



सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद

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

चौथी मंज़िल 4th Floor, हडको भवन HUDCO Bhawan, ईश्वर भुवन रोड़ Ishwar Bhuvan Road
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad - 380 009
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DIN - 20260171MN000000CC03

क	फ़ाइल संख्या FILE NO.	S/49-223/CUS/MUN/2024-25
ख	अपील आदेश संख्या ORDER-IN-APPEAL NO. (सीमा शुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962)	MUN-CUSTM-000-APP-646-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	21.01.2026
ङ	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Order-in-Original no. MCH/ADC/AK/129/ 2024-25 dated 28.08.2024
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	21.01.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. Aditi Trading Company, 4th Floor, Office No.403, Plot No.340, 348, Shakar Bhawan Khata Bazar, Narsi Natha Street, Masjid Bunder East, Mumbai- 400 009



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



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



ORDER-IN-APPEAL

Appeal has been filed by M/s. Aditi Trading Company, 4th Floor, Office No.403, Plot No.340, 348, Shakar Bhawan Khata Bazar, Narsi Natha Street, Masjid Bunder East, Mumbai- 400 009, (hereinafter referred to as the 'Appellant') in terms of Section 128 of the Customs Act, 1962, challenging the Order-in-Original no. MCH/ADC/AK/129/2024-25 dated 28.08.2024 (hereinafter referred to as 'the impugned order') issued by the Additional Commissioner, Customs, Mundra (herein after referred to as 'the adjudicating authority').

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

2.1 Subsequent analysis of the Customs system data, combined with extensive field investigations and the recovery of incriminating digital records, revealed that this interception was merely the tip of a much larger operation. The syndicate had successfully imported at least 18 different consignments across eight separate importers, including the appellant i.e M/s. Aditi Trading Company (IEC No. AZHPR0377B). The current proceedings specifically focus on two of these import consignments involving Container Nos. TEMU6643503 and BMOU6923481, imported by the appellant which were purportedly used to facilitate the clandestine entry of mis-declared and prohibited goods through the Mundra Special Economic Zone (SEZ) under the guise of miscellaneous low-value items.



2.2 Detailed physical examinations of the subject containers were conducted under various panchnamas in September 2022, unearthing systemic and gross mis-declarations regarding the nature, quantity, and assessable value of the imported merchandise. The methodology employed by the cartel involved "stuffing" the rear of the containers with high-value or prohibited contraband while placing low-value "cover goods" near the container doors to mislead preventive officers during routine checks.

2.3 For Container No. TEMU6643503, the importer had filed Bill of Entry No. 2013050 dated August 30, 2022, declaring items such as "Vegetable Slicer," "Foot Pump", "Mobile Holder", "hair dryer" etc. However, actual physical examination revealed that these goods were merely a facade for 30,000 pieces of undeclared toys, including the "Dancing Cactus" and "Card Early Education" devices. These items are strictly regulated and require mandatory Bureau of Indian Standards (BIS) compliance under Policy Condition 2 of Chapter 95 of the Customs Tariff (specifically IS: 9873). The failure to provide these certificates posed significant consumer safety risks, as the quality and toxicity levels of the plastic and electronic components were unverified.

2.4 For Container No. BMOU6923481, the importer refrained from filing a Bill of Entry entirely. Investigators interpreted this as a tactical move to avoid interception once the DRI began seizing other containers linked to the cartel. Examination of this "orphaned" container revealed further concealed quantities of 17,258 toys, including "Dancing Cactus", "robot storm car", Stunt Drift(Toy Truck), "learning machine", "flying toy, superman", "folding quadcopters", alongside mis-declared items like egg poachers and study books.

2.5 Collectively, the goods were found to be grossly undervalued. For example, while thousands of pieces were recovered, the declared invoices reflected only a fraction of the actual quantity, and the unit prices were significantly lower than the fair market value. To bridge this gap, a Government-approved Chartered Engineer, Shri Kunal Ajay Kumar, was engaged to provide an independent valuation report, which ultimately served as the basis for re-calculating the evaded duty.

2.6 The investigation exposed a sophisticated conspiracy characterized by the use of "paper firms" and dummy Import Export Codes (IECs). Shri Asif Sathi was identified as the mastermind behind the entire racket, orchestrating the illegal imports from behind the scenes to maintain plausible deniability. He orchestrated the illegal imports by arranging IECs



from various individuals—such as Shri Narayan Gourayya Rajkar (Proprietor of M/s. Aditi Trading Company)—in exchange for fixed monetary benefits ranging from ₹15,000 to ₹50,000 per consignment. Sathi managed the logistical movement of these goods to specialized warehouses in Bhiwandi, Maharashtra, and coordinated with a network of associates to offload the contraband to domestic buyers like "Raju Bhai" and "Sohail Bhai."

2.7 The cartel utilized a WhatsApp group named "Mm" to share incriminating documents, coordinate the loading of "copy" or counterfeit goods, and discuss strategies to avoid tracking by enforcement agencies. Shri Baldevsinh Vala of M/s. Kalpana Exim played a critical role by forging and manipulating shipping documents (Invoices, Packing Lists, and Bills of Lading) provided by foreign suppliers. These manipulated documents were then used by the Customs Broker to file false declarations. To fund these operations, Sathi would deposit cash collected from domestic sales into the bank accounts of these dummy firms, which were then used to remit payments to overseas suppliers, thereby laundering the proceeds of the smuggling operation through seemingly legitimate banking channels.

2.8 The scheme was further aided by the failure of critical regulatory safeguards and the active or passive cooperation of certain professionals. Shri Samir Sharma, the G-Card holder for the Customs Broker firm M/s. Al Cargo Services, failed to perform mandatory due diligence or verify the genuineness of the IEC holders. Despite being a licensed professional, he never met the proprietors in person and relied solely on documents provided by the "forwarder," Shri Baldevsinh Vala. Sharma further assisted the cartel by submitting E-way bills containing names of unrelated parties to facilitate the "crossing" of containers and avoid detection by state tax authorities.

2.9 Furthermore, the investigation highlighted the negligence of the then Preventive Officer, Shri Vipin Sharma. Despite specific system directions to "check goods, inspect the lot, and check description/quantity," the officer submitted a generic examination report without actually de-stuffing the container or verifying the contents. This dereliction of duty facilitated the "Out of Charge" (OOC) status for consignments that contained massive quantities of concealed, restricted toys. The lack of a thorough 100% examination, as required for suspicious cargo, allowed the cartel to move prohibited goods into the Domestic Tariff Area (DTA) with official clearance.




2.14 Consequently, the Adjudicating Authority decided the Show Cause Notice dtd. 31.08.2023 as under :-

(A) IN RESPECT OF DUTIABLE GOODS WHERE BILLS OF ENTRY FILED FOR DTA CLEARANCE:

- (i) He rejected the declared value of impugned goods i.e. 15050 pcs of Hair Dryer, Vegetable slicer, Foot pump, mobile holder, adhesive tape, water bottle, etc imported by the appellant in terms of Rule 12 of CVR, 2007; and order to re-determine the value of the same as per their Assessable Value of Rs. 74,56,950/-in terms of Rule 9 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 readwith Section 14 of the Customs Act, 1962.
- (ii) He ordered to confiscate the impugned goods as mentioned at (i) above, under Section 111(f) and Section 111(m) of the Customs Act, 1962. However, he gave an option to the appellant to redeem the confiscated goods on payment of redemption fine of Rs. 15,00,000/- under Section 125 of the Customs Act, 1962.
- (iii) He confirmed the demand of Customs Duty of Rs. 27,63,662/- against impugned goods, in terms of the provisions of Section 28(8) read with Section 28(4) of the Customs Act, 1962; alongwith interest at appropriate rate under Section 28AA of the Customs Act, 1962.
- (iv) He imposed penalty of Rs. 27,63,662/- on the appellant under Section 114A of the Customs Act, 1962 in respect of (iii) above; He refrained from imposing penalty upon them under Section 112(a)(ii) of the Customs Act, 1962 since as per 5th proviso of Section 114A, penalties under Section 112(ii) and 114A are mutually exclusive, hence, when penalty under Section 114A is imposed, penalty under Section 112(a)(ii) is not imposable.

(B) IN RESPECT OF DUTIABLE GOODS WHERE BILLS OF ENTRY NOT FILED FOR DTA CLEARANCE:

- (i) He ordered to determine the value of impugned goods i.e. 6300 pcs.

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of Egg poacher, study book etc. (excluding Toys) for which M/s. Aditi Trading Company (IEC No. AZHPR0377B) did not file Bills of Entry as Rs. 26,55,000/- under Rule 9 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 readwith Section 14 of the Customs Act, 1962.

- (ii) He ordered to confiscate the impugned goods of 6300 pcs. of Egg poacher, study book etc. (excluding Toys) having determined value of Rs.26,55,000/-under Section 111(1) and Section 111(m) of the Customs Act, 1962. However, he gave an option to the importer to redeem the confiscated goods for the purpose of re-export only, on payment of redemption fine of Rs. 5,00,000/- (Rupees Five Lacs Only) under Section 125 of the Customs Act, 1962, within 90 days.
- (iii) He imposed penalty of Rs. 5,000/- (Rupees Five Thousand only) upon M/s. Aditi Trading Company (IEC No. AZHPR0377B) under Section 112(a)(ii) of the Customs Act, 1962.

(C) IN RESPECT OF OFFENDING GOODS I.E. TOYS, IMPORTED WITHOUT MANDATORY BIS:

(i) He ordered for absolute confiscation of 30000 toys valued at Rs. 1,89,00,000/- of different kind falling under HS Code 95030010/95030020, found concealed in the import consignments and grossly mis-declared and mis-classified by the importer; pertaining to Container No. TEMU6643503 in which DTA Bill has been filed by the importer, in violation of the provisions of Condition 2 of Chapter 95, under Section 111(d), 111(f), and 111(m) of the Customs Act, 1962, as detailed vide Annexure-B to impugned SCN.

(ii) He ordered to confiscate the impugned offending goods i.e. 17258 PC Toys valued at Rs. 1,92,63,742/- of different kind falling under HS Code 95030010/95030020, found concealed in the import consignments pertaining to Container No. BMOU6923481 and was grossly mis-



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declared and mis classified; thereby imported under Bills of Lading/IGM, in violation of the provisions of Condition 2 of Chapter 95, under Section 111(d), 111(f), and 111(m) of the Customs Act, 1962, as detailed vide Annexure-B to SCN. However, he gave an option to the importer to redeem the confiscated goods quantifying to 17258 Toys valued at Rs. 1,92,63,742/- for the purpose of re-export only wherein DTA bill has not been filed, on payment of redemption fine of Rs.40,00,000/-(Rupees Forty Lacs Only) under Section 125 of the Customs Act, 1962, within 90 days.

(D) IMPOSITION OF PENALTY UNDER SECTION 114(AA) OF THE CUSTOMS ACT, 1962:

(i) He imposed penalty of Rs. 5,00,000/- (Rupees Five Lacs Only) upon appellant under Section 114(AA) of the Customs Act, 1962.

The adjudicating authority also imposed penalties on other accomplices under Sections 112 and 114 of the Customs Act, 1962, for their roles in a "well-hatched conspiracy" to defraud the national exchequer.

SUBMISSIONS OF THE APPELLANT:

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

3.1 The Appellant contends that the impugned order was passed in blatant violation of the principles of natural justice because they were denied a proper opportunity for a personal hearing. Despite multiple requests from the Appellant's advocate to schedule a common hearing for five related Show Cause Notices arising from the same investigation, the Respondent proceeded to adjudicate the matter without granting the requested audience. The Appellant argues that this procedural lapse constitutes a failure of the "audi alteram partem" rule, rendering the order legally unsustainable.

3.2 Furthermore, the Appellant challenges the denial of cross-examination of the Chartered Engineer whose valuation report formed the



primary basis for the charges of undervaluation. They argue that cross-examination is a legal right necessary to test the veracity and probative value of evidence. The Appellant asserts that the Respondent's dismissal of this request as a "dilatory tactic" was arbitrary, especially since the law does not prescribe a specific timeframe for seeking such an examination.

3.3 Regarding valuation, the Appellant submits that the Respondent incorrectly rejected the transaction value declared under Rule 3 of the Customs Valuation Rules. They argue that the Department failed to provide evidence of contemporaneous imports at higher prices or any proof of illegal "flowback" of money to the foreign supplier. The Appellant provided several examples of Bills of Entry from other importers showing that identical or similar goods were cleared at comparable values, suggesting their declared prices were consistent with international trade practices.

3.4 The Appellant also attacks the validity of the Chartered Engineer's (CE) report, claiming it was technically deficient and lacked specific parameters. They contend the engineer failed to justify quality differences, ignore bulk quantity discounts, and did not account for post-importation costs. Additionally, the Appellant argues that a mechanical engineer is not qualified to value the diverse range of consumer goods involved in the shipment.

3.5 The appeal further addresses the mis-declaration of goods, attributing discrepancies in quantity and type—specifically the presence of "Toys" instead of "decorative showpieces"—to supplier error. The Appellant maintains they had no access to the containers before filing the Bill of Entry and approached the department for re-export immediately upon learning of the mistake. They argue that the lack of any incriminating correspondence or chats proves there was no mala fide intent to smuggle or mis-declare.

3.6 Finally, the Appellant contests the penalties and confiscation orders imposed under Sections 111, 112, 114A, and 114AA of the Customs Act. They argue that "mens rea" (guilty mind) is a prerequisite for such penalties, which the Revenue has failed to establish. The Appellant also challenges the heavy redemption fines for goods allowed for re-export and claims the department failed to follow proper procedures under the Intellectual Property Rights Enforcement Rules regarding alleged brand infringements.



PERSONAL HEARING:

4. Personal hearing was granted to the Appellant on 07.11.2025 following the principles of natural justice wherein Shri Hardik Modh , Advocate, appeared for the hearing on behalf of the appellant and re-iterated the submissions made at the time of filing the appeal.

DISCUSSION AND FINDINGS:

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

5.1 The core of the Appellant's grievance lies in the rejection of the declared transaction value. The Appellant relies heavily on the principle that the price actually paid or payable must be the primary basis for valuation under Section 14(1) of the Customs Act, 1962. However, this legal mandate is not absolute and is contingent upon the accuracy of the underlying declaration. Section 14(1) stipulates that value shall be the transaction value, provided the goods are sold for delivery at the time and place of importation and the buyer and seller are not related. This is further governed by the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. Specifically, Rule 12 provides the "Proper Officer" with the mandate to doubt the truth or accuracy of the declared value. In this case, the "reason to doubt" is not merely subjective but is founded on the objective reality of the physical examination. When the goods found (30,000 toys) are fundamentally different from the goods declared (Exercise Books), the very foundation of Rule 3 (Transaction Value) collapses.

5.2 The Appellant's reliance on *Eicher Tractors Ltd. vs. Commissioner* [2000 (122) ELT 322 (SC)] is fundamentally flawed in the context of fraud. The Hon'ble Supreme Court in *Eicher Tractors* dealt with a case where the description and quantity were correct, but the price was a "special" or "discounted" price. The Court held that such a price must be accepted if it represents the actual payment. Conversely, in the present case, there is a total mis-declaration of the nature of the goods. As clarified by the Hon'ble Supreme Court in **Commissioner of Customs vs. Varsha Plastics Pvt. Ltd. [2009 (235) E.L.T. 193 (S.C.)]**, once the transaction value is rejected due to a proven mis-declaration of description or quantity, the authorities are no longer bound by the sequential application of Rules 4 to 8 if those rules cannot be applied for want



of contemporaneous data. The authorities are then entitled to proceed to Rule 9—the "Residual Method" or "Best Judgment Method."

5.3 The Appellant argues that the CE report is arbitrary. I find that the CE report utilized a logical "deductive" approach: identifying the local market price of identical or similar toys and working backward by deducting applicable duties, local taxes, and reasonable profit margins to arrive at an estimated CIF value. Given the clandestine nature of the import and the absence of genuine invoices from the supplier for the concealed goods, this is the most "reasonable" and "equitable" method available under Rule 9. The invoice submitted by the Appellant for "Exercise Books" at a fraction of the cost of "Dancing Cactus" toys is a self-serving document designed to facilitate duty evasion. Therefore, the rejection of the declared value and its re-determination based on the CE's expert assessment is upheld as legally sustainable.

5.4 The Appellant has advanced a plea of "wrong supply," contending that the overseas supplier mistakenly shipped over 47,000 toys instead of the declared "Exercise Books" and "Decorative Showpieces." I have examined this plea against the touchstone of commercial probability and the statutory obligations of an importer, and I find it to be a manifest afterthought. The scale of the alleged "mistake" is staggering. We are not dealing with a minor quantity discrepancy or a slightly different model of the same product. The discrepancy involves a total change in the nature of the goods—from low-value paper products (Exercise Books) to high-value, battery-operated, electronic toys (Dancing Cactus). It is commercially inconceivable that a professional exporter would "accidentally" load tens of thousands of electronic toys, which occupy significant volume and have vastly different packaging, into a container intended for stationery.

5.5 Under Section 46 of the Customs Act, 1962, the importer is required to make a truthful declaration of the contents of the consignment. If the Appellant had genuinely received a "wrong supply," the natural course of action for a bona fide importer would be to:

- Notify the Customs authorities immediately upon receipt of the shipping documents/Pre-Alert.
- File for an amendment of the Bill of Entry under Section 149.
- Request a "First Check" examination to verify the contents before the Department initiates an investigation.



[Handwritten signature]

5.6 In this case, the Appellant maintained the declaration of "Exercise Books" until the DRI intercepted the container and conducted a physical examination. The "wrong supply" theory was only introduced as a defense after the fraud was unearthed. A plea of wrong supply must be supported by contemporaneous evidence, such as:

- Correspondence (Emails/Letters) with the supplier protesting the error.
- A Debit Note or Credit Note from the supplier acknowledging the mistake.
- Proof of payment or LC terms that specifically mention "Exercise Books."

5.7 The Appellant has produced no such evidence. A mere letter from a supplier, often obtained after the fact to bail out the importer, carries no evidentiary value in the. It is statutorily mandated that once an importer files a Bill of Entry, they take full responsibility for the contents. The "wrong supply" defense cannot be used to escape the consequences of importing prohibited or restricted goods. Furthermore, the Hon'ble CESTAT in various rulings has held that "concealment" (the placement of toys behind a few rows of declared goods) is the clearest indicator of mens rea. Mistakes do not result in neat concealment; they result in haphazard loading. Therefore, I find the "wrong supply" defense to be legally untenable and commercially absurd. It is a structured attempt to shift the blame to an overseas entity beyond the reach of Indian law.

5.8 The issue of non-compliance with Bureau of Indian Standards (BIS) requirements is not a mere technicality but a critical violation of India's Quality Control Orders (QCO) and public safety policy. As per Policy Condition 2 of Chapter 95 of the Foreign Trade Policy, the import of toys is subject to the condition that they must conform to the standards prescribed by the BIS. Specifically, they must comply with IS: 9873 (Parts 1, 2, 3, 4, 7, and 9) and IS: 15644, which regulate safety aspects such as mechanical and physical properties, flammability, and the presence of heavy metals/chemicals. This is reinforced by the Toys (Quality Control) Order, 2020. The primary objective is to ensure that toys—intended for children—do not contain hazardous materials or choking hazards. The Appellant argues that toys are "restricted" and not "prohibited." This is a misinterpretation of Section 2(33) of the Customs Act, 1962. Any goods that do not satisfy the conditions imposed for their import are treated as "prohibited goods." Since these toys lack the mandatory BIS certification and were imported via concealment (avoiding the testing and certification protocol), they fall squarely within the ambit of prohibited goods for the purpose of confiscation under Section 111(d).




5.9 The Adjudicating Authority (AA) ordered the absolute confiscation of 30,000 toys in Container TEMU6643503. I uphold this for the following reasons:

- **Public Health and Safety:** Releasing uncertified, low-quality electronic toys into the Indian market poses a direct risk to child safety. Once released for home consumption, the Department loses control over where these toys are sold.
- **Fraudulent Intent:** The toys were not merely uncertified; they were concealed.
- **Redemption vs. Re-export:** While the AA allowed re-export of the toys in the second container (BMOU6923481) upon payment of a fine, this was a lenient gesture. For the first container, where a Bill of Entry was filed for home consumption (DTA) based on a false declaration of "Exercise Books," the attempt to smuggle uncertified goods into the domestic market is a completed act of fraud. Allowing redemption of such goods would incentivize smugglers to try their luck, knowing they can simply pay a fine if caught.

5.10 During the personal hearing, the Appellant admitted that neither they nor the overseas supplier possessed the requisite BIS certificates. Without these certificates, the goods are ineligible for entry into India. Consequently, the absolute confiscation of the mis-declared and uncertified toys is both legally sound and necessary to uphold the integrity of the Quality Control Orders.

5.11 The Appellant claims denial of cross-examination. It is well-settled that cross-examination is not an absolute right in quasi-judicial proceedings, especially where the case is based on physical recovery of contraband. In case of **PATEL ENGINEERING LTD Versus UNION OF INDIA reported at 2014 (307) E.L.T. 862 (Bom.)**, the Hon'ble High Court held that "*irrespective of the facts and circumstances and in all inquiries, the right of cross examination can be asserted. Further, as held above which rule or principle of natural justice must be applied and followed depends upon several factors and as enumerated above. Even if there is denial of the request to cross examine the witnesses in a inquiry, without anything more, by such denial alone, it will not be enough to conclude that principles of natural justice have been violated.*" The CE report is an expert opinion on market value; the Appellant had the opportunity to provide their own counter-valuation from a different CE but failed to do so. Mere denial of a report does not constitute a ground for cross-examination.



A

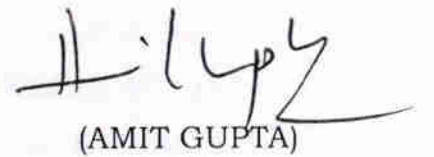
5.12 The investigation has established a clear link between the Appellant (M/s Aditi Trading), Shri Asif Sathi (Mastermind), and Shri Baldevsinh Vala (Forwarder). The WhatsApp chats in the group "Mm" provide ample evidence of the conspiracy to import "copy goods" and "restricted items" while manipulating values to save duty. The use of dummy IECs (lending/borrowing) for a fee of Rs. 15,000 - 50,000 per consignment is a classic indicator of a smuggling syndicate. Lending an IEC to facilitate a fraud makes the lender an "abettor" under Section 112(a). The use of dummy IECs and the submission of false invoices and packing lists to Customs authorities are direct violations of Section 114AA. This section was specifically introduced to penalize persons who knowingly use false or misleading documents. The coordinated effort to present "Exercise Books" on paper while importing "Dancing Cactus" toys in reality is a textbook case for the invocation of this section. Therefore, the penalty imposed on the Appellant (as the IEC lender) are upheld as they were part of a common conspiracy to cause loss to the exchequer and threaten domestic safety standards.

5.13 The Appellant has failed to provide any credible evidence to rebut the findings of the DRI. The massive quantity of concealed toys, the admitted lack of BIS compliance, and the established links to a known smuggling syndicate leave no room for doubt. The Adjudicating Authority has been fair in its assessment, even providing an option for re-export in one instance. The penalties imposed are fully justified under the law to deter such organized economic crimes.

6. In view of the foregoing, the appeal filed by M/s Aditi Trading Company is hereby rejected.



सत्यापित/ATTESTED
 अधीक्षक/SUPERINTENDENT
 सीमा शुल्क (अपील), अहमदाबाद.
 CUSTOMS (APPEALS), AHMEDABAD.



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

F. No. S/49-223/CUS/MUN/2024-25

Date: 21.01.2026

By Speed post A.D/E-Mail

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Copy to:

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

