiding their Country of Origin - Proforma Invoice dated 06.12.2021 & Commercial Invoice dated 04.08.2021 issued by M/s Lucky Huaguang Graphics Co. Ltd. (China) in the name of M/s Cento Graph (Sri Lanka) and the very same goods were then invoiced to India issued by M/s. Cento Graph by issuing Proforma Invoice dated 30.01.2022 and Commercial Invoice dated 15.11.2021 respectively.

Proforma Invoice issued by M/s Lucky Huaguang Graphics Co. Ltd. (China)



**LUCKY HUAGUANG
GRAPHICS CO., LTD**

718 South Station Road
Nanyang Henan China
Fax 86 377 63138450
Tel 86 377 63863074

PROFORMA INVOICE

TO:
CENTOGRAPH
NO. 5 JOHN KEELS HOUSING SCHEME,
POTHUARAWA MALABE, SRI LANKA

INVOICE NO.:CG01021-22
DATE: DEC.06 2021
DISCHARGE PORT:COLOMBO PORT,SRI LANKA
PRICE TERM:FOB SHANGHAI PORT , CHINA
PAYMENT TERM: OA 90 DAYS AFTER BL SHIPPING
DATE

Item	Description of Goods				Quantity		PRICE	Value	
	Digital Offset UV-CTCP Plates				PCS	SQM	USD/SQM	USD	
1	650	x	530	x	0.28	10000	3445.00	3.07	10576.15
2	650	x	550	x	0.28	4000	1430.00	3.07	4390.10
3	700	x	550	x	0.28	8000	3080.00	3.07	9455.60
4	670	x	560	x	0.28	6000	2251.20	3.07	6911.18
5	684	x	576	x	0.28	4000	1575.94	3.07	4838.12
6	700	x	576	x	0.28	4000	1612.80	3.07	4951.30
7	720	x	584	x	0.28	4000	1681.92	3.07	5163.49
8	840	x	584	x	0.28	2000	981.12	3.07	3012.04
9	889	x	576	x	0.28	1000	512.06	3.07	1572.04
10	730	x	600	x	0.28	1000	438.00	3.07	1344.66
11	745	x	605	x	0.28	5000	2253.63	3.07	6918.63
12	830	x	645	x	0.28	10000	5353.50	3.07	16435.25
13	1030	x	770	x	0.28	500	396.55	3.07	1217.41
14	1030	x	800	x	0.28	5000	4120.00	3.07	12648.40
TOTAL FOB VALUE					64500	29131.72		89434.37	

BENEFICIARY'S BANK:
BANK OF CHINA, NANYANG BRANCH
ADD: 129 QIYI ROAD, NANYANG CITY, HENAN, CHINA
SWIFT NO.: BKCHCNBJ530
BENEFICIARY:
LUCKY HUAGUANG GRAPHICS CO., LTD
ADD: 718 SOUTH STATION ROAD, NANYANG, HENAN, CHINA
ACCOUNT NO.: 258902555623

*Seen
Div. Seen
11/11/2022
10/11/22*

*Seen
17/04/2023*

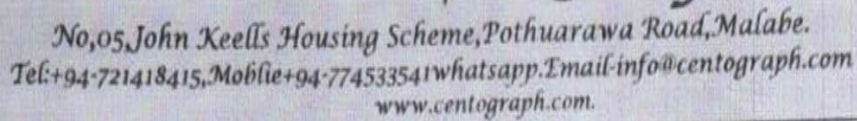
*Seen
25/8/22*

*Seen
25/11/22*

*2/8/21
25/11/22*

Centograph
No. 05, John Keels Housing Scheme,
Pothuwarawa Road, Malabe, Sri Lanka
Tel: +94 774528541 / +94 774410415
centograph@yahoo.co.com
Date:


LUCKY HUAGUANG GRAPHICS CO., LTD



DATE: 30/01/2022
PI.NO: CG01021-22ctcp10
H.S.CODE: 84425090
Country of Origin: Sri Lanka/Spain,EU.

23/1/22

Commercial Invoice Issued by M/s Lucky Huaguang Graphics Co. Ltd. (China)



LUCKY HUAGUANG
GRAPHICS CO., LTD

718 South Station Road
Nanyang Henan China
Fax 86 377 63138450
Tel 86 377 63863074

TO:
CENTOGRAPH
NO. 5 JOHN KEELS HOUSING SCHEME,
POTHUARAWA MALABE, SRI LANKA

INVOICE NO.:CG00321-22
DATE: AUG.04 2021
DISCHARGE PORT:COLOMBO PORT, SRI LANKA
PRICE TERM:FOB SHANGHAI PORT , CHINA
PAYMENT TERM: OA 90 DAYS AFTER BL SHIPPING
DATE

Item	Description of Goods	Quantity		PRICE	Value
	DIGITAL PRINTING PPVG VIOLET PLATES	PCS	SQM	USD/SQM	USD
1	684 x 576 x 0.28	16000	6303.74	3.40	21432.73
2	686 x 551.5 x 0.28	48000	18159.79	3.40	61743.29
3	700 x 576 x 0.28	2000	806.40	3.40	2741.76
	Digital Offset UV-CTCP Plates	PCS	SQM	USD/SQM	USD
1	684 x 576 x 0.28	1500	590.98	3.05	1802.48
2	700 x 550 x 0.28	2500	962.50	3.05	2935.63
3	700 x 590 x 0.28	1000	413.00	3.05	1259.65
4	830 x 645 x 0.28	2500	1338.38	3.05	4082.04
	TOTAL FOB VALUE	73500	28574.79		95997.58

BENEFICIARY'S BANK:
BANK OF CHINA, NANYANG BRANCH
ADD: 129 QIYI ROAD, NANYANG CITY, HENAN, CHINA
SWIFT NO.: BKCHCNBJ530
BENEFICIARY:
LUCKY HUAGUANG GRAPHICS CO., LTD
ADD: 718 SOUTH STATION ROAD, NANYANG, HENAN, CHINA
ACCOUNT NO.: 255902555623

AND 0.400 Spmt cost

Seen
Nanyang
6/11/22
Seen
D.V.
11/11/23 7/5

乐凯华光印刷科技有限公司
LUCKY HUAGUANG GRAPHICS CO., LTD

Seen
Jingyi
11/9/22

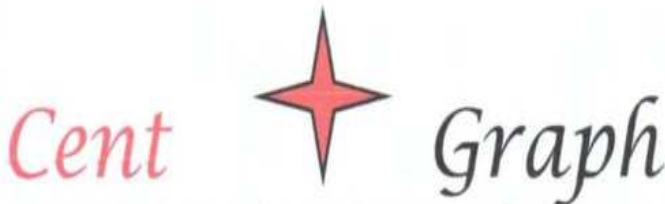
Seen
19/04/2023

Seen
P.K. hat
26/8/22

23/5/22
21/21 22/22

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Commercial Invoice Issued by M/s. Cento Graph, Sri Lanka



No.05, John Keells Housing Scheme, Pothuarawa Road, Malabe, Sri Lanka.
Tel: +94-721418415, Mobile +94-774533541 whatsapp. Email: info@centograph.com
www.centograph.com.

COMMERCIAL INVOICE

Att: Mr. Rakesh.
M/s, Mahalaxmi Textiles.
2/4522, Shivdas Zaveri Street,
Sagrampura, Surat,
Gujarat-395002.
India.
GST NO: 24AATPA1051C1ZD, PAN.NO: AATPA1051C. IEC CODE: AATPA1051C.
Tel: +919374526633.
Email: rkajmeri@yahoo.com.

DATE: 15/11/2021
PI.NO: CG00321ctcp-violet03
H.S.CODE: 84425090
Country of Origin: Sri Lanka/Spain, EU.
Invoice No: MLCG151121ctcp/violet03

PAGE ONE

Item	DESCRIPTION OF GOODS	QUANTITY (SHEETS)	SQMT	PRICE USD/M2	TOTAL AMOUNT USD \$
1	CTP Digital Violet plate 684 x 576 x 0.30	16,000	6303.74	3.81	24,017.26
2	CTP Digital Violet plate 686 x 552 x 0.30	48,000	18159.79	3.81	69,188.80
3	CTP Digital Violet plate 700 x 576 x 0.30	2,000	806.40	3.81	3,072.38
4	CTCP Digital plate 684 x 576 x 0.30	1,500	590.98	3.46	2,044.78
5	CTCP Digital plate 700 x 550 x 0.30	2,500	962.50	3.46	3,330.25
6	CTCP Digital plate 700 x 590 x 0.30	1,000	413.00	3.46	1,428.98
7	CTCP Digital plate 830 x 645 x 0.30	2,500	1338.38	3.46	4,630.78
Total quantity Value and sqmt		73,500	28574.79		107,713.23

Total CIF INDIA USD \$ 107,713.24

Dollars USD \$ One Hundred and Seven Thousand Seven Hundred and Thirteen cts Twenty Three only.

Cento Graph
No. 05, John Keells Housing Scheme,
Pothuarawa Road, Malabe, Sri Lanka.
Tel: +94 774433441, +94 721418415
centograph@yahoo.com
Date:

REGISTERED

Secretary General
THE NATIONAL CHAMBER OF
COMMERCE OF SRI LANKA

17 NOV 2021 2503

Seen
Tajul L. I.
14/9/22

Seen
Munir
6/10/22

Seen
D.V.
11/11/23
Seen
Richard
25/8/22

9/11/21 10715/66 - 74.15 7,94,566/19
22/12/21 95997/57 - 75.60 72,57,416/29

2821 424612
23/12/22

CENTO GRAPH

CENTO GRAPH

CENTO GRAPH..

1,06,713/23
Disc 1,000
1,06,713/23

80,51,982/48
75,000
51,26,982/44 - 37739/44

It was in above manner that the impugned plates were brought from China to Colombo and after reworking, the same plates were shipped to India in different containers to hide the origin of goods.

34.4.3 Further, during the course of investigation, DRI had conducted search in the business premises of one M/s Mahalakshmi Textiles, Surat wherein from the mobile phone of Shri Rakesh Ajmeri (Proprietor of M/s Mahalaxmi Textiles), a whatsapp conversation was retrieved between Shri Ajmeri and Mr. Lloyd Harridge of Cento Graph, Sri Lanka. The whatsapp conversation (**RUD 9, RUD-11 and RUD -13A & 13 B of the SCN**) explicitly mentions ‘altering containers and documents to conceal the true origin as China’. Comments like - “if I do not change DO, you might get custom duty and pay high cost if DO is China” and “we must change all containers in Sri Lanka to new container, as I was doing before or we Cento Graph can also be put under pressure by Indian Customs. So from the day we will change container documents DO, all in Sri Lanka and ship as new shipment please advise to Jayesh also. Thanks Llyod” illustrate the intent to evade anti-dumping duty by getting DO from Sri Lanka.

34.4.4 Further, during the search of premises of M/s. PSRA Graphics, email correspondence was retrieved (reproduced below) which shows exchange between Shri Rakesh Kumar Chauhan (Director of M/s PSRA), Mr. Jack of China, and purchasers including one of the beneficial owner M/s ACM Chemicals, which corroborates that impugned plates were sourced from China and the email directly associates the imports with Chinese manufacturers. These emails were written by Shri. Tara Chand Aggarwal, Proprietor of M/s. ACM Chemicals to the Chinese supplier of plates, with all emails mailed CC to M/s. Cento Graph stating that he was receiving quality complaints in some of these plates which they have purchased from them and that upon receiving the complaint from customers, Sh. Tara Chand Aggarwal immediately called up Sh. Rakesh Chauhan, Director of M/s. PSRA Graphics (who was acting as an intermediary between Chinese firm and M/s. ACM Chemicals and both of them together made a visit to Haryana, Punjab, Uttarakhand customers for complaint resolution & that Sh. Tara Chand Aggarwal was confident that Sh. Rakesh Chauhan of M/s. PSRA Graphics had booked everything & communicated to Mr. Llyod of M/s. Cento Graph, Sri Lanka. Sh. Tara Chand Aggarwal even sought compensation of 8000 USD on account of rejected plates. The Chinese supplier on the other hand Mr. Carl & Jack of China, however insisted that not all plates had quality problem & it would be difficult for Chinese factory to pay them anyhow and that claim of 8000 USD was too late i.e. one year after containers reached India. The printout of one of such relevant email is reproduced below:

6/13/22, 1:35 PM

Yahoo Mail - 回复: 回复: Fw: many complaints of printing plates

RUD-15
② ①

回复: 回复: Fw: many complaints of printing plates

From: Carl and Jack (877120433@qq.com)

To: rakesh_chauhan74@yahoo.co.in; acmchemicalsnaraina@gmail.com

Cc: centograph@yahoo.com

Date: Thursday, 9 December, 2021, 09:38 am IST

Dear,sir

Greetings of the day !!!

It's not the first time i say i really want to help you.

And i think your advice here is a good try.

Maybe we can check the Batch NO. from our system according to your suggestions, but factory will not admit the batch No. we get from system, we have to locate which batch No. you said had quality problems by getting batch No. pictures and issues pictures from your side. You also admit that not all plates have quality problems and how i can persuade factory to believe the system batch No. is the 'issued plates' you called.

For me it is very difficult, please understand my position. Thanks a lot.

Regards

Jack

原始邮件

发件人: "rakesh chauhan" <rakesh_chauhan74@yahoo.co.in>;

发送时间: 2021年12月9日(星期四) 中午11:49

收件人: "Carl and Jack" <877120433@qq.com>; "Acm Chemicals" <acmchemicalsnaraina@gmail.com>;

抄送: "Cento Graph" <centograph@yahoo.com>;

主题: Re: 回复: Fw: many complaints of printing plates

Dear Jack,

Greetings of the day !!!

I am Rakesh Chauhan, Mr. Lloyd friend. I have visited all costumers with Mr. Aggarwal regarding the complaint received from the costumers.

Today it's very tough to check and get the batch no but I can mention the date when this material was shipped to us. I can share you BL and Packing list. You can check in your systems which batch no was sent to Mr. Lloyd matching with Packing list.

As an manufacturers I know you keep records of batch no supplied to costumers. This shipment was sent to us in month of September 2020 to us. So we can get the approximate date sent in month of August 2020 from factory. This can be cross-checked with Packing list.

I know it would be tough task for you as well but would be best effort to help your costumer and best step to resolve the problem.

Both BL copy and Packing list has been attached for your reference. With this you can get exact Batch no supplied and you can also provide the same to your management.

Mr. Aggarwal had tried to do all as suggested at that time. He took the scrap back from Delhi costumer and reduced the same from total Debit note he received from his costumer. Same calculation was further sent as claim.

I feel our main concern to know the Batch No of plates could be resolved by this small effort.

Hopefully with this you would be able to help us in resolving the issue.

Awaiting your best effort with positive results.

Seen
DK
17/12/23Seen and Explained
R. K. Chauhan
24/8/22Seen
Jagdish Kh
30/6/23

1/10

Seen
5/1/23Seen
5/1/23

6/13/22, 1:35 PM

Yahoo Mail - 回复: 回复: Fw: many complaints of printing plates

(7) (3)

My request to settle the thing's at the earliest,

Thanks and Regards,

T C Aggarwal.

On Sat, Oct 30, 2021 at 7:07 PM rakesh chauhan <rakesh_chauhan74@yahoo.co.in> wrote:

Dear Mr.Jack/ Mr.Lloyd,

Thanks for your quick response and reply,

I have attached all my mail below which was exchanged with Mr.Lloyd friend Rakesh Chauhan who was importing plates for me.

We have orderd and purchased around 14 Containers from Mr.Lloyd. First 2 containers we got no problem in quality and after that during the lockdown we placed order for 10 containers which was received in September 2020. We supplied the plates to all our costumers plate buero across North India. We started receiving complaints from our Costumer regarding Lines coming on plate surfaces after developing. This happened in every small sizes we purchased and in every packets of 50 plates 15 - 20 plates got rejected.

When this was noticed from all our costumers we discussed the same from the Importer Mr.Rakesh Chauhan and had conference call on What's app with Mr.Lloyd. For more detailed investigations My Nephew Mr.Parmod planned to make costumer visit to North India along with Mr.Rakesh Chauhan in month of October 2020. We found all complaints true And from costumer point we had video call with Mr.Lloyd. We tried to do all as suggested by Mr.Lloyd making changes in Plates Exposing settings to Plate Developing settings but couldn't get positive results.

This problem presided to all station's and all costumer. Every sizes 15 - 20 - 25 pieces/ Packet observed with the problem of lines after developing. We also tried to get the batch no of plates but found all damaged plates were without any Batch No.

This absence of batch no on plates was also communicate while Video conferencing with Mr.Lloyd.

This complaint was only observed in 2 -3 containers and was communicated in same month. As we got suggestions from Mr.Rakesh Chauhan and Mr.Lloyd we took the photographs and sent all on mail at that time. We were assured to get the compensation of said amount in upcoming orders.

You can see the no of Sq.mt and cost of 14 Containers out of which we have asked only \$8,000USD.

Today it's very tough to get pictures of rejected plates as we did the estimation on rejection we received from all our costumers and rejected material received from our Local costumers. We deducted the value of scrap received and balance amount was raised for compensation.

We are totally at your decision and request to settle the matter at the earliest. You can add the quantity of plates to my orders with you.

We have full faith in your decision and your products that was the time in pandemic we went through the losses.

My request to settle the thing's at the earliest,

Thanks and Regards,

T C Aggarwal.

Seen and Explained
(R.K. hand)
24/8/22

Seen
7/7/23

Seen
7/1/23

Seen
8/7/22

Seen
Tajinder Singh
30/6/23
4/10

6/13/22, 1:35 PM

Yahoo Mail - 回复: 回复: Fw: many complaints of printing plates

(9) (5)

Thanks and regards,

Rakesh Chauhan

Sent from Yahoo Mail on Android

On Thu, 9 Dec 2021 at 7:04, Carl and Jack
<877120433@qq.com> wrote:

Dear, friends,

I really can understand your feelings now.
But Please note i can't convince factory to admit the plates have quality problems without any others complaints and also you can supply batch NO. of that plates.
I really want to help you, but i don't know how i can tell to factory and how i can fight for you?
We as a supplier, we have very very tiny profits when sale plates, if Aluminum price and RMB currency rate are not stable, we will lost money in business.
In your said 14 containers of last year, we didn't earn even one coin (no matter you believe this or not, but it's fact.), because the whole year of last, aluminum price was going up.
Can you imagine that you guys gave new order when aluminum price was 13000rmb/ton, but when we got the deposit and prepare to buy aluminum material for the order, aluminum price was going up to 14000rmb/ton. Also have RMB Currency rate element there. So 8000USD for us is a huge number.
Anyway, friend, please do your best to supply us batch NO. and plates problems pics as my last email asked for. Once i get them, i will send them to factory to see factory's response.
Thank you very much.

Best Regards
Jack

原始邮件

发件人: "Acm Chemicals" <acmchemicalsnaraina@gmail.com>;
发送时间: 2021年12月8日(星期三) 晚上8:30
收件人: "Carl and Jack" <877120433@qq.com>;
抄送: "Cento Graph" <centograph@yahoo.com>; "rakesh chauhan" <rakesh_chauhan74@yahoo.co.in>;
主题: Re: Fw: many complaints of printing plates

Seen
D.V.
17/12/23

Dear Mr. Jack,

Thanks for your response, Very sorry for responding so late. Earlier it was festival season in India and after that I got involved in some family issues.

I have gone through your mail, I know now its very tough to provide batch no etc...at this point of time.

We have to roll back and see my first mail regarding complaint to Mr. Lloyd.
The day I received complaint from my customer I called Mr. Rakesh Chauhan regarding the same and had conference call with Mr. Lloyd both telephonic and Video call.
At that point of time we did all as suggested by Mr. Lloyd, We made special customer visit with Mr. Rakesh Chauhan to Haryana, Punjab, Uttarakhand customer which was round trip of more than 800 KM and for 6 Days.
Mr. Rakesh had seen everything and the same was communicated to Mr. Lloyd.

Dear Jack I have purchased more than 14 Containers from Mr. Lloyd out of which we received complaints in 2 containers. It was not possible to bring back all rejected plates from outstation customers, all my customers are Plate Beuro and deal with many printers. On an average 10 - 15 plates were rejected in packets also found without batch No. At that time we were told by Mr. Lloyd that the container sent at that time was at the peak of Corona lockdown and with shortage of labour this might have happened.
So as per his suggestion we took the rejected plates from our nearby customers and the same value of scrap was deducted from our rejected value.



As a business man we believe in word of commitment from Mr. Lloyd. It was not only Mr. Lloyd word we also believed his friends word that Mr. Lloyd products is best available in Indian market and we stand with our

Seen
5/1/23
Seen
8/5/23
Seen and Explained
(Rikha) 24/8/22
Seen
Tajinder Kaur
20/10/23
30/1/23

In one of the email correspondence (retrieved during the search) which was sent by another buyer M/s. NN Graphics, Pune, India who had purchased plates from M/s. Cento Graph at their email id centograph@yahoo.com stating that in (Proforma Invoice) PI M/s. Cento Graph had mentioned country of origin China which was not acceptable as it would attract antidumping duty. Email sent by M/s. N N Graphics at centograph@yahoo.com is reproduced below for ready reference:

Re: pi 2

From: Cento Graph (centograph@yahoo.com)
To: nngraphics.06@gmail.com
Date: Thursday, 1 June, 2017 at 04:19 pm IST

Dear Sir

I am sending yo a new PI for this print out the page one and use the attach 2 with the company seal as the new PI 02.

your order will be in India after the 10th of July 2017,

thanks for the order and lool foward to see you in India be 24th june as you wanted

Thank you
Yours Faithfully,

Lloyd Harridge
Managing Director,
Cento Graph, Sri Lanka,
Mobile, +94-77-4533541
WhatsApp +94-77-4533541
Tel: +94-721418415

On Thu, 6/1/17, N.N.GRAPHICS <nngraphics.06@gmail.com> wrote:

Subject: Re: pi 2
To: "Cento Graph" <centograph@yahoo.com>
Date: Thursday, June 1, 2017, 9:42 AM

Dear
Sir,

In this Pi also
you have mentioned country of origin China which is not
acceptable as it will attract antidumping duty.

Thanks and
regards.

N.N.GRAPHICS
SHOP NO 3, UMAPRASAD
BUILDING

NEAR DSK
CHINTAMANI,
512
SHANIVARPETH, PUNE,
INDIA-411030
TEL: +91 - 20-
64004816

Seen

DI
Sept 11/2023

Seen and explained
Rikant
24/6/22

Seen and explained
Nitesh N. Shah
03/03/2023

Seen
Jyoti

Cent Graph

33/22, Anura Mawatha, Anderson Road, Kalubowila, Sri Lanka., Tel: +94-721418415, Mobile, +94 774533541 What
Email: centograph@yahoo.com.

Attest N. Shah.

Whics.

3, Umaprasad Building,
Niwari Peth, Pune - 411030

Proforma Invoice**(ORIGINAL)**

P.I.NO: NN.Graphics201705/002

Date 01st June 2017

H.S.Code: 3701302400/370130221

H.S.Code: 3707901000.

Country of Origin: China


-64004816,

Commodity and Specifications and Packing	Quantity	Unit Price	Total Am
plates JINI			
40x485x.20mm	1000 Plates	USD2.55/SQMT	USD 420.495
100x520x.20mm	1000 Plates	USD2.55/SQMT	USD 530.40
15x520x.20mm	2500 Plates	USD2.55/SQMT	USD1375.721
15x560x.20mm	1000 Plates	USD2.55/SQMT	USD592.62
10x645x.30mm	500 Plates	USD2.55/SQMT	USD419.4111
10x720x.30mm	500 Plates	USD2.55/SQMT	USD468.18
30x650x.30mm	500 Plates	USD2.55/SQMT	USD439.2371
50x650x.30mm	1000 Plates	USD2.55/SQMT	USD911.625
50x770x.30mm	500 Plates	USD2.55/SQMT	USD490.875
560x670x.30mm	3500 Plates	USD2.55/SQMT	USD3348.66
600x730x.30mm	1500 Plates	USD2.55/SQMT	USD1675.35
605x760x.30mm	1500 Plates	USD2.55/SQMT	USD1758.73
610x890x.30mm	500 Plates	USD2.55/SQMT	USD692.197
615x724x.30mm	250 Plates	USD2.55/SQMT	USD283.853
645x830x30mm	250 Plates	USD2.55/SQMT	USD341.285
715x915x.30mm	150 Plates	USD2.55/SQMT	USD250.241
770x927x.30mm	100 Plates	USD2.55/SQMT	USD182.016
770x970x.30mm	100 Plates	USD2.55/SQMT	USD190.459
770x1030x.30mm	120 Plates	USD2.55/SQMT	USD242.688
800x1030.30mm	120 Plates	USD2.55/SQMT	USD252.144

continued on page two

Seen
7/7/2023
Seen and explained
Nikhil N. Shah
24/8/22
29/03/2023

Seen
Jagadeesh
31/6/23

Cent  Graph

No. 33/22, Anura Mawatha, Anderson Road,
Kalubowila, Sri Lanka.
Tel: +94 774533541, +94 774533541, +94 774533541
centograph@yahoo.com

34.4.5 Further, I find that Shri Rakesh Kumar Chauhan (Director of M/s PSRA) admitted in his statements (RUD-16 & RUD-36) recorded under Section 108 of the act, *ibid*, that the goods were acquired from China via M/s. Cento Graph and that Anti-dumping duty was not paid. He confessed that he had imported plates on behalf of other importers. His admission is as under:

“On being asked, I state that we have also imported similar goods i.e. Digital Plates from M/s. Centograph, Sri Lanka and as per practice of Mr. Llyod Harridge, it appears that goods supplied to us were also Chinese origin manufactured in China. On being asked I state that within week time period I would discuss the matter with other directors of M/s. PSRA Graphics India Private Limited and our buyer, on whose behalf we have imported the goods and take a decision on the said issues.” Further, I assure you to pay the amount within short period in token of our cooperation in the ongoing inquiry.”

“On being asked to explain the origin of goods supplied by M/s. Centograph, I state that on the basis of said mails by M/s. Centograph it appears that the origin of goods is China.”

34.4.6 I also observe that M/s Nippon Colour, M/s ACM Chemicals, and M/s Suman Graphics financed the imports, dictated purchase conditions, and received the goods directly from ports (**RUD 22 of SCN**). Their advance payments and direct interactions with Cento Graph (through Shri Rakesh Kumar Chauhan) as admitted by them in their statements (**RUD 30, RUD-31 and RUD-32 of SCN**) highlight their cognizance of the origin and the evasion strategy.

34.4.6.1 Admission of **Sh. Tara Chand Aggarwal (Director of M/s. ACM Chemicals)** is as under:

“On being asked to explain the contents of the said mail I state that these were the correspondence between our firm M/s. ACM Chemicals and suppliers of PSRA Graphics and Shri Rakesh Chauhan in context of complaints of printing plates by our firm M/s. ACM Chemicals. I have also perused other emails from Page No. 1 to 9 wherein there is correspondence between acmchemicalsnaraina@gmail.com, 877120433@qq.com, centograph@yahoo.com and rakesh_chauhan74@yahoo.co.in. I state that these correspondences were also related to complaints raised by us i.e. M/s. ACM Chemicals for quality issues in Digital Plates supplied by Shri Rakesh Chauhan (PSRA Graphics). Shri Rakesh Chauhan used to come to our office and used to communicate with the actual suppliers of the printing plates and used to send emails from our email id i.e. acmchemicalsnaraina@gmail.com to suppliers. I have also put my dated signature in token of having seen and read these above-mentioned emails from Page No. 1 to 10.

“On being asked I state that earlier I was not aware that the Printing Plates supplied by M/s. PSRA Graphics to us were of Chinese origin but later on as per

mail sent by Shri Rakesh Chauhan to Mr. Jack and mail received from Mr. Jack, it appears that the goods imported by M/s. PSRA Graphics were of Chinese origin or routed through China.”

“On being asked whether I am aware of the fact these CTCP Digital printing plates were supplied by M/s. Centograph, Sri Lanka to M/s PSRA Graphics India Private Limited and which were originally been supplied by Mr. Jack of China I state that yes, I am aware of the fact that CTCP Digital Double Layer Plates arranged by Shri Rakesh Chauhan of M/s PSRA Graphics India Private Limited were of Chinese origin and routed through Sri Lanka.”

34.4.6.2 Admission of Sh. Vikas Wadhawan (Director of M/s. Suman Graphics) is as under:

“Today I have been shown the statement dated 09.01.2023 of Shri Rakesh Chauhan, Director of M/s. PSRA Graphics India Private Limited and put my dated signature on the same. On being asked, I state that when I met to Shri Rakesh Chauhan in the office of one of the dealers of Printing material at that time Mr. Llyod Harridge was also present and I also negotiated rates of CTCP Plates with Mr. Llyod Harridge. On being specifically asked, I state that yes Shri Rakesh Chauhan gave us imported Offset Digital Plates after importing from M/s Cento Graph, Sri Lanka and Charged Rs. 2.5 per Sqm in addition to all landing cost including duty & other charges. On being asked, I state that I also gave advance payment to Shri Rakesh Chauhan for import of goods and thereafter used to get remaining 80% before receipt of goods.”

“On being asked whether I am aware of the fact these CTCP Digital printing plates were supplied by M/s. Cento Graph, Sri Lanka to M/s PSRA Graphics India Private Limited were originally imported from China, I state that yes, I am aware of the fact that CTCP Digital Double Layer Plates arranged by Shri Rakesh Chauhan of M/s PSRA Graphics India Private Limited were of Chinese origin and routed through Sri Lanka.”

34.4.6.3 Admission of Sh. Jayant Ramesh Pardiwala (Director of M/s. Nippon Chemicals) is as under:

“Today I have been shown the statement dated 13.06.2022, 24.08.2022, 28.08.2022, 09.01.2023 & 10.01.2023 of Shri Rakesh Chauhan, Director of M/s. PSRA Graphics India Private Limited and put my dated signature on the same. On being asked, I state that when I met to Shri Rakesh Chauhan in exhibition at Delhi at that time Mr. Llyod Harridge was also present. On being specifically asked, I state that yes Shri Rakesh Chauhan gave us imported Offset Digital Plates after importing and Charged Rs. 2.5 per Sqm in addition to all landing cost including duty & other charges. On being asked, I state that I also gave advance payment to Shri Rakesh Chauhan for import of goods and thereafter used to get remaining 80% before receipt of goods.”

“On being asked, I state that since we have procured the imported CTCP Digital Double Layer supplied by M/s Cento Graph, Sri Lanka, which were Chinese origin and attract Anti-dumping duty, I will discuss the matter with Shri Mahesh Patel of M/s Universal Marketing and Shri Rakesh Chauhan of M/s. PSRA Graphics India Private Limited and assure that I will cooperate and persuade them to pay the differential amount within 25 days in token of our cooperation in the ongoing inquiry. I do not have anything further to state at the moment. I shall however, appear before you again if required”

34.4.7 The above correspondences and admission / confessions clearly establish that the beneficial owners i.e. M/s Nippon Colour, M/s ACM Chemicals, and M/s Suman Graphics were aware of the Chinese origin of goods. The beneficial owners were responsible for financing the imports, managing the transactions, raising complaints directly to Chinese suppliers for quality issues in goods imported by them, follow ups etc. and stood to gain directly from evasion of anti-dumping duty making them liable under Section 2(26) of the Customs Act, 1962. Their status as "beneficial owners" holds them jointly accountable for duty recovery and penalties alongwith M/s PSRA. Shri Jayant Pardiwala (M/s Nippon Colour), Shri Tara Chand Aggarwal (M/s ACM Chemicals) and Shri Vikas Wadhwan (M/s Suman Graphics), acknowledged during the investigations, that they were aware that the goods imported by M/s PSRA were of Chinese origin, also confirming their collusion.

34.4.8 I observe that the noticees have referred to a number of case laws in their defence replies to the Show Cause Notice. On going through the case laws referred to by the Noticees, I observe that none of these cases pertain to import of CTCP plates of Chinese origin which were routed through Sri Lanka or some other country to evade payment of Customs Duty (ADD plus IGST) to India wherein the Exporting Country (Sri Lanka) itself communicated that the goods were of Chinese Origin and not from the exporting country. Hence, being of different facts and circumstances, the case laws referred to by the noticees in their written submission cannot be relied upon in the present matter.

34.5 Denial of Cross examination –

34.5.1 I find that voluntary statements of all persons in the matter have been recorded under Section 108 of the Customs Act, 1962. None of the concerned persons have retracted their respective statement.

34.5.2 I further find that, in the instant case the issue of evasion of ADD by importing Chinese goods routing them through Sri Lanka by M/s. PSRA Graphics Limited; is based on documentary evidences and corroborated by voluntary statements recorded under Section 108 of the Customs Act, 1962. Besides, all the relied upon documents have already been supplied to you, and the submissions made by all noticees have been taken on record.

34.5.3 As regard the request for Cross Examination as per the Section 138 of the Evidence Act; I find that when there is no lis regarding the facts but certain explanation of the circumstances there is no requirement of cross examination. Reliance is placed on Judgement of Hon'ble Supreme Court in case of K.L. Tripathi vs. State Bank of India & Ors [Air 1984 SC 273], as follows:

"The basic concept is fair play in action administrative, judicial or quasi-judicial. The concept fair play in action must depend upon the particular lis, if there be any, between the parties. If the credibility of a person who has testified or given some information is in doubt, or if the version or the statement of the person who has testified, is, in dispute, right of cross-examination must inevitably form part of fair play in action but where there is no lis regarding the facts but certain explanation of the circumstances there is no requirement of cross-examination to be fulfilled to justify fair play in action."

34.5.4 Hence, I find that requests for cross examination in the matter is only a ploy to delay the process of the Adjudication. Further, following the principles of natural justice, all the noticees have been given opportunities of Personal Hearing in the matter. Therefore, in light of above legal provisions, and based on records of the case; the request for cross examination in the matter is not tenable and thus not granted by Adjudicating authority.

35. Duty demand under Section 28(4) of the Customs Act, 1962 and applicable penalties thereof.

35.1 From the above discussion and evidences, viz. statements recorded of Shri Rakesh Chauhan, Director of PSRA Graphics and other corroborative statements of concerned persons, i.e. Shri Rakesh Ajmeri, Proprietor of Mahalakshmi Textiles, Shri Tarachand Aggarwal of ACM Graphics, Statement of Shri Jayant Ramesh Pardiwala, Proprietor of M/s. Nippon Color, Statements of Shri Vikas Vadhawan, Proprietor of M/s. Suman Graphics, statement of Shri Santosh Chavan, Branch Manager of M/s Worldgate Express Lines International Pvt. Ltd. (Forwarder), Invoices issued M/s. Lucky Huaguang Graphics Co. Ltd, China in the name of M/s. Cento Graph, Sri Lanka, and further invoices and documents issued by Cento Graph in the name of M/s Mahalakshmi Textiles and M/s PSRA Graphics, email and whats app conversation between the parties, Application given by M/s Eagle Global Express (Pvt.) Ltd. to the Director General of Customs, Sri Lanka for rework of container for Shipping Liner Change and also for bringing empty container for transshipment, as well as inquiry initiated by Director General of Customs, Central Intelligence Directorate, Sri Lanka Customs, and conclusion thereof, I find that it is proved beyond doubt that Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates imported by 'M/s PSRA' were actually manufactured in China and routed through Sri Lanka to evade Anti-Dumping duty. The said modus was adopted by Shri Rakesh Chauhan of M/s PSRA, in connivance with Shri Tara Chand

Aggarwal of M/s ACM Chemicals, Shri Vikas Wadhwan of M/s Suman Graphics and Shri Jayant Pardiwala of M/s Nippon Color.

35.2 In view of the aforesaid position, the Anti-dumping duty @ 0.57 USD per SQM as per Notification No. 02/2020-Customs (ADD) dated 30.01.2020 and 0.77 USD per SQM as per Notification No. 21/2020-Customs (ADD) dated 29.07.2020 is leviable on goods imported by 'M/s PSRA', wherein beneficiary of the goods were M/s. Nippon Colour, M/s. ACM Chemicals & M/s. Suman Graphics. Their status as "beneficial owners" as per Section 2(26) holds them jointly accountable for duty recovery and penalties. Shri Jayant Pardiwala (M/s Nippon Colour) and Shri Tara Chand Aggarwal (M/s ACM Chemicals) acknowledged awareness of the Chinese origin during the investigations, thus confirming their collusion in contravention of Section 46(4) of the act *ibid*. The importer had wrongly claimed the imported goods as being manufactured by M/s Cento Graph, Sri Lanka with the intention to evade payment of Anti-dumping Duty leviable and payable on the import of goods as specified in the Notification No. 02/2020-Customs (ADD) dated 30.01.2020 and Notification No. 21/2020-Customs (ADD) dated 29.07.2020 issued under Section 9A of Customs Tariff Act, 1975. Therefore, I hold that the importer had knowingly involved themselves in the suppression & mis-statement of the material facts and differential Customs duty (ADD plus IGST) is liable to be recovered from the importer and beneficial owners as per the provisions of Section 28(4) of the Customs Act, 1962, invoking the extended period of limitation. Accordingly, I hold that differential Customs duty of Rs.12,31,467/- (Rupees Twelve Lac Thirty One Thousand Four Hundred Sixty Seven Only) is recoverable jointly and severally from M/s PSRA Graphics India Private Limited and M/s. Suman Graphics; Rs.1,38,01,352/- (*Rupees One Crore Thirty Eight Lac One Thousand Three Hundred Fifty Two Only*) is recoverable jointly and severally from M/s PSRA Graphics India Private Limited and M/s. ACM Chemicals; and Rs.1,74,08,127/- (*Rupees One Crore Seventy Four Lac Eight Thousand One Hundred Twenty Seven Only*) is recoverable jointly and severally from M/s PSRA Graphics India Private Limited and M/s. Nippon Color, respectively under Section 28(4) of the Customs Act, 1962 read with conditions of Notification No. 02/2020-Customs (ADD) dated 30.01.2020 alongwith applicable interest under Section 28AA. For the same reasons I find M/s PSRA Graphics Limited along with the Proprietors of the firms - M/s. Nippon Colour, M/s. ACM Chemicals & M/s. Suman Graphics, are liable for penalty under Section 112(a) and 112(b) of the Customs Act, 1962. I hold accordingly. For the above reasons, I also find that 'M/s PSRA' alongwith the Proprietors of M/s. Suman Graphics, M/s. ACM Chemicals and M/s. Nippon Color, have knowingly and intentionally made, signed or used the declaration, statements and/or documents and presented the same to the Customs authorities, which were incorrect in as much as they were not representing the true, correct and actual producer/ manufacturer/country of origin of the imported goods, and have therefore rendered themselves liable for penalty under section 114AA of the Customs Act, 1962. Further, since 'M/s PSRA' in connivance with the Proprietors of the firms - M/s. Nippon Colour, M/s. ACM

Chemicals & M/s. Suman Graphics, beneficial owners of the goods, have violated the provisions of Section 17 and 46 of the Customs Act, 1962, which was their duty to comply, but for which no express penalty is elsewhere provided for such contravention or failure, they shall also be liable to penalty under Section 117 of Customs Act, 1962.

36. Confiscation of the goods under Section 111(m) and 111(o) of the Customs Act, 1962 and imposition of redemption fine:

36.1 SCN has alleged that the goods are liable for confiscation under Section 111(m) and 111(o) of the Customs Act, 1962. The relevant legal provisions of Section 111(m) & 111(o) of the Customs Act, 1962 are reproduced below: -

Section 111. Confiscation of improperly imported goods, etc. – The following goods brought from a place outside India shall be liable to confiscation: -

“(m) any goods which do not correspond in respect of value or in any other particular with the entry made under this Act or in the case of baggage with the declaration made under section 77 in respect thereof, or in the case of goods under transshipment, with the declaration for transshipment referred to in the proviso to sub-section (1) of section 54;

(o) 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;”

36.1.1 On plain reading of the above provisions of the Section 111(m) & 111(o) of the Customs Act, 1962, it is clear that any goods, being imported, contrary to any prohibition imposed by or under this Act, or imported by way of misdeclaration, or any goods exempted, subject to any condition, in respect of which the condition is not observed will be liable to confiscation. As discussed in the foregoing paras, the importer and the beneficial owners have fraudulently imported the impugned goods, i.e. CTCP Plates of Chinese origin and routed the same through Sri Lanka to evade payment of Applicable customs duty (ADD plus IGST). Hence, I find that the impugned imported goods as per Column No. 4 of the Table in Para-29 and as detailed in Annexure A & B, attached to the notice are liable for confiscation under the provisions of Section 111(m) & 111(o) of the Customs Act, 1962. However as goods are not available for confiscation, I do not impose any redemption fine.

37. Imposition of Penalties on Co-Noticees

37.1 As regards imposition of penalty on M/s Cento Graph, Sri Lanka and Mr. Llyod Harridge of M/s Cento Graph, I find that they have connived with Shri Rakesh Kumar Chauhan, Director of ‘M/s PSRA’ by adopting a modus as

described in preceding paras, have involved themselves in the conspiracy of mis-declaring the actual name of producer/manufacturer of Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates imported by 'M/s PSRA'. Mr. Llyod Harridge, consciously routed the Chinese goods through his firm M/s Cento Graph, Sri Lanka; arranged documents of M/s Cento Graph along with Country of origin from Sri Lanka and exported the same to 'M/s PSRA'. Mr. Llyod Harridge sent Performa Invoices/ Commercial Invoice issued by M/s. Lucky Huaguang Graphics Co. Ltd, China in the name of M/s. Cento Graph, Sri Lanka to Shri Rakesh Ajmeri, Proprietor of M/s Mahalaxmi Textiles (the other importer, wherein Shri Rakesh Kumar Chauhan arranged goods as broker) for verifying and comparing the goods received by him. Mr. Llyod Harridge also made mail correspondences with Mr. Jack of China, who arranged the goods from Chinese manufacturer regarding complain of plates by one of the buyer in India. From the investigation initiated by Director General of Customs, Central Intelligence Directorate, Sri Lanka Customs, Colombo 11, Sri Lanka, it is concluded that they initiated investigation against the company, M/s Cento Graph, Sri Lanka and observed that the exporter, M/s Cento Graph, Sri Lanka is importing containers from China and rework the containers in Colombo to ship the same to India.

37.1.1 From the above I find that Mr. Llyod Harridge aided and abetted 'M/s PSRA' to evade Anti-dumping duty imposed vide Notification No. 02/2020-Customs (ADD) dated 30.01.2020 and Notification No. 21/2020-Customs (ADD) dated 29.07.2020 issued under Section 9A of Customs Tariff Act, 1975 on imported Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates of Chinese origin. All the aforesaid acts of omission and commission on the part of M/s Cento Graph, Sri Lanka and Mr. Llyod Harridge of M/s Cento Graph have rendered the imported goods liable for confiscation under Section 111(m) and (o) of the Customs Act, 1962. Further, they had consciously dealt with the said goods which they knew or had reasons to believe, were liable to confiscation under the Customs Act, 1962. From the above, I find that M/s Cento Graph, Sri Lanka and Mr. Llyod Harridge of M/s Cento Graph by their acts, have rendered themselves liable to penalty under provisions of Section 112 (a) of the Customs Act, 1962. They also prepared/got prepared, signed /got signed documents which they had reasons to believe were false and thereby rendered themselves liable for penalty under Section 114AA of Customs Act, 1962

37.2 From the facts as narrated above, I also find that M/s Worldgate Express Lines Lanka Pvt. Ltd. abetted Mr. Llyod Harridge of M/s Cento Graph by adopting a modus as described in preceding paras, thereby concerned themselves in the conspiracy of mis-declaring and suppressing the facts related to actual producer /manufacturer of Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates imported by 'M/s PSRA'. M/s Worldgate Express Lines Lanka Pvt. Ltd., made applications to the Sri Lanka Customs for permission to carryout

transshipment operation inside warehouse and to grant permission to de-stuff the goods i.e. CTCP Digital Double Layer printing plates from containers meant for transshipment to India and load the same in different containers. This fact is evident from the copies of documents viz. Proforma Invoice, Country of Origin Certificate, Inward and Outward Bills of lading & copies of the applications made by M/s Worldgate Express Lines Lanka Pvt. Ltd. to the Sri Lanka Customs for rework of containers, as received from the Director General of Customs, Central Intelligence Directorate, Sri Lanka Customs, Colombo 11, Sri Lanka. M/s Worldgate Express Lines International Pvt. Ltd., did not disclose these facts and did not produce documents during the investigation. Thus, the overseas counterpart of M/s Worldgate Express Lines International Pvt. Ltd aided and abetted Mr. Llyod Harridge by changing the containers at Colombo to avoid identification of the original shipper of the goods. Thus, had helped in re-routing the Chinese goods through Sri Lanka to India to evade Anti-dumping duty imposed vide Notification No. 02/2020-Customs (ADD) dated 30.01.2020 and Notification No. 21/2020-Customs (ADD) dated 29.07.2020 issued under Section 9A of Customs Tariff Act, 1975 on imported Digital Offset Printing Plates/CTCP Digital Printing Double Layer Plates of Chinese origin. All the aforesaid acts of omission and commission on the part of M/s Worldgate Express Lines Lanka Pvt. Ltd. and M/s Worldgate Express Lines International Pvt. Ltd have rendered the imported goods liable for confiscation under Section 111(m) and (o) of the Customs Act, 1962. Further, they had consciously dealt with the said goods which they knew or had reasons to believe, were liable to confiscation under the Customs Act, 1962, thereby I hold them liable to penalty under the provisions of Section 112(a) of the Customs Act, 1962. They also prepared/got prepared, signed/got signed documents which they had reasons to believe were false and therefore, I hold them also liable for penalty under Section 114AA of Customs Act, 1962.

38. IN VIEW OF DISCUSSION AND FINDINGS SUPRA, I PASS THE FOLLOWING ORDER:

ORDER

- i.** I order to confiscate the 492378 SQM. of goods valued at Rs.8,97,03,963/- (Rupees Eight Crore Ninety-Seven Lac Three Thousand Nine Hundred Sixty-Three only) as per Column No. 4 of the Table in Para-29 and as detailed in Annexure A & B, attached to the notice, which have been cleared, under Section 111(m) and (o) of the Customs Act, 1962.
- ii.** I confirm the demand of differential Customs duty (Anti-dumping duty & IGST) amounting to **Rs.12,31,467/- (Rupees Twelve Lakh Thirty One Thousand Four Hundred Sixty Seven Only)** as per Column No. 5 at Sr. No. 01 of the Table in Para-29 and as detailed at Sr. No. 01 in Annexure-A,

attached to the notice, and order to recover the same from M/s PSRA Graphics India Private Limited and M/s. Suman Graphics under Section 28(4) of the Customs Act, 1962, read with conditions of Notification No. 02/2020-Customs (ADD) dated 30.01.2020. I also order to recover the applicable interest jointly and severally from M/s PSRA Graphics India Private Limited and M/s. Suman Graphics under the provisions of Section 28AA of the Customs Act, 1962;


- iii. I confirm the demand of differential Customs duty (Anti-dumping duty & IGST) amounting to **Rs.1,38,01,352/- (Rupees One Crore Thirty Eight Lakh One Thousand Three Hundred Fifty Two Only)** as per Column No. 5 at Sr. No. 02 of the Table in Para-29 and as detailed at Sr. No. 02 to 08 in Annexure A, attached to the notice, and order to recover the same from M/s PSRA Graphics India Private Limited and M/s. ACM Chemicals under Section 28(4) of the Customs Act, 1962, read with conditions of Notification No. 02/2020-Customs (ADD) dated 30.01.2020. I also order to recover the applicable interest jointly and severally from M/s PSRA Graphics India Private Limited and M/s. ACM Chemicals under the provisions of Section 28AA of the Customs Act, 1962;
- iv. I confirm the demand of differential Customs duty (Anti-dumping duty & IGST) amounting to **Rs.1,74,08,127/- (Rupees One Crore Seventy Four Lakh Eight Thousand One Hundred Twenty Seven Only)** as per Column No. 5 at Sr. No. 03 & 4 of the Table in Para-29 and as detailed at Sr. No. 09 to 13 in Annexure A and Annexure-B, attached to the notice, and order to recover the same from M/s PSRA Graphics India Private Limited and M/s. Nippon Colour, under Section 28(4) of the Customs Act, 1962, read with conditions of Notification No. 02/2020-Customs (ADD) dated 30.01.2020. I also order to recover the applicable interest jointly and severally from M/s PSRA Graphics India Private Limited and M/s. Nippon Colour under the provisions of Section 28AA of the Customs Act, 1962;
- v. I impose penalty of **Rs.30,00,000/- (Rupees Thirty Lakh only)** on M/s. PSRA Graphics Limited, (IEC – AAKCP0142M) under the provisions of Section 112(a)(ii) and 112(b)(ii) of the Customs Act, 1962. I also impose penalty of **Rs. 1,50,00,000/- (Rupees One Crore Fifty Lakh only)** on M/s. PSRA Graphics Limited, (IEC – AAKCP0142M) under the provisions of Section 114AA of the Customs Act, 1962; I also impose penalty of **Rs.2,50,000/- (Rupees Two Lakh Fifty Thousand only)** on M/s. PSRA Graphics Limited, (IEC – AAKCP0142M) under the provisions of Section 117 of the Customs Act, 1962, for the reasons as discussed above;
- vi. I impose penalty of **Rs.30,00,000/- (Rupees Thirty Lakh only)** on Shri Rakesh Kumar Chauhan, Director of M/s PSRA Graphics India Private Limited, Ghaziabad (IEC – AAKCP0142M), under the provisions of Section 112(a)(ii) and 112(b)(ii) of the Customs Act, 1962. I also impose penalty of **Rs. 1,50,00,000/- (Rupees One Crore Fifty Lakh only)** on Shri Rakesh

Kumar Chauhan, Director of M/s PSRA Graphics India Private Limited, Ghaziabad (IEC – AAKCP0142M) under the provisions of Section 114AA of the Customs Act, 1962; I also impose penalty of **Rs.2,50,000/- (Rupees Two Lakh Fifty Thousand only)** on Shri Rakesh Kumar Chauhan, Director of M/s PSRA Graphics India Private Limited, Ghaziabad (IEC – AAKCP0142M) under the provisions of Section 117 of the Customs Act, 1962, for the reasons as discussed above;

- vii.** I impose penalty of **Rs.15,00,000/- (Rupees Fifteen Lakh only)** on Shri Jayant Ramesh Pardiwala, Proprietor of M/s. Nippon Colour, Mumbai, under the provisions of Section 112(b)(ii) of the Customs Act, 1962. I also impose penalty of **Rs.75,00,000/- (Rupees Seventy-Five Lakh only)** on Shri Jayant Ramesh Pardiwala, Proprietor of M/s. Nippon Colour, Mumbai, under the provisions of Section 114AA of the Customs Act, 1962; I also impose penalty of **Rs.2,50,000/- (Rupees Two Lakh Fifty Thousand only)** on Shri Jayant Ramesh Pardiwala, Proprietor of M/s. Nippon Colour, Mumbai, under the provisions of Section 117 of the Customs Act, 1962, for the reasons as discussed above;
- viii.** I impose penalty of **Rs.12,00,000/- (Rupees Twelve Lakh only)** on Shri Tara Chand Aggarwal, Proprietor of M/s ACM Chemicals, Delhi, under the provisions of Section 112(b)(ii) of the Customs Act, 1962. I also impose penalty of **Rs.1,20,00000/- (Rupees One Crore Twenty Lakh only)** on Shri Tara Chand Aggarwal, Proprietor of M/s ACM Chemicals, Delhi, under the provisions of Section 114AA of the Customs Act, 1962; I also impose penalty of **Rs.2,50,000/- (Rupees Two Lakh Fifty Thousand only)** on Shri Tara Chand Aggarwal, Proprietor of M/s ACM Chemicals, Delhi, under the provisions of Section 117 of the Customs Act, 1962, for the reasons as discussed above;
- ix.** I impose penalty of **Rs.1,00,000/- (Rupees One Lakh only)** on Shri Vikas Vadhawan, Proprietor of M/s. Suman Graphics, New Delhi, under the provisions of Section 112(b)(ii) of the Customs Act, 1962. I also impose penalty of **Rs.10,00,000/- (Rupees Ten Lakh only)** on Shri Vikas Vadhawan, Proprietor of M/s. Suman Graphics, New Delhi, under the provisions of Section 114AA of the Customs Act, 1962; I also impose penalty of **Rs.2,50,000/- (Rupees Two Lakh Fifty Thousand only)** on Shri Vikas Vadhawan, Proprietor of M/s. Suman Graphics, New Delhi, under the provisions of Section 117 of the Customs Act, 1962, for the reasons as discussed above;

- x. I impose penalty of **Rs.30,00,000/- (Rupees Thirty Lakh only)** on M/s Cento Graph, No. 5, John Keells Housing Scheme, Potherwara Road, Malabe, Sri Lanka, under Section 112(a)(ii) of the Customs Act, 1962 I also impose penalty of **Rs.1,50,00,000/- (Rupees One Crore Fifty Lakh only)** on M/s Cento Graph, No. 5, John Keells Housing Scheme, Potherwara Road, Malabe, Sri Lanka, under the provisions of Section 114AA of the Customs Act, 1962, for the reasons as discussed above;
- xi. I impose penalty of **Rs.30,00,000/- (Rupees Thirty Lakh only)** on Mr. Llyod Harridge, owner of M/s Cento Graph, Sri Lanka, under Section 112(a)(ii) of the Customs Act, 1962 I also impose penalty of **Rs.1,50,00,000/- (Rupees One Crore Fifty Lakh only)** on Mr. Llyod Harridge, owner of M/s Cento Graph, Sri Lanka, under the provisions of Section 114AA of the Customs Act, 1962, for the reasons as discussed above;
- xii. I impose penalty of **Rs.30,00,000/- (Rupees Thirty Lakh only)** on M/s Worldgate Express Lines International Pvt. Ltd., 7th floor, Sharda Terrace (Warden House), Sector 11, Plot No. 65, CBD Belapur, West, Navi Mumbai, Maharashtra-400614, under Section 112(a)(ii) of the Customs Act, 1962 I also impose penalty of **Rs.1,50,00,000/- (Rupees One Crore Fifty Lakh only)** on M/s Worldgate Express Lines International Pvt. Ltd., Navi Mumbai, under the provisions of Section 114AA of the Customs Act, 1962, for the reasons as discussed above;
- xiii. I impose penalty of **Rs.30,00,000/- (Rupees Thirty Lakh only)** on M/s Worldgate Express Lines Lanka Pvt. Ltd., No. 23, 1st Floor, Palm Grove, Colombo-03, Sri Lanka, under Section 112(a)(ii) of the Customs Act, 1962 I also impose penalty of **Rs.1,50,00,000/- (Rupees One Crore Fifty Lakh only)** on M/s Worldgate Express Lines Lanka Pvt. Ltd., No. 23, 1st Floor, Palm Grove, Colombo-03, Sri Lanka, under the provisions of Section 114AA of the Customs Act, 1962, for the reasons as discussed above;

This OIO is issued without prejudice to any other action that may be taken against the claimant under the provisions of the Customs Act, 1962 or rules made there under or under any other law for the time being in force.

 30/5/25

(Nitin Saini)

Commissioner of Customs,
Custom House, Mundra.

F.No. GEN/ADJ/COMM/481/2023-Adjn-O/o Pr Commr-Cus-Mundra

To, (The Noticees) / 1956 to 1964

1. M/s PSRA Graphics India Private Limited,
G/F, 80E/G-2, Rajendra Nagar Indus. Area, Mohan Nagar, Ghaziabad,
Uttar Pradesh-201007.
2. Shri Rakesh Kumar Chauhan, Director of M/s PSRA Graphics India
Private Limited, G/F, 80E/G-2, Rajendra Nagar Indus. Area, Mohan

Nagar, Ghaziabad, Uttar Pradesh-201007.

3. Shri Jayant Ramesh Pardiwala, Proprietor of M/s. Nippon Color, 219, High Tech Ind. Centre, caves road, Jogeshwari, Mumbai-400060.
4. Shri Tara Chand Aggarwal, Proprietor of M/s ACM Chemicals, WZ-131, Ground floor, Naraina village, near Tikona park, Ring road, Delhi- 110028.
5. Shri Vikas Vadhawan, Proprietor of M/s. Suman Graphics, 2B-9, Gurunanak House, Ranjit Nagar, Commercial Complex, New Delhi- 110008.
6. M/s Cento Graph, No. 5, John Keells Housing Scheme, Potherwara Road, Malabe, Sri Lanka.
7. Mr. Llyod Harridge, owner of M/s Cento Graph, No. 5, John Keells Housing Scheme, Potherwara Road, Malabe, Sri Lanka.
8. M/s Worldgate Express Lines International Pvt. Ltd., 7th floor, Sharda Terrace (warden House), Sector 11, Plot No. 65, CBD Belapur, west, Navi Mumbai, Maharashtra-0400614.
9. M/s Worldgate Express Lines Lanka Pvt. Ltd., No. 23, 1st Floor, Palm Grove, Colombo-03, Sri Lanka

Copy to:

- (i) The Additional Director General, Directorate of Revenue Intelligence, Zonal Unit, 15, Magnet Co-operate Park, Near Sola Bridge, S.G. Highway, Thaltej, Ahmedabad-380054, for information;
- (ii) The Pr. Commissioner of customs, Nhava Sheva, Maharashtra.
- (iii) The Deputy/Assistant Commissioner, (RRA), CCO Customs, Ahmedabad Zone for information;
- (iv) The Assistant Commissioner (EDI) for uploading on site.
- (v) Notice Board.
- (vi) Guard file/Office Copy.