

 <p>सीमा शुल्क के आयुक्त का कार्यालय सीमा शुल्क सदन, मुंद्रा, कच्छ, गुजरात OFFICE OF THE COMMISSIONER OF CUSTOMS CUSTOMS HOUSE, MUNDRA, KUTCH, GUJARAT Phone No.02838-271165/66/67/68 FAX.No.02838-271169/62, Email-adj-mundra@gov.in</p>	 <p>आजादी का अमृत महोत्सव</p>
A. File No.	: GEN/ADJ/COMM/310/2024-Adjn-O/o Pr. Commr- Cus-Mundra
B. Order-in-Original No.	: MUN-CUSTM-000-COM-21-25-26
C. Passed by	: Nitin Saini, Commissioner of Customs, Customs House, AP & SEZ, Mundra.
D. Date of order and Date of issue:	: 01.09.2025 01.09.2025
E. SCN No. & Date	: SCN F. No. GEN/ADJ/COMM/310/2024-Adjn-O/o Pr. Commr-Cus-Mundra, dated 02.09.2024.
F. Noticee(s) / Party / Importer	: (i) M/s. Vinayak Creations (ii) M/s. KB Tyres
G. DIN	: 20250971MO0000777B49

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 सीए 3-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 - / 1000 रुपये 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 बैंच आहरितट्रिब्यूनल के सहायक रजिस्ट्रार के पक्ष में खण्डपीठ 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/- रूपये कोर्ट फीस स्टाम्प जबकि इसके साथ संलग्न आदेश की प्रति पर अनुसूची- 1, न्यायालय शुल्क अधिनियम, 1870 के मदसं-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 paisa 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, सीमाशुल्क (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. Vinayak Creations (IEC- 0512015414), 89-C, 2nd Floor, DDA Janta Flats, Pitampura Village, Pitampura, Delhi (hereinafter referred to as "M/s Vinayak Creations") alongwith M/s KB Tyres, B-XXX/144, G. T. Road, Opp. Bhagat Ford, Sherpur Chowk, Ludhiana (hereinafter referred to as "M/s KB Tyres"), through SEZ Warehousing Unit namely M/s OWS Warehouse Services LLP (IEC - 03169443771), Survey No. 169, Sector-8, Village Dhruve, Milap Road, MPSEZ, Mundra, Distt Kutch, Gujarat (hereinafter referred to as 'M/s OWS'), were engaged in evasion of Customs duty on the goods i.e. Alloy Wheels of different sizes falling under CTI 87087000.

2. An Intelligence was received by Directorate of Revenue Intelligence that M/s. Vinayak Creations (IEC- 0512015414, along with M/s KB Tyres, through SEZ Warehousing Unit namely M/s OWS Warehouse Services LLP (IEC - 03169443771), Survey No. 169, Sector-8, Village Dhruve, Milap Road, MPSEZ, Mundra, Distt Kutch, Gujarat (hereinafter referred to as 'M/s OWS'), were engaged in evasion of Customs duty on the goods i.e. Alloy Wheels of different sizes falling under CTI 87087000, by way of undervaluing their imports made from Adani Ports and Special Economic Zone (INAJM6).

3. Acting upon the said intelligence, search was conducted at the business premises of M/s Vinayak Creations on 07.09.2022 and search proceedings were recorded under panchnama dated 07.09.2022 (RUD-1). Search was also conducted at the godown premises of M/s Vinayak Creations located at Amrood Wali Gali, Khasra No. 106/416,417, North West Delhi, Village Khera, Garhi and one mobile phone (Iphone 13 pro) bearing sim card no. 9811144043 was resumed from Sh. Vikas Mahajan, Proprietor of M/s Vinayak Creations. The search proceedings were recorded under panchnama dated 07.09.2022 (RUD-2). Forensic examination of the resumed I-phone was done and the proceedings were recorded vide Panchnama dated 06.10.2022 (RUD-3).

4. Statement dated 07.09.2022 (RUD-4) of Sh. Vikas Mahajan, Proprietor of M/s Vinayak Creations, was recorded under Section 108 of the Customs Act, 1962 (hereinafter referred to as 'the Act'), wherein, he, interalia, stated that:-

- they had been importing alloy wheel from China through SEZ Mundra, Gujarat and sometimes through ICD, Tughlakabad while glass was always imported at ICD, Sonipat;
- they imported the goods through Mundra port in SEZ Mundra where their goods got de-stuffed in the warehouse of M/s OWS. Then they got the consignment self-assessed and got them cleared on payment of appropriate customs duty. At times when the

system was not working, they (M/s OWS) paid the customs duty on their behalf and then they (M/s OWS) raised debit note;

- the only reason of importing through SEZ was that the transit time of goods through SEZ was approx. 20 days whereas for imports through non SEZ port, the transit time was approx. 30 to 40 days; Sh. Siddiqui, Manager and Sh. Ankit were the main person with whom they made contact;
- their only customer for the import of alloy wheels was M/s KB Tyres;
- generally M/s KB Tyres, Ludhiana placed their own purchase orders and sometimes they (M/s Vinayak Creations) placed orders on their (M/s KB Tyres, Ludhiana) behalf as per the orders placed with them (M/s Vinayak Creations) while in the case of other buyers they (M/s Vinayak Creations) placed orders on behalf of others buyers;
- they received orders telephonically and then they further placed the orders with overseas suppliers;
- M/s Shandong Shuangwang Aluminium Industry, China was their major overseas suppliers;
- they made the payments to the overseas suppliers;
- they generally talked with Sh. Ketan in respect of M/s KB Tyres, Ludhiana, for all dealings like taking orders and all other dealings;

5. Search was also conducted at the business premises of M/s KB Tyres who had purchased imported alloy wheels from M/s Vinayak Creations and the search proceedings were recorded under panchnama dated 07.09.2022 (RUD-5).

6. The overseas supplier of Alloy Wheels to M/s Vinayak Creations is M/s Shandong Shuangwang Aluminium Industry Co. Ltd., China. On comparison of value at which M/s Shandong Shuangwang Aluminium Industry Co. Ltd. has supplied Alloy Wheels to other Indian importers vis-à-vis to M/s Vinayak Creations, the value declared by M/s Vinayak Creations before Indian Customs appeared to be on lower side. For instance, as per the rates declared by other importers namely M/s F2S International, Kerala, M/s Wheel Paradise, Ludhiana, Punjab & M/s Juneja Agencies, Jalandhar, Punjab in their Bills of Entry No. 9613630 dated 19.07.2022, 8856110 dated 27.05.2022 & 9257400 dated 24.06.2022 respectively, it is evident that they imported alloy wheels from the same overseas supplier namely M/s Shandong Shuangwang

Aluminium Industry Co. Ltd. at much higher rates than M/s Vinayak Creations.

6.1. Details of Alloy Wheels imported by M/s F2S International, Kerala from M/s Shandong Shuangwang Aluminium Industry Co. Ltd. vide BE No. 9613630 dated 19.07.2022, is as under:

 INDIAN CUSTOMS PORT : CUSTOMS HOUSE 60,RAJAJISALAI,CHENNAI-600001 BILL OF ENTRY FOR HOME CONSUMPTION										Port Code INMAA1 BE No 9613630 BE Date 19/07/2022 BE Type H IEC/Br AAIFF3736A/0 OOC COPY GSTIN/TYPE 32AAIFF3736A1ZZ/G CB CODE AAAFA1151ACH001 TYPE INV ITEM CONT Nos 1 19 1 PKG 1271 G.WT (KGS) 12500 BE1230720221832	
PART - II - INVOICE & VALUATION DETAILS (Invoice 1/1)											
A. INVOICE	1.S.NO	2.INVOICE NO. & DT.	3.PURCHASE ORDER NO & DT			4.LC NO & DATE		5.CONTRACT NO & DATE			
	1	LSN22062703 27-JUN-22									
B. TRANSACTING PARTIES	1.BUYER'S NAME & ADDRESS F2S INTERNATIONAL VII/212,NH-66, EDARIKODE, KOTTAKKAL 676501					2.SELLER'S NAME & ADDRESS					
C. VALUATION	3.SUPPLIER NAME & ADDRESS SHANDONG SHUANGWANG ALUMINIUM INDUSTRY CO LTD NO 7 NANYI RD DONGYING CITY SHANDONG PR CN 0	4.THIRD PARTY NAME & ADDRESS									
	5.AEO	6. AD CODE 6910461									
D. COST & SERVICES	1.INV VALUE 43107.5	2.FREIGHT 4500	3.INSURANCE 1.125%	4.HSS.	5.LOADING	6.COMMN	7.PAY TERMS OTH	8.VALUATION METHOD Rule 4 - Transaction Value			
	14.Cur 15.Term	USD	USD				9.RELTD No	10.SVB CH	11.SVB NO	12.DATE	13.LOA
E. ITEM DETAILS	1.C&B	2.CoC	3.CoP	4.HND CHG	5.G&S	6.DOC. CH					
	7.COO	8.R & LF	9.OTH COST	10.LD / ULD	11.WS	12.OTC		13.MISC CHARGE	14.ASS. VALUE		
											3842587.63
E. ITEM DETAILS	1.S NO.	2.CTH	3.DESCRIPTION			4.UNIT PRICE	5.QUANTITY	6.UQC	7.AMOUNT		
	1	87087000	ALLOY WHEELS L1602 SIZE 14X6.0 H/PCD 4X100/108/114.3 COLOUR HS/MB			3.574941	1261.000000	KGS	4508.00		
	2	87087000	ALLOY WHEELS L1787 SIZE 15X7.0 H/PCD 4/5X100/114.3 COLOUR HS/BM			3.802817	1278.000000	KGS	4880.00		
	3	87087000	ALLOY WHEELS L1827 SIZE 15X7.0 H/PCD 4X100/114.3 COLOUR MB/HS			4.332681	1022.000000	KGS	4428.00		
	4	87087000	ALLOY WHEELS L2037 SIZE 13X6.0 H/PCD 4X100/114.3 COLOUR MS/MB			3.492334	1174.000000	KGS	4100.00		
	5	87087000	ALLOY WHEELS L2198 SIZE 12X5.0 H/PCD 4X100/114.3 COLOUR MS/MB			3.571429	1036.000000	KGS	3700.00		
	6	87087000	ALLOY WHEELS AF12 SIZE 13X5.5 H/PCD 4X100/114.3 COLOUR MS/MB			3.810101	990.000000	KGS	3772.00		
	7	87087000	ALLOY WHEELS L1500 SIZE 14X5.5 H/PCD 4X100/108 COLOUR BM			3.529412	255.000000	KGS	900.00		
	8	87087000	ALLOY WHEELS L555/312 SIZE 14X6.5 H/PCD 4X100/108/114.3 COLOUR HS/WHITE			3.049495	398.000000	KGS	1564.00		
	9	87087000	ALLOY WHEELS 18INCH SIZE 18X8.0 H/PCD 5X114.3 COLOUR BLACK			3.647799	636.000000	KGS	2320.00		
	10	87087000	ALLOY WHEELS L1457/572 SIZE 17X8.0 H/PCD 5X100/114.3 COLOUR HB			3.620690	348.000000	KGS	1260.00		
	11	87087000	ALLOY WHEELS 16 INCH SIZE 16X7.0 H/PCD 4/5X100/108 COLOUR MB/MS			3.757576	132.000000	KGS	496.00		
	12	87087000	ALLOY WHEELS L1919/2061 SIZE 15X7.0 H/PCD 4X100/108 COLOUR B/WHITE			3.939394	132.000000	KGS	520.00		
	13	87087000	ALLOY WHEELS L2039 SIZE 17X8.0 H/PCD 5X139.7 COLOUR MB			3.550000	130.000000	KGS	461.50		
	14	87087000	ALLOY WHEELS L2109 SIZE 17X8.0 H/PCD 4X100/108 COLOUR GM			3.282051	351.000000	KGS	1152.00		
	15	87087000	ALLOY WHEELS L2110 SIZE 17X8.0 H/PCD 4/5X100/114.3 COLOUR MB			3.251813	930.000000	KGS	3024.00		
16	87087000	ALLOY WHEELS L418 SIZE 16X16.5 H/PCD 5X114.3 COLOUR MB			3.864122	282.000000	KGS	960.00			
GLOSSARY											
A : LC - Letter of Credit; B : AD - Authorized Dealer; C : HSS - High Sea Sale; D : C&B Commission & Brokerage, CoC - Cost of Container, CoP - Co of Packing, HND CHG - Handling Charges, G&S - Goods and Service input cost, DOC CH - Document Charges, CoO - Country of Origin Certificate, R&LF - Royalty and Licence Fees, LD/ULD - Loading Unloading Charges, WS - Warranty Services, OTC - Other Costs, CTH - Customs Tariff Head, UQC - Unit Quantity Code											

Page 2 Of 13

6.2. Details of Alloy Wheels imported by M/s Vinayak Creations from M/s Shandong Shuangwang Aluminium Industry Co. Ltd. vide BE No. 2010016 dated 13.07.2022, is as under:

DTA Sale (Bill of Entry) Form

Request ID : 262202428272
Total duty amount Rs.2175649.00 Overall duty rate 53.28 %.

ITEM DETAILS								Help
List of Invoices								
Invoice No.	Invoice Date	Item Serial No.	Item Description			Unit Price	Quantity	Product Value
098/2022-23	13/07/2022	1	ALLOY WHEELS FOR CARS, MODEL NO L 560, SIZE: 16", H /P.C.D 4X100/5X114.3, ET30, CB 67.1			2.279839	4231	9646
098/2022-23	13/07/2022	2	ALLOY WHEELS FOR CARS, MODEL NO L 560/ L 561/L 580/ L 595, SIZE: 17", H/P.C.D 4X100/5X114.3, ET:28/30, CB:67.1			2.589924	11493	29766
098/2022-23	13/07/2022	3	ALLOY WHEELS FOR CARS, MODEL NO AU016/L 560, SIZE: 18", H/P.C.D: 5X114.3/4X100, ET:40/30, CB:67.1			2.435631	4266	10390.4
098/2022-23	13/07/2022	4	ALLOY WHEELS FOR CARS, MODEL NO L 580, SIZE: 20", H /P.C.D 5X114.3, ET:30, CB:67.1			1.709424	764	1306

Total Items: 4

6.3. On comparing the import of alloy wheel of size 16" vide BE no. 9613630 dated 19.07.2022 by M/s F2S International from M/s Shandong Shuangwang Aluminium Industry Co. Ltd vis a vis import of alloy wheel of size 16" by M/s Vinayak Creations vide BE No. 2010016 dated 13.07.2022 from the same supplier, it is observed that M/s F2S has imported the alloy wheel @ unit Price 3.757 \$ (Rs. 300/-) whereas M/s Vinayak Creations has imported it @ unit price 2.279 \$ (Rs. 182).

6.4. Details of Alloy Wheels imported by M/s Juneja Agencies, Jalandhar, Punjab from M/s Shandong Shuangwang Aluminium Industry Co. Ltd. vide BE No. 9257400 dated 24.06.2022, is as under:

 INDIAN CUSTOMS PORT : JNCH, NHAVA SHEVA, TAL:URAN, DIST:RAIGAD-400707 BILL OF ENTRY FOR HOME CONSUMPTION												
PART - II - INVOICE & VALUATION DETAILS (Invoice 1/1)												
A. INVOICE	1.S.NO	2.INVOICE NO. & DT.	3.PURCHASE ORDER NO & DT	4.LC NO & DATE			5.CONTRACT NO & DATE					
	1	LS220512 27-APR-22										
B. TRANSACTION PARTIES	1 BUYER'S NAME & ADDRESS JUNEJA AGENCIES Shop 6 DHIMAN NAGAR NEAR ADDA KAPURTHALA Contact No: 91 JALANDHAR 144008											
	2 SELLER'S NAME & ADDRESS SHANDONG SHUANGWANG ALUMINUM INDUS TRY CO. LTD NO. 7 NANYI RD, DONGYING C TY, SHANDONG											
C. VALUATION	5.AEO	3. SUPPLIER NAME & ADDRESS SHANDONG SHUANGWANG ALUMINUM INDUS TRY CO. LTD NO. 7 NANYI RD, DONGYING C TY, SHANDONG										
		4. THIRD PARTY NAME & ADDRESS CHINA										
D. COST & SERVICES	6.AEO	5. AD CODE 6390499										
	1.INV VALUE 38766.6 14.Cur USD 15.Term CIF	2.FREIGHT	3.INSURANCE	4.HSS.	5.LOADING	6.COMMN	7.PAY TERMS OTH	8.VALUATION METHOD RULE 4 - TRANSACTION VALUE No				
E. ITEM DETAILS	1.C&B	2.CoC	3.CoP	4.HND CHG	5.G&S	6.DOC. CH		10.SVB CH	11.SVB NO	12.DATE	13.LOA	
	7.COO	8.R & LF	9.OTH COST	10.LD / ULD	11.WS	12.OTC					3060859.93	
1.S.NO 2.CTH 3.DESCRIPTION 4.UNIT PRICE 5.QUANTITY 6.UQC 7.AMOUNT												
1	87087000	ALLOY WHEELS WITH CENTER LOGO CAPS (SIZE : 20 X 10) 200 PCS	4.087413	2860.000000	KGS	11690.00						
2	87087000	ALLOY WHEELS WITH CENTER LOGO CAPS (SIZE : 22 X 10.5) 38 PCS	3.924506	600.840000	KGS	2358.00						
3	87087000	ALLOY WHEELS WITH CENTER LOGO CAPS (SIZE : 17 X 7.5) 8 PCS	3.935135	74.000000	KGS	291.20						
4	87087000	ALLOY WHEELS WITH CENTER LOGO CAPS (SIZE : 18 X 8.0) 120 PCS	3.885167	1254.000000	KGS	4872.00						
5	87087000	ALLOY WHEELS WITH CENTER LOGO CAPS (SIZE : 18 X 9.0) 116 PCS	4.062500	1299.200000	KGS	5278.00						
6	87087000	ALLOY WHEELS WITH CENTER LOGO CAPS (SIZE : 24 X 10) 58 PCS	3.907500	1120.000000	KGS	4376.40						
7	87087000	ALLOY WHEELS WITH CENTER LOGO CAPS (SIZE : 15 X 7.0) 96 PCS	3.940182	738.240000	KGS	2908.80						
8	87087000	ALLOY WHEELS WITH CENTER LOGO CAPS (SIZE : 16 X 7.5) 132 PCS	3.818292	1133.910000	KGS	4329.60						
9	87087000	ALLOY WHEELS WITH CENTER LOGO CAPS (SIZE : 17 X 8.0) 68 PCS	3.719165	716.720000	KGS	2665.60						
GLOSSARY A : LC - Letter of Credit, B : AD - Authorized Dealer, C : HSS - High Sea Sale, D : C&B Commission & Brokerage, CoC - Cost of Container, CoP - Co of Packing, HND CHG - Handling Charges, G&S - Goods and Service input cost, DOC CH - Document Charges, CoO - Country of Origin Certificate, R&LF - Royalty and Licence Fees, LD/ULD - Loading Unloading Charges, WS - Warranty Services, OTC - Other Costs, CTH - Customs Tariff Head, UQC - Unit Quantity Code												

6.5. Details of Alloy Wheels imported by M/s Vinayak Creations from M/s Shandong Shuangwang Aluminium Industry Co. Ltd. vide BE No. 2009445 dated 04.07.2022, is as under:

DTA Sale (Bill of Entry) Form								
Request ID : 262202123525 Total duty amount Rs.2322578.00 Overall duty rate 52.87 %.								
DTA Sale Details Shipment Details Invoice Details Item Details Item Duty Details Duty Payment Details Add Documents								
ITEM DETAILS Help								
List of Invoices								
Invoice No.	Invoice Date	Item Serial No.	Item Description			Unit Price	Quantity	Product Value
076/2021-22	18/06/2022	1	ALLOY WHEELS FOR CARS. MODEL NO.L 560/L 1495, SIZE: 15", H/P/C.D:8X100+108, ET:30, CB:67.1			2.345382	1494	3504
076/2021-22	18/06/2022	2	ALLOY WHEELS FOR CARS. MODEL NO.L560,SIZE:16", H/P/C.D:4X100, ET:30, CB:67.1			0.973524	593	577.3
076/2021-22	18/06/2022	3	ALLOY WHEELS FOR CARS. MODEL NO.L 560/ L561,SIZE: 17", H/P/C.D:4X100/5X114.3, ET:30, CB:67.1			2.982532	9005	26857.7
076/2021-22	18/06/2022	4	ALLOY WHEELS FOR CARS. MODEL NO.L 2203/L1446/L 560, SIZE:18", H/P/C.D:5X114.3/4X100, ET:28/30,CB:67.1			3.025879	6260	18942
076/2021-22	18/06/2022	5	ALLOY WHEELS FOR CARS. MODEL NO.L 909/L 1841,SIZE: 20", H/P/C.D:5X114.3 , ET:30/38, CB:67.1			2.462069	1450	3570
076/2021-22	18/06/2022	6	ALLOY WHEELS FOR CARS. MODEL NO.L 2206/L 909,SIZE: 22", H/P/C.D:6X139.7/5X114.3, ET:20/30,CB:106.1/6.7.1			1.368586	1598	2187
Total Items: 6								

6.6. On comparing the import of alloy wheel of size 16" vide BE No. 9257400 dated 24.06.2022 by M/s Juneja Agencies From M/s Shandong Shuangwang Aluminium Industry Co. Ltd vis a vis import of alloy wheel of size 16" by M/s Vinayak Creations vide BE No. 2009445 dated 04.07.2022 from the same supplier, it is observed that M/s Juneja has imported the alloy wheel @ unit price 3.818 \$ (Rs.301/-) whereas M/s Vinayak Creations has imported it @ unit price 0.973 \$ (Rs. 77/-).

6.7. Details of Alloy Wheels imported by M/s Wheel Paradise, Ludhiana, Punjab from M/s Shandong Shuangwang Aluminium Industry Co. Ltd. vide BE No. 8856110 dated 27.05.2022, is as under:

CUSTOM HOUSE CODE	BE NUMBER	BE DATE	NAME OF THE IMPORTER	BE IEC CODE	SUPPLIER NAME	ITEM DESCRIPTION	CTH	QUANTITY (kg)	UNIT PRICE	ITEMWISE ASS VALUE	EXCHANGE RATE
INSGF6	8856110	27-05-2022	WHEELS PARADISE	3015011073	SHANDONG SHUANGWANG ALUMINIUM INDUSTRY CO LTD	CAR ALLOY WHEEL L909 SIZE 20X10 MACHINE (HYPER SILVER) (80 PCS)	87087000	1109.45	3.749606	326976.03	78.6

6.8. Details of Alloy Wheels imported by M/s Vinayak Creations from M/s Shandong Shuangwang Aluminium Industry Co. Ltd. vide BE No. 2006239 dated 06.05.2022, is as under:

DTA Sale (Bill of Entry) Form

Request ID : 262201597663
Total duty amount Rs.1374397.00 Overall duty rate 52.86 %.

DTA Sale Details	Shipment Details	Invoice Details	Item Details	Item Duty Details	Duty Payment Details	Add Documents
------------------	------------------	-----------------	--------------	-------------------	----------------------	---------------

ITEM DETAILS Help

List of Invoices

Invoice No.	Invoice Date	Item Serial No.	Item Description	Unit Price	Quantity	Product Value
052	06/05/2022	1	ALLOY WHEELS FOR CARS. MODELNO.FCB1455,SIZE:18", H/P.C.D:5X114.3, ET:30,CB:67.1	2.716740	700.84	1904
052	06/05/2022	2	ALLOY WHEELS FOR CARS. MODELNO.FCB1728/1673/1541/1 443/1676,SIZE:20",H/P.C.D:10X114.3/6X139.7/5X112/ 5X114.3,ET:12/15/25/30, CB:67.1	2.738468	11627.16	31840.6

Total Items: 2

6.9. On comparing the import of alloy wheel of size 20" vide BE No. 8856110 dated 27.05.2022 by M/s Wheel Paradise from M/s Shandong Shuangwang Aluminium Industry Co. Ltd vis a vis import of alloy wheel of size 20" by M/s Vinayak Creations vide BE No. 2006239 dated 06.05.2022 from the same supplier, it is observed that M/s Wheel Paradise has imported the alloy wheel @ unit price 3.749 \$ (Rs. 295/-) whereas M/s Vinayak Creations has imported it @ unit price 2.738 \$ (Rs. 211/-).

6.10. As per the above comparisons of unit prices of imported alloy wheels, there appeared to be a substantial difference in declared price of alloy wheels by M/s Vinayak Creations and other contemporaneous imports. The import value declared by M/s Vinayak Creations is always on much lower side. Thus, it appeared that the value declared by M/s Vinayak Creations before Indian Customs, is not a true value.

7. Statements dated 03.10.2022 (RUD -6) & dated 11.11.2022 (RUD - 7) of Sh. Vijay Kumar Baweja, Karta of HUF M/s KB Tyres, Ludhiana, were recorded under Section 108 of the Act, wherein, he, interalia, stated that:-

- M/s KB Tyres, Ludhiana is engaged in trading of Tyres & Alloy Wheels of different sizes & wheel balancing;
- he is the Karta of HUF M/s. KB Tyres, Ludhiana; he looks after all the day-to-day work regarding sale and purchase in M/s. KB Tyres, Ludhiana;
- he started business activity in M/s. KB Tyres, Ludhiana from June-2018;
- Either he or his son Sh. Ketan Baweja placed orders with M/s Vinayak Creations as per their requirement;
- he placed purchase orders telephonically with M/s Vinayak Creations, Delhi;

- they did not issue any purchase orders to M/s Vinayak Creations, Delhi for supply of alloy wheels; they placed orders telephonically only and gave orders;
- he was not aware about the overseas supplier, they just placed orders to M/s Vinayak Creations, New Delhi who procured alloy wheels on their behalf;
- they made the payments to M/s Vinayak Creations, New Delhi through bank;
- they generally talked with Sh. Vikas Mahajan for all dealings like giving orders and all other dealings;
- on being asked that M/s Vinayak Creations, Delhi had imported 'Alloy Wheels of different sizes' through SEZ entity namely M/s OWS Warehouse Services LLP, Survey No. 169, Sector-8, Village Dhruve, Milap Road, MPSEZ, Mundra, Distt Kutch, Gujarat and it appeared that M/s Vinayak Creations, Delhi were engaged in mis-declaring the value of 'Alloy Wheels of different sizes' imported from China, he stated that they placed the orders with M/s Vinayak Creations, Delhi and they were not aware regarding the mis-declarations in value; although they got quantity discount on the alloy wheels imported by M/s Vinayak Creations, as per his knowledge they got 5-10% quantity discount;
- they got discount on the value of their import products i.e. alloy wheels; that was quantity discount;
- he had seen the copy of BoE No. 2001310 dated 28.01.2022 alongwith commercial invoice& packing list both dated 14.12.2021 and signed the same in token of having seen and agreeing to the fact that alloy wheels imported by M/s Vinayak Creations, Delhi were imported from M/s Shandong Shuangwang Aluminium Industry Co. Ltd., China;
- he had seen & signed the copy of commercial Invoice No. LSN22062703 dated 27.06.2022 issued by M/s Shandong Shuangwang Aluminium Industry Co. Ltd., China issued to M/s F2S International, Kerala, India; on being asked about the reason why foreign supplier i.e. M/s Shandong Shuangwang Aluminium Industry Co. Ltd. had supplied the Alloy Wheels at lower rates to M/s. Vinayak Creations Delhi as supplied to M/s F2S International, Kerala, India, he stated that they got quantity discount for the orders placed by them with M/s Vinayak Creations, Delhi and he further stated that they generally purchased low quality/low grade alloys wheels from M/s Shandong Shuangwang Aluminium Industry Co. Ltd;
- he had seen & signed the copy of proforma Invoice No. S7070SH211215FX dated 25.04.2022 issued by M/s Shandong

Shuangwang Aluminium Industry Co. Ltd., China issued to M/s Wheel Paradise, Ludhiana, Punjab, India; on being asked about the reason why foreign supplier i.e. M/s Shandong Shuangwang Aluminium Industry Co. Ltd. had supplied the Alloy Wheels at lower rates to M/s. Vinayak Creations Delhi as supplied to M/s Wheel Paradise, Ludhiana, Punjab, India, he stated that they got quantity discount for the orders placed by them with M/s Vinayak Creations, New Delhi and he further stated that they generally purchased low quality/low grade alloys wheels from M/s Shandong Shuangwang Aluminium Industry Co. Ltd;

- he had seen & signed the copy of commercial Invoice No. LS220602 dated 06.06.2022 issued by M/s Shandong Shuangwang Aluminium Industry Co. Ltd., China issued to M/s Juneja Agencies, Jalandhar, Punjab, India; on being asked about the reason why foreign supplier i.e. M/s Shandong Shuangwang Aluminium Industry Co. Ltd. had supplied the Alloy Wheels at lower rates to M/s. Vinayak Creations, Delhi as supplied to M/s Juneja Agencies, Jalandhar, Punjab, India, he stated that got quantity discount for the orders placed by them with M/s Vinayak Creations, New Delhi and they further stated that they generally purchased low quality/low grade alloys wheels from M/s Shandong Shuangwang Aluminium Industry Co. Ltd;
- he had seen & signed the copy of commercial Invoice No. MA22-9 dated 12.08.2022 issued by M/s Modal Aluminium & Alloy PLT, Malaysia, issued to M/s ACE Impex, Mumbai, India; on being asked about the reason why the foreign supplier i.e. M/s Modal Aluminium & Alloy PLT had supplied the Alloy Wheels at higher rates to M/s ACE Impex, Mumbai, India as imported by M/s. Vinayak Creations Delhi, he stated that they got quantity discount for the orders placed by them with M/s Vinayak Creations, Delhi and he further stated that they generally purchased low quality/low grade alloys wheels from M/s Shandong Shuangwang Aluminium Industry Co. Ltd;
- he had seen and agreed with the rates mentioned in Invoices No. LSN22062703 dated 27.06.2022, S7070SH211215FX dated 25.04.2022, LS220602 dated 06.06.2022 & MA22-9 dated 12.08.2022;
- he stated that for the Alloy Wheels of 21 size imported by M/s Vinayak Creations, Delhi vide BoE No. 2002499 dated 21.02.2022, the unit price for the Alloy Wheels of 22 size as per the proforma Invoice No. S7070SH211215FX dated 25.04.2022 issued by M/s Shandong Shuangwang Aluminium Industry Co. Ltd., China issued to M/s Wheel Paradise, Ludhiana, Punjab, India, may please be considered and for the Alloy Wheels of 26 size imported by M/s Vinayak Creations, Delhi

vide BoE Nos. 2012538 dated 30.11.2021 &2000384 dated 10.01.2022 & Alloy Wheels of 30 size imported by M/s Vinayak Creations, Delhi vide BoE No. 2010768 dated 21.10.2021, unit price for the Alloy Wheels of 24 size as per commercial Invoice No. LS220602 dated 06.06.2022 issued by M/s Shandong Shuangwang Aluminium Industry Co. Ltd., China issued to M/s Juneja Agencies, Jalandhar, Punjab, India, may please be considered;

- he had seen the calculation chart prepared for the imports made by M/s Vinayak Creations, Delhi through M/s OWS Warehouse Services LLP and put his dated signatures in token of its correctness;
- on being asked that M/s Vinayak Creations, Delhi had also imported 'Alloy Wheels of different sizes' through another SEZ entity namely M/s Steinweg Sharaf India Pvt Ltd, FTWZ Unit, APSEZL, Survey No. 16936, Dhrub Village, Mundra Taluka, Kutch District, Gujarat and it appeared that M/s Vinayak Creations, Delhi were engaged in mis-declaring the value of 'Alloy Wheels of different sizes' imported from China; he had seen the copy of BoE No. 2004025 dated 15.04.2021 alongwith commercial invoice & packing list both dated 02.03.2021 and had signed the same in token of having seen and agreeing to the fact that alloy wheels imported by M/s Vinayak Creations, Delhi were imported from M/s Shandong Shuangwang Aluminium Industry Co. Ltd., China; In this regard, he stated that they placed the orders with M/s Vinayak Creations, Delhi and they were not aware regarding the mis-declarations in value; although they got quantity discount on the alloy wheels imported by M/s Vinayak Creations, as per his knowledge they got 5-10% quantity discount;
- they got discount on the value of their import products i.e. alloy wheels; that was quantity discount;
- he stated that for the Alloy Wheels of 28 size imported by M/s Vinayak Creations, Delhi vide BoE No. 2004921 dated 14.05.2021, the unit price for the Alloy Wheels of 24 size as per commercial Invoice No. LS220602 dated 06.06.2022 issued by M/s Shandong Shuangwang Aluminium Industry Co. Ltd., China issued to M/s Juneja Agencies, Jalandhar, Punjab, India, may please be considered;
- he had seen the calculation chart prepared for the imports made by M/s Vinayak Creations, Delhi through M/s Steinweg Sharaf India Pvt. Ltd and put his dated signatures in token of its correctness.

8. Summons dated 30.12.2022 (RUD - 8), 12.01.2023 (RUD - 9) & 20.03.2023 (RUD - 10) were issued to Sh. Vikas Mahajan, Proprietor of M/s Vinayak Creations to tender his statement. In response to the said

summons, he submitted that due to hospitalization of his brother who was undergoing dialysis, he is unable to be present. Thereafter, Summons dated 27.03.2023 (RUD - 11) & dated 05.04.2023 (RUD - 12) were issued to Sh. Vikas Mahajan, Proprietor of M/s Vinayak Creations to tender statement but he did not appear. Accordingly, a complaint dated 28.03.2023 under Section 174 of Indian Penal Code was filed in the Court of Chief Judicial Magistrate, Ludhiana for appearance of Sh. Vikas Mahajan in the office of DRI and the complaint is listed for hearing on 09.09.2024.

8.1. Meanwhile, M/s Vinayak Creations filed Writ bearing No. 5922/2023 in the Hon'ble High Court of Delhi which is pending in the Hon'ble High Court and the writ is listed for hearing on 01.08.2024.

9. Further, following buyers of M/s KB Tyres who had purchased the imported Alloy Wheels from M/s KB Tyres, were summoned and their statements were recorded under the provisions of Section 108 of the Customs Act, 1962:

- (i) M/s Khalsa Tyres (GSTIN- 03DGDPS2582B1ZO), 411, Khalsa Tyres, Civil Lines, Jalandhar, Punjab – 144001 (RUD - 13),
- (ii) M/s The Tyre Corner (GSTIN- 03AAQFT1912Q1ZR), SCF-122-123, Phase-XI, SAS Nagar, Mohali, Punjab – 160062 (RUD - 14),
- (iii) M/s Creative Wheels & Tyres (GSTIN- 03AEWPN6180J1ZY), 2, near G T Road, Daburji, Sultanwind Road, Sub Urban Mahal, Amritsar, Punjab – 143001 (RUD - 15)

9.1. Shri Karninder Singh, Proprietor of M/s Khalsa Tyres, Jalandhar, in his statement dated 20.06.2023 stated that the imported goods/Alloy Wheels, they purchased from M/s KB Tyres were unused and of standard quality and low rate. He further stated that from other firms i.e. M/s Plati India Pvt Ltd., Ludhiana & M/s GMAX, Ludhiana, they purchased Alloy Wheels of high rate & design of Alloy wheels were similar from all the firms including M/s KB Tyres.

9.2. Shri Arun Kumar Saklani, Authorised Representative of M/s The Tyre Corner, Mohali, in his statement dated 20.06.2023 stated that the imported goods/Alloy Wheels, they purchased from M/s KB Tyres were unused and of standard quality and low rate. He further stated that from other firms i.e. M/s Velocity, Ludhiana, M/s K. K. Overseas, Ludhiana & M/s Hindustan Agencies, they purchased Alloy Wheels of high rate & design of Alloy wheels were similar from all the firms including M/s KB Tyres.

9.3. Shri Raminder Singh Nagi, Proprietor of M/s Creative Wheels & Tyres, in his statement dated 20.06.2023 stated that the imported goods/Alloy Wheels, they purchased from M/s KB Tyres were unused and of standard quality and low rate. He further stated that Alloy Wheels purchased from M/s KB Tyres were not so good as Alloy Wheels purchased from other firms i.e. M/s Plati India Pvt Ltd., Ludhiana & M/s Neo Wheels, Ludhiana; further from other firms i.e. M/s Plati India Pvt Ltd., Ludhiana & M/s Neo Wheels, Ludhiana, they purchased Alloy Wheels of high rate & design of Alloy wheels were similar from all the firms including M/s KB Tyres.

10. Statement dated 26.06.2023 (**RUD - 16**) of Sh. Vijay Kumar Baweja, Karta of HUF M/s KB Tyres, Ludhiana, was again recorded under Section 108 of the Act and his statement is reproduced as under:

Ques1 : In your statement dated 11.11.2022 you had stated that the alloy wheels that you generally purchase low quality/low grade alloys wheels from M/s Shandong Shuangwang Aluminium Industry Co. Ltd. and M/s Steinweg. What do you mean by goods of low quality?

Ans: By low quality we meant that we purchased the alloy wheels which were not of good grade.

Ques. 2: You are being shown purchase invoices nos. VC/464/2022-23 dated 4.08.2022, VC/401/2022-23 dated 22.07.2022, VC/061/2022-23 dated 11.05.2022, VC/323/2022-23 dated 5.07.2022. Is the fact that alloy wheels are of low quality mentioned anywhere on the invoice?

Ans: I have seen the purchase bills and put my dated signatures in token of having seen and understood the same. No, there is nowhere mentioned on the purchase invoices that the alloy wheels that we purchase are of low quality.

Ques. 3: Can you show any purchase document where it is mentioned that the alloy wheels that you purchase are of low quality.

Ans: No, this is never mentioned on any purchase document.

Ques. 4: You are being shown the sale invoices nos. 2883 dated 5.09.2022, 2811 dated 1.09.2022, 2813 dated 1.09.2022, 2834 dated 2.09.2022. Is the fact that alloy wheels are of low quality mentioned anywhere on the invoice?

Ans: I have seen the sale bills and put my dated signatures in token of having seen and understood the same. No, there is nowhere mentioned on the sale invoices that the alloy wheels that we purchase are of low quality.

Ques 5: Can you show any other document where it is mentioned that the alloy wheels that you purchase are of low quality.

Ans: No, this is never mentioned on any sale document.

Ques 6: *Do you have any laboratory report of any alloy wheel whereunder it has been mentioned that the alloy wheel is of low quality.*

Ans: *No, I do not have any such report.*

Ques 7: *Are the alloy wheels sold by you road worthy?*

Ans: *Yes, they are all road worthy.*

Ques 8: *Do you offer any warranty to your buyers of alloy wheels.*

Ans: *No, we do not offer any warranty to the buyers of our alloy wheel.*

Ques 9: *You are being shown statement of S. Karninder Singh, Prop. M/s Khalsa Tyres, Jalandhar, Sh. Arun Kumar Saklani, authorized signatory of M/s The Tyre Corner, Mohali and Shri Raminder Singh Nagi, Prop. Of M/s Creative Wheels & Tyre, Amritsar some of your buyers where they have stated that the alloy wheels sold by you are of standard quality. Please offer your comments.*

Ans: *I cannot offer any comments on the statements of our buyers but I admit that the alloy wheels sold by us are road worthy.*

Ques 10: *If you have no proof or evidence, than why did you claim that your alloy wheels were of low quality?*

Ans: *I cannot offer any comments on the same.*

Ques 11: *Are you still importing from M/s Shandong Shuangwang Aluminium Industry Co. Ltd., China. Is there any difference in price of wheels being imported currently as compared with prices prior to initiation of this investigation. Is there any difference in quality?*

Ans: *Yes, we are still importing the alloy wheels from M/s Shandong Shuangwang Aluminium Industry Co. Ltd., China. Yes, the prices are comparatively higher now. No, the quality being imported is same as before except for some new models/designs that keep on changing in our trade as per the demand.*

Ques 12: *In your statement dated 11.11.2022 you had stated that you get 5-10% quantity discount. Please submit purchase order or any other document where this discount has been mentioned.*

Ans: *I am unable to produce any such communication or proof of the above fact.*

Ques 13: *You are being shown following documents:*

S. No.	Roadlines document no. and date	E Invoice issued by M/s Vinayak Creations no. and date
1	L.R. No. 437 dated 4.08.2022	791275767751 dated 4.08.2022
2	L.R. No. 419 dated 22.07.2022	781272982309 dated 22.07.2022
3	L.R. No. 168 dated 12.05.2022	731258567732 dated 11.05.2022
4	L.R. No. 358 dated 05.07.2022	751269567925 dated 5.07.2022
5	L.R. No. 884 dated	711237795390 dated 31.01.2022

31.01.2022	
------------	--

In all the above documents it is seen that the alloy wheels imported by M/s Vinayak Creations, Delhi were directly consigned from Mundra port to your premises located at Ludhiana. Is it true.

Ans: *I have seen the roadlines documents and E-way Bills and put my dated signatures in token of having seen and understood the same. Yes, I agree that the goods have been received by us directly from Mundra in all bills*

Ques 14: *Have the alloy wheels imported by M/s Vinayak Creations ever been received through Delhi or it is always received directly.*

Ans: *It is always received directly from Mundra to Ludhiana.*

Ques 15: *How do you receive the alloy wheels?*

Ans: *We receive the alloy wheels in truck built like a container which is sealed by our roadlines and is opened by us.*

Ques 16: *The consignments that you receive from Mundra is completely your consignment. Is it true.*

Ans: *Yes, whole consignment that we receive from Mundra which is imported by M/s Vinayak Creations is received by us.*

Ques 17: *That means the whole of the container is received as per your requirements and order.*

Ans: *Yes, we receive the alloy wheels as per our orders and requirements.*

Ques: *How do you place your orders?*

Ans: *The order is placed telephonically either through M/s Vinayak Creations or directly by us to the Chinese suppliers.*

10.1. As M/s Vinayak Creations and all the buyers of M/s KB Tyres in their statements recorded under Section 108 of the Customs Act, 1962 had stated that they used to deal with Sh. Ketan Baweja for all purposes regarding their business with M/s KB Tyres, Ludhiana, Accordingly, Statement dated 01.07.2023 (**RUD - 17**) of Sh. Ketan Baweja, Manager and son of Proprietor of M/s KB Tyres, Ludhiana, was recorded under Section 108 of the Act and his statement is reproduced as under:

I am BBA from Arya College, Ludhiana and I started managing M/s KB Tyres, Ludhiana in June, 2017.

Question 1: *Please state what is your role in KB Tyres.*

Ans: *M/s KB Tyres is engaged in the sale and purchase of tyres and alloy wheels. I am looking after sale, purchase and day to day activities of M/s KB Tyres.*

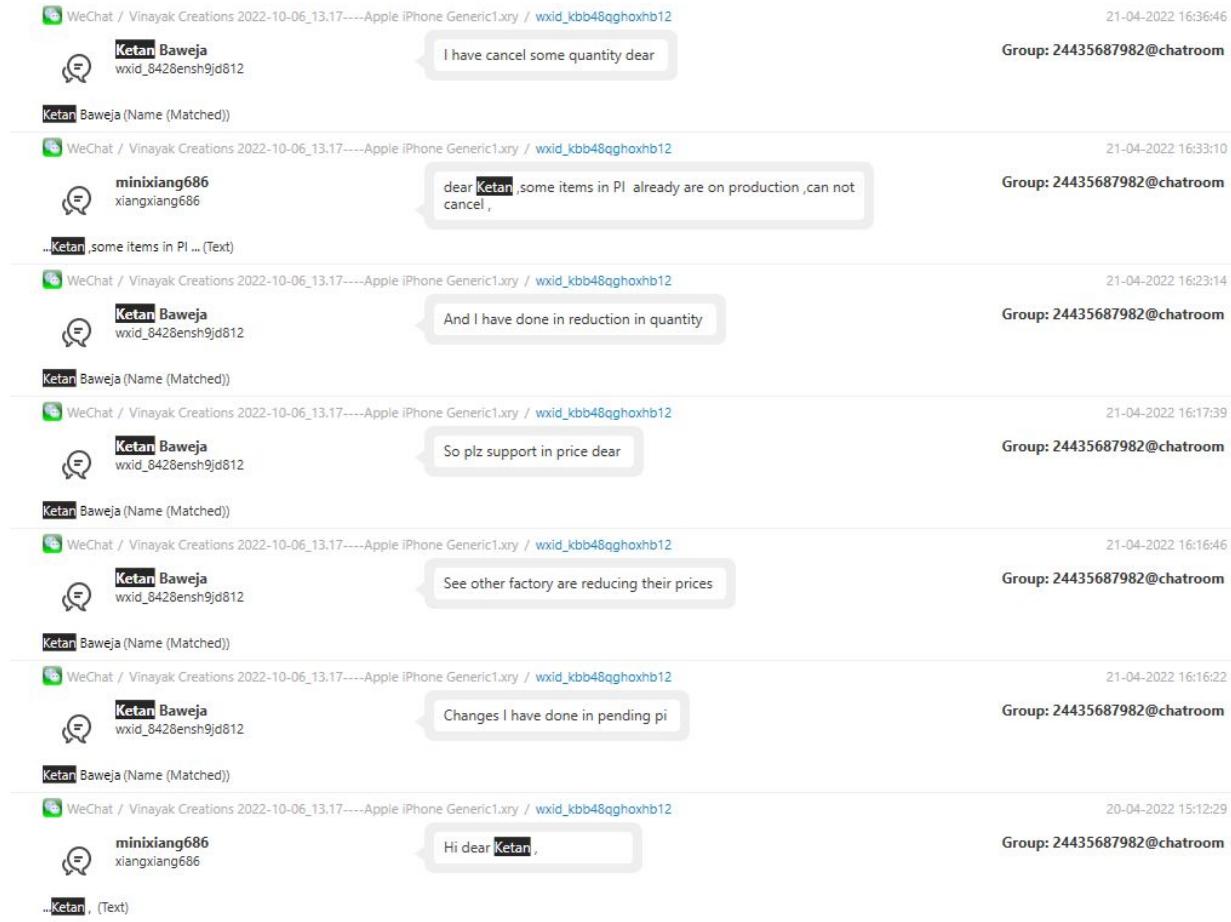
Question 2: *What is your phone number?*

Ans: My phone number is 97801 0005.

Question 3: What is your relationship with M/s Vinayak Creations?

Ans: We purchase alloy wheels through M/s Vinayak Creations, New Delhi.

Question 4: You are being shown chat which is retrieved from the mobile phone of Sh. Vikas Mahajan, Proprietor, M/s Vinayak Creations on 7.09.2023 between you and others. Is the phone number with whom chat is taking place yours. What is the meaning of this chat?



Ans: Yes, the chat is between me (Ketan Baweja) and one of the agents of M/s Shandong Shuangwang Aluminium Industry Co. Ltd., China (minixiang686). In this chat I have done changes in one of the orders that I had placed but agent of M/s Shandong Shuangwang Aluminium Industry Co. Ltd., China (minixiang686) is conveying to me that the order cannot be amended as the alloy wheels that I had ordered are already in production. I have also signed this chat which is being attached to my statement.

Ques 5: You are being shown screenshots retrieved from the chats between you and the suppliers. What does this screenshot convey?

L1446 1809 10/114.3/1387 GRB+MS 18Plus

L909

20x10 5x114.3 VC 20Plus
22x10.5 u VC 16Plus

L1138 2009 10/114.3/127 GRB+MS 67Plus

L2206 2209 139x6 HSWF 29Plus

L595 1709 4x10 HS WF 40Plus

L1841 20x10 5x114.3 VC 64Plus

L560

1507 8x10+108 HS WF ~~222~~ Plus
BSWF 10Plus
HSWF 8Plus

1608 4x10 HS WF ~~222~~ 23Plus

1708.5 4x10 HS WF 200Plus
BSWF ~~60~~ 100Plus
HSWF ~~100~~ 100Plus
HS ~~100~~ 60Plus
GRB

L868	20x8.5	5x114.3	HSWF	60Pcs
			BWF	40Pcs
			HSBWF	40Pcs
L1495	15x7	8x10x1.08	BWF	60Pcs
			HSWF	60Pcs
L1841	20x10	5x114.3	HSWF	60Pcs
			BWF	60Pcs
L2061	15x7	8x10x1.08	HSWF	80Pcs
			HSBWF	60Pcs
			BWF	60Pcs
L2203	15x7	4x10	HSWF	200Pcs
			HSBWF	90Pcs
			BWF	150Pcs
L2203	17x8.5	4x10	BWF	150Pcs
L2203	18x9	4x10	HSWF	200Pcs
			BWF	60Pcs
L2203	18x9	5x114.3	HSWF	8Pcs
			BWF	12Pcs
			HSBWF	18Pcs

Ans: The screenshots are the orders placed by me in my own hand writing to the supplier M/s Shandong Shuangwang Aluminium Industry Co. Ltd., China. I have also signed these orders which is being attached to my statement.

Ques 6: If you were in contact with Chinese suppliers directly why were you not importing the alloy wheels yourself?

Ans: M/s Vinayak Creations had visited our premises during COVID and assured us that they would provide us the alloy wheels at lower rates.

Ques 7: From where were you purchasing alloy wheels before your purchases from M/s Vinayak Creations started?

Ans: We were purchasing alloy wheels from few Delhi and Mumbai based importers earlier.

Ques 8: Who made payments to M/s Shandong Shuangwang Aluminium Industry Co. Ltd., China?

Ans: All the payments were done by M/s Vinayak Creations.

Ques 9: When were the payments made by you to M/s Vinayak Creations?

Ans: The payments were made after receipt of consignment by us.

Ques 10: From where did you receive the alloy wheels?

Ans: The alloy wheels were received by us directly from Mundra to Ludhiana.

Ques 11: Did the consignment which was imported by M/s Vinayak Creations at your premises completely yours?

Ans: Yes, the whole consignment was received by us.

10.2. Statement dated 13.07.2023 (RUD - 18) of Sh. Ketan Baweja, Manager and son of Proprietor of M/s KB Tyres, Ludhiana, was again recorded under Section 108 of the Act and his statement is reproduced as under:

Question 1: How did you come in contact with M/s Vinayak Creations, Delhi?

Ans: I came in contact with M/s Vinayak Creations, Delhi during COVID period most probably in June, 2020

Question 2: When did you become part of the Group 24435687982@chatroom and who added you in the group?

Ans: I became part of the group during COVID period and Sh. Vikas Mahajan of M/s Vinayak Creations, Delhi added me in the group.

Question 3: In your statement dated 1.07.2023 you had stated that M/s Vinayak Creations had visited your premises during COVID and assured you that they would provide you alloy wheels at lower rate. Why did Vinayak offer you wheels at a rate lower than the import price offered by M/s Shangdong to other importers for same type of wheels? For context see Annexure-A-1, which compares the unit price of M/s Shangdong alloy wheels for M/s Vinayak creations vis-à-vis other importers in respect of identical goods.

Ans: I have seen and signed all the pages of Annexure-1 in token of having seen and understood the same. I cannot offer any comment on the same.

Question 4: Were you not suspicious of offer made by M/s Vinayak Creations because you were aware of actual rates of M/s Shangdong and were also in touch with M/s Shangdong people through chat group/conversation?

Ans: Being a business man as I was offered lower rates I started purchasing from M/s Vinayak Creations and actual rates were also done by him.

11. It can be seen from above statements that:-

11.1. On the issue of imported alloy wheels being invoiced at much lower rates, Sh. Vijay Kumar Baweja, Karta of HUF M/s KB Tyres in his statement dated 11.11.2022 stated that they got 5-10% quantity discount. During the recording of his next statement dated 26.06.2023, he was asked in question no. 12 to produce purchase order or any other document in respect of the said 5-10% discount. In response, he stated that “I am unable to produce any such communication or proof of the said fact”.

11.2. Sh. Vijay Kumar Baweja, Karta of HUF M/s KB Tyres offered another excuse on the issue of alloy wheels being invoiced at much lower rates and stated in his statement dated 11.11.2022 that they purchased low quality/low grade alloy wheels from M/s Shandong Shuangwang Aluminium Industry Co. Ltd. However, buyers of M/s KB Tyres in their statements (para 8 above) stated that the imported alloy wheels which were purchased from M/s KB Tyres were of standard quality & design. Further, another statement dated 26.06.2023 of Sh. Vijay Kumar Baweja was recorded under Section 108 of the Act wherein from question no. 2 to 6 he was asked to produce any invoice, purchase document, sale invoice, sale document or laboratory report of any alloy wheel whereunder it had been mentioned that the alloy wheels were of low quality. In response, he could not provide any invoice, purchase document, sale invoice, sale document or laboratory report whereunder it had been mentioned that the alloy wheels were of low quality. Further, in question no. 10 he was asked that if he had no proof or evidence, then why did he claim that alloy wheels were of low quality. In response, he stated that "***I cannot offer any comments on the same***".

11.3. Sh. Ketan Baweja, Manager & son of Proprietor of M/s KB Tyres was asked in question no. 3 of statement dated 13.07.2023 that:-

Question 3: *In your statement dated 1.07.2023 you had stated that M/s Vinayak Creations had visited your premises during COVID and assured you that they would provide you alloy wheels at lower rate. Why did Vinayak offer you wheels at a rate lower than the import price offered by M/s Shangdong to other importers for same type of wheels? For context see Annexure-A-1, which compares the unit price of M/s Shangdong alloy wheels for M/s Vinayak creations vis-à-vis other importers in respect of identical goods.*

In response, he stated that "***I cannot offer any comment on the same***".

11.4. Further, it is pertinent to mention that after DRI's intervention, the same alloy wheels from same Chinese Supplier i.e. M/s Shandong Shuangwang Aluminium Industry Co. Ltd. were imported at higher rate. The details of few such consignments of Alloy Wheels, are as under alongwith % increase in prices:-

Table - 1

Sr. No.	Description of goods/alloy	Earlier Unit price i.e. before DRI intervention	Unit price declared after DRI intervention	Increase (%)
----------------	-----------------------------------	--	---	---------------------

	wheels	BE No. & Date	Unit price (\$)	BE No. & Date	Unit price (\$)	
1.	Model No. L560 Alloy Wheels of size -18" -	2013002 dated 29.08.2022	2.253	2004773 dated 17.03.2023 / 2006212 dated 12.04.2023	3.647	62%
2.	Model No. L 217 Alloy Wheels of size -20" -	2006371 dated 10.05.2022	3.442	2004773 dated 17.03.2023	3.749	9%
3.	Model No. L 217 Alloy Wheels of size -22" -	2004419 dated 28.03.2022	2.48	2004773 dated 17.03.2023	3.696	49
4.	Model No. L 560 Alloy Wheels of size -16" -	2009191 dated 17.09.2021	1.72	2004773 dated 17.03.2023 / 2006212 dated 12.04.2023	3.757	118
5.	Model No. L 560 Alloy Wheels of size -17" -	2013002 dated 29.08.2022	2.241	2004773 dated 17.03.2023	3.620	62

The above Table-1 goes on to prove beyond doubt that the imported goods were being undervalued massively.

11.5. Finally, M/s KB Tyres is the beneficiary owner of the import as evident from the following facts:

- (i) M/s KB Tyres was the sole buyer of the imported Alloy Wheels ;
- (ii) Sh. Ketan Baweja, Manager & son of Proprietor of M/s KB Tyres was in direct contact with the foreign supplier/agent and used to place and amend orders with them directly which were then imported in SEZ and cleared into DTA through M/s Vinayak Creations and then delivered to M/s KB Tyres; Sh. Ketan Baweja was the part of the whatsapp group 24435687982@chatroom having other members Sh. Vikas Mahajan, proprietor of M/s Vinayak Creations & minixiang686 i.e. overseas supplier/agent; Sh. Ketan Baweja in answer to question no. 5 of his statement dated 01.07.2023 admitted that he himself directly placed orders of alloy wheels in his own handwriting to the supplier M/s Shandong Shuangwang Aluminium Industry Co. Ltd., China. The same facts (mentioned at points (i) & (ii) above) were also disclosed by Sh. Vikas Mahajan, Proprietor of M/s Vinayak Creations in his statement dated 07.09.2022 (para 3).

(iii) The imported alloy wheels were directly consigned and delivered to the premises of M/s KB Tyres at Ludhiana from Mundra, as evident from the following illustrative documents (Invoices & transport documents) **(RUD - 19)** and the same were then sold by M/s KB Tyres in domestic market as it is:

Table - 2

S. No.	Roadlines document no. and date	E Invoice no. and date issued by M/s Vinayak Creations	Starting point of alloy wheels consignment	Ending point of alloy wheels consignment
1	L.R. No. 437 dated 4.08.2022	791275767751 dated 4.08.2022	Mundra Consignor – M/s Vinayak Creations	Ludhiana Consignee – M/s KB Tyres
2	L.R. No. 419 dated 22.07.2022	781272982309 dated 22.07.2022	Mundra Consignor – M/s Vinayak Creations	Ludhiana Consignee – M/s KB Tyres
3	L.R. No. 168 dated 12.05.2022	731258567732 dated 11.05.2022	Mundra Consignor – M/s Vinayak Creations	Ludhiana Consignee – M/s KB Tyres
4	L.R. No. 358 dated 05.07.2022	751269567925 dated 5.07.2022	Mundra Consignor – M/s Vinayak Creations	Ludhiana Consignee – M/s KB Tyres
5	L.R. No. 884 dated 31.01.2022	711237795390 dated 31.01.2022	Mundra Consignor – M/s Vinayak Creations	Ludhiana Consignee – M/s KB Tyres

(iv) Thus, M/s KB Tyres routed the import of alloy wheels using conduit of M/s Vinayak Creations as an importer-on-paper for which they themselves placed the orders with Chinese supplier i.e. M/s Shandong Shuangwang Aluminium Industry Co. Ltd. and all such imported goods were immediately invoiced and consigned/delivered to M/s KB Tyres, proving effective control of such imported alloy wheels rested with M/s KB Tyres only.

(v) M/s KB Tyres was well aware that alloy wheels of different sizes were imported by undervaluing them on their behalf. To mislead the investigation, Sh. Vijay Kumar Baweja in his statement dated 11.11.2022 claimed that the imported alloy wheels were of lower price/rates because they got quantity discount and the alloy wheels

themselves were of low quality but as successfully established in para 10.1 to 10.3 above, these claims were found to be bogus.

12. In view of the above, the value declared in bills of entry is liable to be rejected in terms of Rule 12 of Customs Valuations (Determination of Value of Imported Goods) Rules, 2007 [hereinafter referred to as 'the CVR, 2007'].

12.1 For re-determination of value, procedure laid down under Rule 4 to 9 of CVR, 2007 is required to be followed sequentially.

12.1.1. Rule 4 provides for the determination of the value of the goods in question on that of 'identical goods' sold for export to India and imported contemporaneously. Identical goods have been defined in Rule 2(d) *ibid* as to mean -

"identical goods" -

- (i) which are same in all respects, including physical characteristics, quality and reputation as the goods being valued except for minor differences in appearance that do not affect the value of the goods,*
- (ii) produced in the country in which the goods being valued were produced, and*
- (iii) produced by the same person who produced the goods, or where no such goods are available, goods produced by a different person, but shall not include imported goods where engineering, development work, art work, design work, plan or sketch undertaken in India were completed directly or indirectly by the buyer on these imported goods free of charge or at a reduced cost for use in connection with the production and sale for export of these imported goods;"*

The import data of identical goods with respect to the impugned goods for contemporary period was available for valuation of goods. Part of the imported alloy wheels were identical to the alloy wheels imported by other importers which were from same supplier i.e. M/s Shandong Shuangwang Aluminium Industry Co. Ltd., China, having same Model No., same size and same functionality. The details of import of identical goods through the ports i.e. INMAA1, INNSAI & INSGF6 are detailed in Annexure-B. Accordingly, the respective declared value of impugned goods, was compared with the unit value of goods shown in contemporaneous import data in Annexure-B and the value for impugned goods is re-determined as detailed in Annexure-A.

12.1.2. For the remaining goods as detailed in Annexure-C, Rule 4 of C V Rules, 2007 does not appear to be applicable. The next Rule which is to be considered for re-determination of value is Rule 5. It takes into account the value of **similar goods** imported contemporaneously. "Similar goods" have been defined in Rule 2(f) of CVR, 2007 is as under:-

"Rule 2(f) "similar goods" means imported goods -

- (i) which although not alike in all respects, have like characteristics and like component materials which enable them to perform the same functions; and to be commercially interchangeable with the goods being valued having regard to the quality, reputation and the existence of trade mark;*
- (ii) produced in the country in which the goods being valued were produced; and*
- (iii) produced by the same person who produced the goods being valued, or where no such goods are available, goods produced by a different person, but shall not include imported goods where engineering, development work, art work, design work, plan or sketch undertaken in India were completed directly or indirectly by the buyer on these imported goods free of charge or at a reduced cost for use in connection with the production and sale for export of these imported goods;"*

The details of import of similar goods through the ports i.e. INMAA1, INNSAI, INSGF6, INCPR6, INBRC6 & INDEL4 are as per Annexure-D. The remaining alloy wheels are similar to the cited imports in as much as the production and imports are from the same country i.e. China; of alloy wheels of the same size; having the same function. Accordingly, the respective declared value of impugned goods was compared with the unit value of goods shown in contemporaneous import data in Annexure-D. Accordingly, the value of impugned goods has been re-determined as per Rule 5 of CVR, 2007 as detailed in Annexure-C.

13. Considering the re-determined values as per para 11, the duty demand is required to be calculated and demanded from the importer. For the purpose of current investigation, attention is to be paid to Section 2(26) of the Customs Act, 1962 which defines the scope of term "importer". It reads as follows:-

(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;

Further, as per Section 2(3A), a beneficiary owner is 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;]

As already shown in para 10.5, M/s KB Tyres is the beneficiary owner of imported alloy wheels and accordingly, qualifies as an importer for the purpose of current investigation. Further, since M/s Vinayak Creations have also held themselves to be importer by filing the bills of entry for home consumption, they too are included in the definition of importer. In view of these facts, duty is liable to be demanded jointly & severally from both M/s Vinayak Creations & M/s KB Tyres.

14. Section 112(a)(ii) of the Act, provides that any person who, in relation to any goods, does or omits to do any act or omission would render such goods liable to confiscation under Section 111, or abets the doing or omission of such act, in case of dutiable goods, other than prohibited goods, shall be liable to penalty. In the present case, as the goods are liable to confiscation under Section 111(m) of the Act as described in preceding paras and by their act of omission and commission, it is evident that M/s Vinayak Creations & M/s KB Tyres jointly and severally, is also liable to penal action under Section 112(a)(ii) of the Act:

15. Accordingly, M/s Vinayak Creations & M/s KB Tyres jointly & severally appeared to have evaded duty amounting to Rs. 5,63,67,948/- [differential BCD amounting to Rs.1,72,13,340/-, differential SWS amounting to Rs. 17,21,334/- & differential IGST amounting to Rs. 3,74,33,274/-] as detailed in Annexure-A & Annexure-C, by reason of wilful mis-statement, which is recoverable from them under Section 28(4) of the Act by invoking the extended period of limitation along with interest at appropriate rate under Section 28AA of the Act. Further, M/s Vinayak Creations & M/s KB Tyres jointly & severally has wilfully short paid the appropriate Customs duties by suppression of facts i.e. they have not declared the actual prices before the Indian Customs at the time of filing BEs as detailed in Annexure-A & Annexure-C.

16. Further, during the course of investigation, M/s Vinayak Creations deposited Rs.1,21,14,492/- against differential BCD & differential SWS on the imported consignments of Alloy Wheels vide the TR 6 Challans mentioned in the table-3 below:

Table – 3

Sr. No.	Amount	DD No. & Date	TR-6 Challan No. & Date

1	50,00,000/-	137233 dated 30.11.2022	9712 dated 04.02.2023 (RUD - 20)
2	Rs. 21,83,548/-	200757 dated 12.12.2022	
3	Rs. 42,32,872/-	200857/2009978 dated 01.02.2023/15.03.2023	298 dated 15.04.2023 (RUD - 21)
4	Rs. 6,98,072/-	200915/200974 dated 20.02.2023/15.03.2023	301 dated 15.04.2023 (RUD - 22)

17. Further, in view of facts, as discussed above, M/s Vinayak Creations & M/s KB Tyres appeared to be jointly and severally, liable for penalty under Section 114A of the Act ibid.

SHOW CAUSE NOTICE-

18. M/s. Vinayak Creations (IEC- 0512015414), 89-C, 2nd Floor, DDA Janta Flats, Pitampura Village, Pitampura, Delhi, along with M/s KB Tyres, B-XXX/144, G. T. Road, Opp. Bhagat Ford, Sherpur Chowk, Ludhiana, were called upon to show cause within 30 days from the receipt of the Show Cause Notice, as to why: -

- (i) The declared value of Rs. 13,89,33,369/- of the impugned goods detailed in Annexure-A & Annexure-C of the Notice, should not be rejected under Rule 12 of CVR, 2007 read with Section 14 of the Customs Act, 1962 and the same should not be re-determined to Rs.25,36,88,961/- (Twenty Five Crores Thirty Six Lakhs Eighty Eight Thousand Nine Hundred Sixty One Only) under Rule 4 & Rule 5 of CVR, 2007;
- (ii) The differential total duty amounting to Rs.5,63,67,948/- [differential BCD amounting to Rs.1,72,13,340/-, differential SWS amounting to Rs. 17,21,334/- & differential IGST amounting to Rs. 3,74,33,274/-] should not be demanded and recovered from M/s Vinayak Creations & M/s KB Tyres, jointly & severally, under section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA of the Customs Act, 1962;
- (iii) Penalty should not be imposed upon M/s Vinayak Creations & M/s KB Tyres, jointly and severally, under Section 112(a) of the Customs Act, 1962.

- (iv) Penalty should not be imposed upon M/s Vinayak Creations & M/s KB Tyres, jointly and severally, under Section 114A of the Customs Act, 1962;
- (v) The BCD & SWS amounting to Rs. 1,21,14,492/- as detailed in Table-3 above, should be appropriated against the impugned goods imported vide Bills of Entry, as detailed in Annexure-A & Annexure-C.

PERSONAL HEARING & SUBMISSION-

19. Opportunities of personal hearing were provided to both the noticees on 25.07.2025, 21.08.2025 and 26.08.2025 vide this office letters dated 15.07.2025, 14.08.2025 and 21.08.2025. However, neither of the noticees nor their authorised representative appeared on the scheduled dates of hearing.

19.1. It is observed that M/s. KB Tyres, vide their letter dated 30.09.2024, requested supply of relied upon documents (RUDs) in respect of the show cause notice. In compliance, this office had duly forwarded the RUDs on 03.10.2024 by email, with reference to the SCN dated 02.09.2024. Thereafter, neither M/s. KB Tyres nor M/s. Vinayak Creations submitted any written reply, despite the specific and categorical direction contained in Para 19 of the SCN requiring them to file a written submission within 30 days of its receipt. This deliberate non-compliance indicates that the noticees chose not to contest the allegations on merits.

19.2 Subsequently, M/s. KB Tyres, vide email dated 28.08.2025 from their registered email ID *kbtyres2018@gmail.com*, claimed that the hearing notice dated 21.08.2025 (fixing hearing on 26.08.2025) was received by them only on 28.08.2025, and therefore they could not attend the said hearing.

19.3 This contention does not hold merit. It is on record that all the hearing notices dated 15.07.2025, 14.08.2025 and 21.08.2025 were duly communicated to the noticee both at their email ID *kbtyres2018@gmail.com* as well as sent by Speed Post. Hence, the plea of non-receipt or delayed receipt of hearing notice is untenable. In any event, the noticees were afforded multiple opportunities, which they failed to avail.

20. It is amply clear that the noticees were afforded sufficient opportunities to submit their written reply as well as to appear for personal hearings. However, neither any reply was filed nor was any of the hearings attended by the noticees. Accordingly, I hold that the requirement of compliance with the Principles of Natural Justice, as envisaged under Section 122A of the Customs Act, 1962, stands duly satisfied.

21. Further, I note that the adjudication proceedings are required to be completed within the statutory time limit of one year from the date of the show cause notice, as prescribed under Section 28(9) of the Customs Act, 1962. In view of the above, and to ensure adherence to the statutory mandate, I proceed to adjudicate the matter ex parte, based on the evidences available on record.

DISCUSSION AND FINDINGS-

22. I have carefully gone through the Show Cause Notice dated 02.09.2024, the relied upon documents (RUDs) annexed thereto, and all the evidences placed on record during the course of investigation. I have also considered the statements recorded under Section 108 of the Customs Act, 1962, the seizure proceedings, panchnamas, comparative import data, and other relevant material available in the case file.

23. The issues that arise for consideration and decision before me are as follows:

1. Whether the value declared by M/s Vinayak Creations in respect of import of alloy wheels of various sizes from M/s Shandong Shuangwang Aluminium Industry Co. Ltd., China, is liable to be rejected under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, read with Section 14 of the Customs Act, 1962.
2. Whether the differential duty amounting to ₹5,63,67,948/- is liable to be demanded and recovered jointly and severally from M/s Vinayak Creations and M/s KB Tyres under Section 28(4) of the Customs Act, 1962, along with applicable interest under Section 28AA ibid.

3. Whether M/s KB Tyres qualifies as the "beneficial owner/importer" within the meaning of Section 2(26) read with Section 2(3A) of the Customs Act, 1962, and is therefore equally liable for the duty evasion.
4. Whether M/s Vinayak Creations and M/s KB Tyres are liable to penal action under Sections 112(a) and 114A of the Customs Act, 1962.
5. Whether the amount of ₹1,21,14,492/- voluntarily deposited by M/s Vinayak Creations during the course of investigation is liable to be appropriated against the duty liability.

24. I find that intelligence was received by DRI alleging that M/s Vinayak Creations, Delhi, in collusion with M/s KB Tyres, Ludhiana, was engaged in evasion of Customs duty on the goods i.e. Alloy Wheels by way of undervaluing their imports made from Adani Ports and Special Economic Zone (INAJM6). Pursuant to the intelligence, searches were conducted at the premises of both firms in September 2022, leading to recovery of documents, electronic data, and statements from key persons.

25. I find that investigation further indicated that alloy wheels were declared at substantially lower values as compared to contemporaneous imports by other Indian importers from the same supplier. It also revealed that M/s KB Tyres was the sole buyer of such imports, with consignments being directly transported from Mundra to their Ludhiana premises. Based on these findings, the SCN proposes rejection of declared value, redetermination under the Customs Valuation Rules, recovery of differential duty with interest, and imposition of penalties on both noticees.

26. In light of the above facts and the proposals made in the Show Cause Notice, the first issue that arises for determination is whether the declared transaction value of the imported alloy wheels is liable to rejection under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, read with Section 14 of the Customs Act, 1962.

27. I find that the declared values of alloy wheels imported by M/s Vinayak Creations from M/s Shandong Shuangwang Aluminium Industry Co. Ltd., China, were significantly lower than contemporaneous imports of identical goods made by other importers in India from the same supplier during the same period. The comparative details brought out in the SCN are as follows:

27.1 M/s. F2S International, Kerala imported alloy wheels of size 16" vide Bill of Entry No. 9613630 dated 19.07.2022 at a unit price of USD 3.757 (₹300/-) from M/s Shandong Shuangwang Aluminium Industry Co. Ltd., China, whereas M/s Vinayak Creations imported identical alloy wheels of the same size (16") vide Bill of Entry No. 2010016 dated 13.07.2022 at only USD 2.279 (₹182) from the same supplier.

27.2 M/s. Juneja Agencies, Jalandhar, Punjab imported alloy wheels of size 16" vide Bill of Entry No. 9257400 dated 24.06.2022 at a unit price of USD 3.818 (₹301) from M/s Shandong Shuangwang Aluminium Industry Co. Ltd., China, whereas M/s Vinayak Creations imported the same size alloy wheels from the same supplier vide Bill of Entry No. 2009445 dated 04.07.2022 at only USD 0.973 (₹77 approx.).

27.3 M/s. Wheel Paradise, Ludhiana, Punjab imported alloy wheels of size 20" vide Bill of Entry No. 8856110 dated 27.05.2022 at a unit price of USD 3.749 (₹295) from M/s Shandong Shuangwang Aluminium Industry Co. Ltd., China, whereas M/s Vinayak Creations imported alloy wheels of the same size vide Bill of Entry No. 2006239 dated 06.05.2022 at only USD 2.738 (₹211) from the same supplier.

27.4 These comparisons show that M/s Vinayak Creations consistently declared values much lower than contemporaneous imports of identical goods from the same supplier, which casts serious doubt on the genuineness of their declared transaction values.

28. I further note that Shri Vijay Kumar Baweja, M/s. KB Tyres in his statements dated 03.10.2022 and 11.11.2022 stated that they got “quantity discounts” and the goods were of “low quality/low grade”. In this regard, I find that during his statement dated 26.06.2023 (RUD-16), Shri Vijay Kumar Baweja, Karta of HUF M/s KB Tyres, was specifically confronted with his earlier claim that the alloy wheels imported through M/s Vinayak Creations were of “low quality/low grade.” He was shown various purchase invoices of M/s KB Tyres (Nos. VC/464/2022-23 dated 04.08.2022, VC/401/2022-23 dated 22.07.2022, VC/061/2022-23 dated 11.05.2022, VC/323/2022-23 dated 05.07.2022) as well as sale invoices (Nos. 2883 dated 05.09.2022, 2811 & 2813 dated 01.09.2022, and 2834 dated 02.09.2022) and was asked whether the alleged low quality of alloy wheels was mentioned in any of these documents. He categorically admitted that nowhere in any purchase invoice, sale invoice, or other commercial document was it ever recorded that the alloy wheels were of low quality. When further asked if he could produce any laboratory test report or other evidence to support his claim of low quality, he replied in the negative. Thus, his admission makes it abundantly clear that the defence of “low quality/low grade” is a mere afterthought without any documentary or evidentiary basis.

29. This categorical admission of Shri Vijay Kumar Baweja establishes that the claim of importing “low grade/low quality” alloy wheels is devoid of any supporting evidence. The explanation advanced by the noticees, therefore, cannot be accepted as a valid justification for the abnormally low declared values.

30. In this context, it is further relevant to note that the downstream buyers of M/s KB Tyres, whose statements were recorded on 20.06.2023, have uniformly confirmed that the alloy wheels purchased from M/s KB Tyres were of standard quality and comparable to those available from other established importers.

30.1 Shri Karninder Singh, Proprietor of M/s Khalsa Tyres, Jalandhar, in his statement dated 20.06.2023 (RUD-13) stated that the alloy wheels purchased from M/s KB Tyres were unused, of standard quality, and available at low rate. He further confirmed that designs of alloy wheels supplied by M/s KB Tyres were similar to those supplied by other importers such as M/s Plati India Pvt. Ltd. and M/s GMAX, Ludhiana but at the higher price.

30.2 Shri Arun Kumar Saklani, Authorised Representative of M/s. The Tyre Corner, Mohali, in his statement dated 20.06.2023 (RUD-14) stated that the alloy wheels supplied by M/s KB Tyres were unused, of standard quality, and available at cheaper rates than similar products sourced from firms like M/s Velocity, Ludhiana; M/s K.K. Overseas, Ludhiana; and M/s Hindustan Agencies.

30.3 Shri Raminder Singh Nagi, Proprietor of M/s Creative Wheels & Tyres, Amritsar, in his statement dated 20.06.2023 (RUD-15) admitted that the alloy wheels purchased from M/s KB Tyres were unused and of standard quality, though comparatively lower in price. He further stated that design of alloy wheels was similar from all the firms however the prices of alloy wheels purchased from KB Tyres were lower than those purchased from other established firms like M/s Plati India Pvt. Ltd. and M/s Neo Wheels, Ludhiana.

30.4 I find that the above statements of independent buyers recorded on 20.06.2023 make it abundantly clear that the alloy wheels supplied by M/s KB Tyres (sourced through M/s Vinayak Creations) were not of inferior or low quality, as claimed by them. Instead, they were of standard quality and comparable to goods purchased from other reputed importers at higher price.

31. The above statements of the buyers of M/s KB Tyres were made voluntarily and have not been retracted at any stage of the investigation. It is further significant to note that these statements stand duly corroborated by substantial documentary evidence, including contemporaneous import data as

well as import transactions undertaken subsequent to the intervention of DRI, as discussed hereinbelow. In this context, reliance is placed upon the following settled judicial precedents which uphold the evidentiary value of statements recorded under Section 108 of the Customs Act, 1962:

- a. The Hon'ble Supreme Court in the judgement in the case of Bhana Khalpa Bhai Patel v. Asstt. Collector of Customs, Bulsar-1997 (96) E.L.T 211(S.C) has held as under:-

“7. An attempt was made to contest the admissibility of the said statements in evidence. It is well settled that statements recorded under Section 108 of the Customs Act are admissible in evidence vide Ramesh Chandra v. State of West Bengal, AIR 1970 SC 940 and K.I Pavunny v. Asstt. Collector (HQ), Central Excise Collectorate, Cochin, 1997 (90) E.L.T. 241 (S.C) = (1997) 3 SCC 721.”

- b. The Hon'ble Supreme Court has observed in the case of Naresh J. Sukhwani Vs Union of India reported as 1996 (83) E.L.T 258 and held as under :-

“4. It must be remembered that the statement made before the Customs officials is not a statement recorded under Section 161 of the Criminal Procedure Code, 1973. Therefore, it is a material piece of evidence collected by Customs official under Section 108 of the Customs Act, 1962. That material incriminates the petitioner inculpating him in contraventions of the provisions of the Customs Act. The material can certainly be used to connect the petitioner in the contravention as much as Mr. Dudani's statement clearly inculpates not only himself but also the petitioner. It can, therefore, be used as substantive evidence connecting the petitioner with the contravention by exporting foreign currency out of India. Therefore, we don't think that there is any illegality in the order of confiscation of foreign currency and imposition penalty. There is no ground warranting reduction of fine.”

32. Further, I find that post-DRI intervention, identical alloy wheels imported from the same Chinese supplier were invoiced by M/s. Vinayak Creations at much higher values — for example, alloy wheels of size 16" earlier imported at USD 1.72 per piece (BE No. 2009191 dated 17.09.2021) were later invoiced at USD 3.757 per piece (BE No. 2006212 dated 12.04.2023), reflecting a 118% increase. This corroborates that the earlier declared values were artificially undervalued in order to evade duties of Customs.

33. In view of the foregoing discussion, I hold that the defence put forth by the notice M/s. KB tyres during the investigation on the ground of alleged "quantity discounts" or import of "low quality/low grade" alloy wheels is devoid of merit and unsupported by any contemporaneous record, commercial document, or laboratory evidence. On the contrary, the voluntary and unretracted statements of buyers, corroborated by contemporaneous import data as well as post-investigation import prices, conclusively establish that the alloy wheels imported through M/s Vinayak Creations and supplied to M/s KB Tyres were of standard quality and comparable to those imported by other buyers from the same supplier at substantially higher prices. The abnormal disparity in declared values, coupled with the post-DRI import prices reflecting significant upward correction, demonstrates beyond doubt that the noticees had willfully suppressed the true value of imports with intent to evade Customs duty. Accordingly, the declared transaction values are liable to rejection under Rule 12 of the Customs Valuation Rules, 2007.

Re-determination of Value

34. Having held that the declared transaction values are liable for rejection under Rule 12 of the Customs Valuation Rules, 2007 read with Section 14 of the Customs Act, 1962, I now proceed to determine the correct assessable value of the impugned goods in accordance with the sequential application of Rules 4 to 9 of the said Rules.

35. As per Rule 4 of CVR, 2007, where the transaction value is rejected, the value shall be based on the transaction value of identical goods imported contemporaneously. The term “identical goods” under Rule 2(d) refers to goods that are the same in all respects including physical characteristics, quality and reputation, produced in the same country and, preferably, by the same manufacturer. In the present case, sufficient contemporaneous data of imports of identical alloy wheels of the same size, same model and from the same overseas supplier i.e. M/s Shandong Shuangwang Aluminium Industry Co. Ltd., China, were available in respect of other Indian importers.

36. The comparative details placed on record (Annexure-B to the SCN) clearly establish that alloy wheels of identical specifications imported contemporaneously by other buyers such as M/s F2S International, M/s Wheel Paradise and M/s Juneja Agencies, from the very same supplier, were declared at significantly higher prices than those declared by M/s Vinayak Creations. Accordingly, for such goods, I hold that the re-determined value under Rule 4 *ibid*, as worked out in Annexure-A of the SCN, represents the correct assessable value for the purposes of levy of customs duties.

37. For the remaining goods where identical contemporaneous data was not available, I find that Rule 5 of CVR, 2007 mandates reliance on the value of similar goods, that is, goods which though not alike in all respects, have like characteristics and component materials, are commercially interchangeable, and are produced in the same country by the same or different producers. Annexure-D to the SCN provides details of such comparable imports of alloy wheels of similar size, composition and function, imported contemporaneously from China through other ports. The re-determined value of these goods, as reflected in Annexure-C to the SCN, is therefore upheld as the correct assessable value under Rule 5 *ibid*.

38. In support of the above, reliance is placed on the judgment of the Hon'ble Supreme Court in Eicher Tractors Ltd. v. Commissioner of Customs,

Mumbai, 2000 (122) E.L.T. 321 (S.C.), wherein it was held that when the declared value is found unacceptable under Rule 12, the value is re-determined sequentially under the subsequent Rules to arrive at the correct assessable value.

39. In Astra Diamonds Tools Pvt. Ltd. v. Commissioner of Customs, Mumbai [2005 (182) ELT 49 (Tri-Mumbai)], the Tribunal held that once the Department produces credible evidence of undervaluation, the onus shifts to the importer to explain the discrepancy and to justify the declared value. Failure to do so would result in acceptance of the Department's re-determined value. The ratio squarely applies here, since M/s Vinayak Creations have not produced any cogent evidence to substantiate their declared prices.

40. Further, in Collector of Customs, Calcutta v. Sanjay Chandiram [1995 (77) ELT 241 (SC)], the Hon'ble Supreme Court held that Rule 3 of the Customs Valuation Rules is not of invariable application regardless of circumstances, and that where misdeclaration is evident, the declared value cannot be accepted as the transaction value. The present case demonstrates precisely such a situation, where the declared values do not represent the actual price.

41. Additionally, in Radhey Shyam Ratanlal v. Commissioner of Customs [2009 (238) ELT 14 (SC)], the Hon'ble Supreme Court held that the deemed value under Section 14(1) of the Customs Act, 1962 would prevail when the declared price does not reflect the price at which such or like goods are ordinarily sold. The contemporaneous import prices used by the Department in the instant case are therefore the appropriate basis for re-determination under Section 14.

42. In light of the foregoing analysis, I hold that the assessable values of the impugned alloy wheels, as re-determined in Annexure-A and Annexure-C to the Show Cause Notice, on the basis of contemporaneous import data of identical and similar goods in terms of Rules 4 and 5 of the Customs Valuation

(Determination of Value of Imported Goods) Rules, 2007, constitute the correct assessable values for the purpose of levy of customs duty under Section 14 of the Customs Act, 1962. I, therefore, uphold the said re-determined values.

43. I note that the Customs Act, 1962 expressly defines “beneficial owner” to mean any person on whose behalf the goods are being imported or exported or who exercises effective control over the goods being imported or exported, and that the inclusive definition of “importer” extends to any owner, beneficial owner, or person holding himself out to be the importer. The incorporation of “beneficial owner” into the statutory architecture was intended to ensure that liability for customs duties and compliance attaches to the person who in fact controls or for whose benefit the import is structured, and not merely to the individual or entity whose name appears on the Bill of Entry. On the evidentiary matrix, I find that KB Tyres exercised effective control over procurement and was the economic principal on whose behalf the goods were imported. The admission by the proprietor of Vinayak that KB Tyres was their only customer for alloy wheels, coupled with the statements and recovered communications of Shri Ketan Baweja showing direct placement and amendment of orders with the overseas supplier/agent in a common chat environment including Vinayak, demonstrates that ordering, specifications, and timing were directed by KB Tyres. The transport and e-invoice trail establishes that the impugned consignments, after de-stuffing and clearance at the SEZ warehousing unit, moved as full loads directly from Mundra to the premises of KB Tyres at Ludhiana, with KB Tyres acknowledging receipt of entire containers matched to its requirements. The payment mechanics—foreign remittances made by Vinayak and reimbursement by KB Tyres post-receipt of consignments—together with immediate domestic sales of the imported wheels by KB Tyres, show that commercial benefit, dominion, and risk of resale rested with KB Tyres, while Vinayak functioned as importer-of-record and facilitator for clearance and foreign payments. The repeated routing through the SEZ/OWS warehousing channel, including

instances where the warehouse paid duty and raised debit notes to Vinayak, evidences a recurring operational structure designed to service the demand of KB Tyres. For these reasons, I hold, that M/s KB Tyres and M/s Vinayak Creations acted in concert pursuant to a common plan under which KB Tyres exercised “effective control” and received the economic benefits of the impugned consignments of alloy wheels, while Vinayak Creations executed import logistics, payments, and documentation as the importer-of-record. Each thus qualifies as a beneficial owner and importer within the meaning of Sections 2(3A) and 2(26) of the Customs Act, 1962 and are answerable accordingly.

44. Having upheld the re-determined assessable values as per Annexure-A and Annexure-C, I now proceed to determine the consequential duty liability. On applying the revised values for the impugned alloy wheels, the differential customs duty works out to ₹5,63,67,948/-, comprising Basic Customs Duty of ₹1,72,13,340/-, Social Welfare Surcharge of ₹17,21,334/-, and Integrated GST of ₹3,74,33,274/-. I find that this differential duty is clearly recoverable jointly and severally from M/s. Vinayak Creations and M/s. KB Tyres under Section 28(4) of the Customs Act, 1962, inasmuch the undervaluation a result of wilful misstatement and suppression of the true transaction value, as is evident from (a) consistent pattern of declaring values far below contemporaneous imports from the same supplier, (b) admissions of Shri Vijay Kumar Baweja that no documents ever described the goods as “low quality,” and (c) post-DRI import prices being substantially higher.

45. Interest at the applicable rate is also leviable under Section 28AA ibid. Further, I note that an amount of ₹1,21,14,492/- has already been deposited by M/s Vinayak Creations during investigation against the differential BCD and SWS, which is liable to be appropriated against the confirmed duty demand.

46. In the instant case, it has already been established that the noticees had deliberately undervalued the imported alloy wheels by wilfully misstating and

suppressing the true transaction value with intent to evade payment of duty. The statutory preconditions for invoking Section 114A thus stand squarely attracted. Consequently, I hold that M/s Vinayak Creations and M/s KB Tyres, being jointly and severally liable for the differential duty of ₹5,63,67,948/-, are also liable to penalty equal to the said duty amount under Section 114A of the Act.

47. Further, in terms of the Fifth Proviso to Section 114A, it is clarified that where penalty is imposed under this section, no penalty shall be imposed under Section 112 or Section 114 of the Act in respect of the same duty liability. Accordingly, no separate penalty under Section 112(a) is being imposed on the noticees for the said act of undervaluation.

48. In view of the above discussion and findings, I hereby pass the following order:-

ORDER

- (i) I reject the declared transaction values of Rs. 13,89,33,369/- of the impugned goods detailed in Annexure-A and Annexure-C of the Show Cause Notice under Rule 12 of the CVR, 2007 read with Section 14 of the Customs Act, 1962 and order to re-determine the same as Rs. 25,36,88,961/- (Rupees Twenty Five Crore Thirty Six Lakhs Eighty Eight Thousand Nine Hundred and Sixty One only) under Rules 4 and 5 of the Customs Valuation Rules, 2007.
- (ii) I determine and confirm the demand of differential customs duty of ₹5,63,67,948/- (Rupees Five Crore Sixty-Three Lakh Sixty-Seven Thousand Nine Hundred Forty-Eight only), comprising Basic Customs Duty, Social Welfare Surcharge, and Integrated GST, and order to recover the same under Section 28(8) of the Customs Act, 1962, since as held in Para 43 of this OIO, M/s. Vinayak Creations and M/s. KB Tyres are joint importers cum beneficial owners in respect of the imported goods, the said differential duty is liable to be paid by both

of them jointly and severally. I also order appropriation of an amount of ₹1,21,14,492/- already deposited during investigation by M/s Vinayak Creations towards the confirmed duty liability.

- (iii) I order to recover interest on the duty liability confirmed above at (ii) under Section 28AA of the Customs Act, 1962 from M/s Vinayak Creations and M/s KB Tyres, jointly and severally.
- (iv) I impose penalty of Rs. 5,63,67,948/-, being equal to the amount of duty evaded, under Section 114A of the Customs Act, 1962 and since the aforesaid amount of penalty is to be paid by the person who is liable to pay the duty in terms of Section 28, I hereby order that both M/s Vinayak Creations and M/s KB Tyres, who have been found equally liable for payment of duty, shall pay their penalty amount in equal proportion individually.

In terms of the first proviso to Section 114A, the noticees shall be liable to a reduced penalty of 25% of the penalty amount if they discharge the entire duty liability along with interest and 25% of the penalty within 30 days from the date of communication of this order.

- (v) I don't impose penalty under Section 112(a) of the Customs Act, 1962 in terms of fifth proviso to Section 114A of the Customs Act, 1962.

49. This order is issued without prejudice to any action that can be taken against importer or any other person under this Act or any other law for the time being in force.

(Nitin Saini)
Commissioner of Custom,
Custom House, Mundra.
Date: 01.09.2025.

F.No. GEN/ADJ/COMM/310/2024-Adjn-O/o Pr Commr-Cus-Mundra.

List of Noticees:-

- 1- M/s. Vinayak Creations (IEC- 0512015414), 89-C, 2nd Floor, DDA Janta Flats, Pitampura Village, Pitampura, Delhi.
- 2- M/s KB Tyres, B-XXX/144, G. T. Road, Opp. Bhagat Ford, Sherpur Chowk, Ludhiana.

Copy to:- for information and necessary action, if any.

1. The Chief Commissioner Office, Gujarat Customs Zone for Review.
2. The Additional Director, DRI, Ludhiana Regional Unit, Ludhiana, (Email: dri-ldh-pb@nic.in;).
3. The Specified Officer, Mundra Special Economic Zone, Mundra.
4. The Deputy/ Assistant Commissioner of Customs, EDI section, Custom House, Mundra.
5. Guard File.