सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद

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

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

DIN - 20260171MN0000723627

क	फ़ाइल संख्या FILE NO.	S/49- 03,65,66/CUS/JMN/2023-24
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)	JMN-CUSTM-000-APP-428 to 430-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	30.01.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Order-in-Original No. 16&17/Additional Commissioner/2022-23 dated 28.02.2023
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	30.01.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	1. M/s Premji Kanji Masani Pvt. Ltd., 8, Abhishek Complex, Near Union Bank, S T Road, Veraval – 362265. 2. Shri Rajesh Goel, 484, Ward No. 03, Purani Anaj Mandi, Gohana, Sonipat - 131301. 3. Shri Ravi Kumar, CA, 308, Kirteedeep Building, DDA Towers, Nangal Raya, New Delhi – 110046.

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

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

ORDER-IN-APPEAL

The present three appeals have been filed by the appellants namely, Shri Premji Kanji Masani, Shri Rajesh Goel and Shri Ravi Kumar under Section 128 of the Customs Act, 1962 against the Order – In – Original No. 16&17/Additional Commissioner/2022-23 dated 28.02.2023 (hereinafter referred to as "the impugned Order") passed by the Additional Commissioner of Customs (Preventive), Jamnagar (hereinafter referred to as "the Adjudicating Authority")

2.1 Briefly stated, facts of the case are that, the present proceedings arise out of detailed investigations initiated by the officers of Customs (Preventive), Jamnagar, on the basis of specific intelligence that certain exporter entities were engaged in fraudulent export of wallpaper and allied goods by grossly inflating the declared export values under Free Shipping Bills, with the sole intent of illegally availing refund of Integrated Goods and Services Tax (IGST), thereby causing substantial loss to the Government exchequer.

2.2 The investigation was triggered by abnormal patterns noticed in export declarations filed at Pipavav Port, wherein newly created exporter firms declared exports of "Wallpaper and Similar Wall Coverings" to overseas destinations, mainly Dubai, at disproportionately high FOB values. The declared values were found to be inconsistent with prevailing market prices and historical data. Simultaneously, substantial IGST refund claims were lodged immediately after export, raising suspicion regarding the genuineness of the transactions.

2.3 On verification of GST records, it was noticed that the purported suppliers of goods had either not filed GST returns or had negligible business activity, and that the exporters claimed to have procured goods at prices higher than the declared export prices, which was commercially untenable. These discrepancies indicated fictitious procurement and artificial inflation of export value.

2.4 During the course of investigation, physical verification was conducted at Contrans Logistics Container Freight Station and godowns located at Rajula, where consignments declared for export were found lying prior to shipment. The goods were detained and subsequently seized under panchnamas dated 31.05.2019 and 01/02.06.2019, consisting of large quantities of wallpaper and allied goods declared for export under multiple Shipping Bills.

2.5 Preliminary examination revealed that the goods were of ordinary commercial quality and did not justify the exceptionally high declared export values. Statements were recorded from various persons connected with the exports, including transporters, freight forwarders, dummy proprietors and facilitators, which disclosed the existence of a coordinated scheme aimed at executing overvalued exports to fraudulently claim IGST refunds.

2.6 The investigation revealed that several exporter firms, inter alia M/s Vicky Sales, M/s Jagdambe Exports, M/s Rana Exports, M/s Kumar Exports and other similarly placed entities, were floated as front firms using dummy proprietors. These firms existed largely on paper and were controlled by a set of individuals who coordinated procurement, documentation, banking and statutory compliances to create an appearance of legitimate export activity. Funds received as IGST refunds were routed through multiple bank accounts opened in the names of dummy proprietors, employees and relatives, thereby layering transactions and masking the ultimate beneficiaries. Bank statements revealed abnormal fund movements inconsistent with genuine business activity.

2.7 Investigations brought out that Shri Rajesh Goel played a central role in the execution of the fraudulent export scheme, particularly at the Delhi end. Statements of co-noticees revealed that he facilitated the creation of exporter firms by arranging dummy proprietors, KYC documents and introductions for opening bank accounts. He was found to be actively involved in coordinating preparation of packing lists and invoices, monitoring movement of export consignments, and facilitating operational aspects of exports. Electronic evidence, including email correspondence, travel details and banking records, indicated that Shri Rajesh Goel maintained close coordination with other key persons, including Shri Sandeep Dawar, and was fully aware of the overvaluation mechanism adopted for claiming IGST refunds. His role was not confined to peripheral assistance but extended to operational execution and financial facilitation of the scheme.

2.8 The investigation further revealed the involvement of Shri Ravi Kumar, Chartered Accountant, proprietor of M/s Har Associates, New Delhi. Statements recorded under Section 108 of the Customs Act disclosed that he provided professional and logistical support to the exporter entities involved in the scheme. His role included facilitating GST registrations, filing GST returns, and assisting in opening and operating bank accounts for firms which were

subsequently found to be dummy entities with no genuine business activity. Several witnesses stated that Shri Ravi Kumar facilitated the use of KYC documents of employees and other individuals for creation of fictitious firms and bank accounts and that he received regular payments for such services. Email correspondence recovered during investigation showed communication between Shri Ravi Kumar and other key participants relating to GST documents, e-way bills and statutory compliances, indicating that he was not merely performing routine professional services but was actively involved in sustaining the fraudulent structure. It was alleged that he was fully aware of the fraudulent nature of the transactions and continued to provide assistance which enabled generation of artificial Input Tax Credit and subsequent IGST refund claims.

2.9 Shri Premji Kanji Masani, a licensed Customs Broker, was found to have handled export documentation and Customs clearance for several consignments exported by the aforesaid exporter entities. The investigation revealed that he facilitated filing of Shipping Bills and related export documents for firms which were later found to be dummy entities floated solely for executing fraudulent exports. It was alleged that despite clear indicators of abnormal valuation, repetitive exports of identical goods, and the suspicious profile of exporter entities, Shri Premji Kanji Masani failed to exercise the level of due diligence expected of a Customs Broker under the Customs Brokers Licensing Regulations. The department alleged that by his acts and omissions, he knowingly aided and abetted export transactions which rendered the goods liable to confiscation under Section 113 of the Customs Act, 1962.

2.10 Based on the above investigations, Show Cause Notices were issued proposing confiscation of seized goods, recovery of inadmissible IGST refunds, and imposition of penalties on the exporters and other associated persons, including Shri Rajesh Goel, Shri Ravi Kumar and Shri Premji Kanji Masani, for their respective roles in facilitating and abetting the fraudulent export scheme.

2.11 After granting opportunity of personal hearing and considering submissions made by the noticees, the adjudicating authority passed Order-in-Original No. 16–17/Additional Commissioner/2022-23 dated 28.02.2023, holding that the exports were grossly overvalued with intent to defraud the Government exchequer. Penalties were imposed upon Shri Rajesh Goel under Sections 114 and 114AA of the Customs Act, 1962, upon Shri Ravi Kumar under Section 117 of the Customs Act, 1962, and upon Shri Premji Kanji Masani under

Sections 114(iii) and 114AA of the Customs Act, 1962.

3. Aggrieved by the impugned order, the Appellants have filed the present appeals wherein they have mainly contended as under: -

3.1 Submission by Ravi Kumar;

- The appellant submits that the impugned Order-in-Original imposing penalty of ₹5,00,000/- under Section 117 of the Customs Act, 1962 is illegal, arbitrary and unsustainable, as no evidence whatsoever exists to establish that the appellant abetted or contravened any provision of the Customs Act. The appellant is a practicing Chartered Accountant since 2014 and has never been proceeded against by any tax authority. His involvement in the present matter was limited strictly to rendering professional services as a GST consultant, primarily filing periodic GST returns based on data supplied by clients, and accompanying an advocate to Customs, Jamnagar, to enquire about withheld IGST refund of M/s Vicky Sales. He neither arranged goods, nor prepared export documents, nor dealt with transporters, CHAs, freight forwarders, suppliers, or banks, nor derived any benefit from the alleged IGST refunds. The essential ingredients of Section 117 are therefore wholly absent.

- It is submitted that the allegation of "collusion" rests solely on the uncorroborated statement of Shri Sandeep Dawar, who himself is alleged to be the kingpin of the scheme. Such statements are self-serving and aimed at diluting his own role. No independent documentary evidence exists to show that the appellant had knowledge of or participated in any fraudulent export or refund. The appellant was paid only ₹30,000/- for a professional visit to Jamnagar relating to withheld refund. He was never a beneficiary of any export proceeds or IGST refund. None of the alleged acts attributed to exporters can be fastened upon the appellant merely because he acted as a tax professional.

- The appellant further submits that filing of monthly GST returns is a mechanical process limited to arithmetical verification, tax rate application and matching of ITC as per GSTR-2A. The appellant did not obtain GST registrations for the concerned entities nor file annual returns (GSTR-9/9C). Returns were filed purely on the basis of data furnished by taxpayers. Such professional activity, in absence of mens rea, cannot be equated with abetment under Customs law.

- It is also urged that the investigation travelled far beyond the scope of the Customs Act by seeking details of the appellant's unrelated clients and probing his professional practice, despite the appellant not being an exporter, supplier, transporter, CHA or beneficiary. The appellant voluntarily tendered his statement when Customs officers camped in Delhi. Initial hesitation arose only due to receipt of summons without DIN and lack of clarity regarding supplementary proceedings. Alleged "non-cooperation" cannot attract Section 117, which penalizes contravention of Customs provisions, not procedural misunderstandings.
- The appellant's presence during panchnama proceedings dated 03.06.2019 was at the request of Shri Vicky Nagar, conveyed through Shri Sandeep Dawar, and was purely in the nature of professional assistance. Mere presence during panchnama, without any overt act or evidence of conspiracy, cannot constitute abetment. Likewise, the allegation that the appellant's office address was used by another GST registrant is misconceived, as the premises were rented common space and no adverse inference can be drawn therefrom.
- It is further contended that the Supplementary Show Cause Notice dated 18.07.2022 itself is time-barred. Even after applying extensions granted under the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 and the Hon'ble Supreme Court's limitation orders, the outer permissible date expired on 29.05.2022, whereas the supplementary notice was issued only on 18.07.2022. Consequently, the supplementary SCN is void ab initio and all proceedings flowing therefrom, including penalty, deserve to be set aside.
- Without prejudice, it is also submitted that even assuming arguendo any lapse, the maximum penalty permissible under Section 117 is ₹4,00,000/- , whereas ₹5,00,000/- has been imposed, rendering the order ex facie illegal.
- In support, the appellant places reliance on the following judicial precedents, which squarely apply to the present facts:
- **Mahesh Harlalka v. CCE, Surat-I** – 2019 (27) GSTL 537 (Tri-Ahmd): Penalty under Section 117 not maintainable where person is neither importer nor exporter and merely acted as mediator/professional; absence of contravention of Customs Act.
- **V. Stanley Paulus v. CCT & CE, Thiruvananthapuram** – 2019 (370) ELT 285 (Tri-Bang): Penalty under Section 117 set aside in absence of evidence

of illegal export or involvement.

- **In re Sanjeev Kumar** – 2018 (364) ELT 1134 (GOI): Mere association or request does not amount to abetment; penalty under Section 117 not imposable without proof.
- **Yogesh Kumar v. CC, New Delhi (Air Cargo Export)** – 2016 (344) ELT 1042 (Tri-Del): Penalty on CHA set aside where no finding of intentional abetment.
- **United Arab Shipping Agency Co. (I) Pvt. Ltd. v. CC, JNCH** – 2014 (310) ELT 933 (Tri-Mumbai): Section 117 penalty sustainable only when specific contravention of Customs Act is established.
- **Hazel Mercantile Ltd. v. CC, Kandla** – 2013 (297) ELT 70 (Tri-Ahmd): Penalty not sustainable in absence of evidence of accomplice role or mala fide intention.
- In view of the above, the appellant submits that he acted bona fide in his professional capacity, had no role in export operations or alleged IGST fraud, and no mens rea or abetment is established. Accordingly, the penalty imposed under Section 117 is liable to be quashed in toto with consequential relief.

3.2 **Submission by Rajesh Goel:**

- The appellant submits that the impugned Order-in-Original imposing penalties of ₹5,00,000/- each under Sections 114 and 114AA of the Customs Act, 1962 is illegal, arbitrary and unsustainable, being founded entirely on assumptions and uncorroborated statements, without any cogent evidence establishing conscious knowledge, mens rea or abetment on the part of the appellant. The appellant is merely a mustard-oil trader who, at best, assisted Shri Sandeep Dawar in minor miscellaneous activities such as loading/unloading, preparation of packing lists and monitoring transport. He neither created exporter firms, nor signed export documents, nor filed Shipping Bills, nor dealt with Customs, transporters or freight forwarders, nor derived any pecuniary benefit from alleged IGST refunds.
- It is submitted that the appellant was not even a noticee in the main Show Cause Notice dated 24.06.2020 and was arrayed only subsequently through a Supplementary SCN dated 18.07.2022 on mere suspicion arising from co-travel with Shri Sandeep Dawar. The entire case against the appellant rests primarily on statements of Shri Sandeep Dawar, who himself is alleged to be the main perpetrator, and such self-serving

statements cannot be treated as substantive evidence unless independently corroborated. No documentary evidence exists to establish that the appellant was a beneficiary of IGST refunds or exercised any control over exporter firms.

- The appellant consistently maintained that he did not create M/s Jagdambe Exports, M/s Vicky Sales or M/s Rana Exports; that procurement of goods and billings were handled by Shri Sandeep Dawar and Shri Anil Kumar; that all payments to freight forwarders and transporters were made by Shri Dawar; and that even the freight forwarder Shri Yogesh Goradia categorically stated that export documents and funds were provided by Shri Sandeep Dawar alone. Statements of Shri Ravindra Jadeja and transporters also do not implicate the appellant as a decision maker. Allegations that the appellant siphoned IGST refund or forged documents are unsupported by bank confirmations or independent proof.
- It is further contended that the request for cross-examination of Shri Sandeep Dawar was unjustly denied, despite the entire case being built on his statement, in gross violation of principles of natural justice and Section 138B of the Customs Act. Reliance is placed on *Lakshman Exports Ltd.* [2002 (143) ELT 21 (SC)], *Andaman Timber Industries* [2015 (324) ELT 641 (SC)], *Him Logistics* [2016 (336) ELT 15 (Del)], *Basudev Garg* [2017 (48) STR 427 (Del)], *Sampad Narayan Mukerjee* [2019 (366) ELT 280 (Cal)], *Shyam Traders* [2016 (333) ELT 389 (All)] and *Hi Tech Abrasives* [2018 (362) ELT 961 (Chhattisgarh), which unequivocally hold that denial of cross-examination vitiates adjudication.
- The appellant further submits that the Supplementary SCN dated 18.07.2022 is barred by limitation even after accounting for COVID extensions granted under the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 and the Hon'ble Supreme Court's limitation orders. The extended outer limit expired on 29.05.2022, whereas the Supplementary SCN was issued on 18.07.2022. Hence, the proceedings flowing therefrom are void ab initio.
- It is also urged that the Supplementary SCN is without jurisdiction in view of *Canon India Pvt. Ltd.* [2021 (376) ELT 3 (SC)], as Customs (Preventive) officers are not "proper officers" for invoking Section 124. Since confiscation and penalty are inseparable from the foundational proceedings, reliance is placed on *Bakeman's Home Products* [1997 (95) ELT 278 (Tri)] to contend that once jurisdiction fails, penalties cannot survive.

- On merits, it is submitted that no determination of export value has been undertaken in accordance with Section 14 of the Customs Act read with the Customs Valuation (Determination of Value of Export Goods) Rules, 2007. No market inquiry or NIDB comparison was carried out and the valuation opinion of M/s Vastu Interiors was never supplied to the appellant, causing serious prejudice. Reliance is placed on *Jairath International* [2019 (370) ELT 116 (P&H)] to submit that goods already exported cease to be "export goods", rendering valuation provisions inapplicable to past exports.
- It is further contended that the goods were not liable to confiscation under Section 113(d) or 113(i). Six consignments had already been exported, while remaining goods were lying outside Customs area and were not prohibited. Since confiscation itself is unsustainable, penalty under Section 114 automatically fails.
- Without prejudice, it is submitted that Section 114 cannot be invoked as the appellant neither exported nor attempted to export goods, nor abetted such export. Abetment under Section 114 must satisfy the ingredients of Section 107 IPC, namely instigation, conspiracy or intentional aiding, which are conspicuously absent. Reliance is placed on *Sri Ram v. State of UP* (AIR 1975 SC 175), *Atul Dalpatram Pandya* [2019 (366) ELT 876 (Tri-Mumbai)], *Continental Warehousing* [2018 (8) GSTL 300 (Tri-Chennai)], *Shakil Ahmad Khan* [2019 (366) ELT 634 (All)] and *Mohd. Abdul Qayyum* [2017 (358) ELT 850 (Tri-Hyd)], holding that penalty cannot be imposed solely on statements of co-accused without independent corroboration.
- It is also submitted that the Show Cause Notice does not specify the applicable sub-clause of Section 114, rendering the proposal vague and unenforceable, in terms of *Amrit Foods* [2005 (190) ELT 433 (SC)] and *B. Lakshmichand* [1983 (12) ELT 322 (Mad)], followed in *ATM International* and *S.G. Steels*.
- As regards Section 114AA, the appellant submits that he neither knowingly nor intentionally made, signed or used any false document. The legislative intent behind Section 114AA, as reflected in the 27th Standing Committee Report, is to penalize cases of fraudulent "paper exports" where no goods cross borders, which is not the present case. Reliance is placed on *Sri Krishna Sounds & Lightings* [2019 (370) ELT 594 (Tri-Chennai)] to contend that 114AA is inapplicable where goods were actually exported. Further reliance is placed on *Hindustan Steel Ltd.* [1978 (2) ELT J159 (SC)] that penalty cannot be imposed for technical or venial breaches without

mens rea.

- The appellant also relies on *Sushma* [2022 (379) ELT 376 (Tri-Del)], *Shashikant J. Parmar* [2022 (380) ELT 608 (Tri-Ahmd)], *Sabeer Ahamed Sayeed* [2021 (377) ELT 532 (Mad.)] and *Hera Shipping Solutions* [2022 (382) ELT 552 (Tri-Chennai)] to submit that absence of mens rea, non-supply of relied documents, and lack of beneficiary role disentitle the Department from imposing penalties.
- In view of the above, the appellant submits that he was at best a minor helper, never a beneficiary, signatory or decision maker; that the case is built solely on untested statements of co-accused; that cross-examination and relied documents were denied; that the Supplementary SCN is time-barred and without jurisdiction; and that essential ingredients of Sections 114 and 114AA are not satisfied. Accordingly, the penalties imposed deserve to be set aside in toto with consequential relief.

3.3 Submission by Premji kanji masani;

- The impugned Order-in-Original No. 16-17/Addl.Commr./2022-23 dated 28.02.2023 is illegal, arbitrary, bad in law and has been passed without proper appreciation of facts, evidence and settled legal principles. The adjudicating authority has failed to apply its mind judiciously and has mechanically imposed penalties without establishing the necessary legal ingredients, thereby rendering the impugned order liable to be set aside.

- The finding recorded by the adjudicating authority that the appellant had knowledge of alleged overvaluation and acted in connivance with the exporter is wholly erroneous, presumptive and unsupported by any evidence on record. There is no statement, document or material to establish that the appellant was aware of any alleged overvaluation or that it acted with any mala fide intention to defraud the exchequer.

- The appellant merely acted as a Customs Broker and filed export documents on the basis of invoices, declarations and documents furnished by the exporters. Mere handling and filing of shipping bills, without any evidence of active involvement or abetment, cannot ipso facto attract penal provisions under Sections 114 or 114AA of the Customs Act, 1962.

- The appellant has duly complied with its statutory obligations under Regulation 11(e) and 11(n) of the Customs Brokers Licensing Regulations

by exercising due diligence, obtaining and verifying KYC documents, IEC, GST registration and other credentials of the exporters through reliable and authentic sources. The exporters were found to be genuine and no discrepancy was noticed in the consignments handled by the appellant.

- All the 13 consignments handled by the appellant were physically examined by Customs officers, stuffed under Customs supervision and cleared for export only after grant of Let Export Order under Section 51 of the Customs Act, 1962. No objection regarding valuation, quality or misdeclaration was raised by the department at the time of export, and therefore subsequent allegations cannot be retrospectively fastened upon the appellant.

- The allegation of overvaluation pertains to subsequent consignments exported by the same exporters through another Customs Broker, namely M/s SSS Sai Forwarders Pvt. Ltd., with whom the appellant had no connection. The appellant cannot be held liable for consignments not handled or filed by it.

- Penalty under Section 114(iii) of the Customs Act, 1962 is not sustainable in law, as the said provision applies only when goods are liable to confiscation under Section 113. In the present case, the goods handled by the appellant were already exported, were neither seized nor held liable for confiscation, and hence the very foundation for imposition of penalty under Section 114 fails.

- Similarly, penalty under Section 114AA of the Customs Act, 1962 is wholly unjustified, as the department has failed to establish that the appellant knowingly or intentionally made, signed or used any false or incorrect declaration or document. In the absence of proof of intentional or conscious act, invocation of Section 114AA is unsustainable.

- The department has completely failed to establish the element of mens rea or conscious knowledge on the part of the appellant, which is a sine qua non for imposition of penalties under Sections 114 and 114AA. In this regard, reliance is placed on the judgment of the Hon'ble Delhi High Court in Commissioner of Customs (Import) v. Trinetra Impex Pvt. Ltd. [2020 (372) ELT 332 (Del.)], wherein it has been held that in the absence of

evidence of conscious involvement or mens rea, personal penalty on a Customs Broker is not warranted.

- Further, the appellant has already been proceeded against under the Customs Brokers Licensing Regulations, 2018 in respect of the same 13 consignments and a penalty of ₹50,000/- has been imposed under Regulation 18 for alleged lack of due diligence. Imposition of further penalties of ₹10,00,000/- under the Customs Act on the same set of facts amounts to double jeopardy and is harsh, excessive and legally untenable.

PERSONAL HEARING:

4. In accordance with the principles of natural justice, the Appellants were afforded the opportunity of personal hearing. Shri M K Kothari, Consultant appeared for personal hearing in matter of Shri Rajesh Goyal and Ravi Kumar on 18.12.2025 and Shri J K Bhatt and Shri D K Singh, both Advocates appeared on behalf of Shri Premiji Kanji Masani on 15.01.2026 wherein they reiterated the submissions made at the time of filling appeal.

DISCUSSION AND FINDINGS:

5. I have carefully examined the impugned Order-in-Original, the grounds of appeal, the written submissions and the oral arguments advanced by the appellants, as well as the entire material available on record. The principal issue that arises for determination in the present appeals is whether Shri Rajesh Goel, Shri Ravi Kumar, and Shri Premji Kanji Masani consciously facilitated or abetted the impugned export transactions and whether, in the facts and circumstances of the case, the penalties imposed upon them under Sections 114, 114(iii), 114AA and 117 of the Customs Act, 1962 are legally sustainable.

5.1 In so far as Shri Premji Kanji Masani is concerned, his primary contention is that he acted merely in his capacity as a Customs Broker, that he exercised due diligence as required under the Customs Brokers Licensing Regulations, and that no material exists to establish conscious involvement or mens rea on his part. He has also contended that the exports were examined and cleared by Customs officers under Let Export Order and that penal action under the Customs Act amounts to double jeopardy in view of proceedings initiated under the CBLR. On careful examination, I find that the adjudicating authority has

analysed his role in detail and has correctly brought out that his involvement was not confined to a mere mechanical filing of documents. The evidence on record establishes that he handled export documentation and Customs clearance for exporter entities which were subsequently found to be fictitious and floated solely for the purpose of gross overvaluation of goods and fraudulent availment of IGST refunds. Mere collection of KYC documents cannot absolve a Customs Broker where surrounding circumstances clearly indicate abnormal and suspicious transactions warranting heightened diligence. Clearance of goods by Customs does not preclude subsequent penal action once misdeclaration and fraud come to light. I therefore find that the penalties imposed upon Shri Premji Kanji Masani under Sections 114(iii) and 114AA of the Customs Act are legally sustainable.

5.2 As regards Shri Rajesh Goel, his contention that he provided only ancillary assistance and had no conscious involvement does not stand scrutiny in light of the evidence on record. The investigation has brought out that he actively coordinated preparation of export documents, monitored movement of consignments, facilitated opening and operation of bank accounts and participated in routing of funds connected with the export transactions. The evidences, including electronic communications, banking records and his own admissions, clearly establish knowledge of the overvaluation and refund mechanism being adopted. His role, viewed cumulatively, demonstrates conscious and intentional facilitation of the fraudulent exports. I therefore find no infirmity in the adjudicating authority's conclusion holding him liable for penalty under Sections 114 and 114AA of the Customs Act, 1962.

5.3 With regard to Shri Ravi Kumar, though he has contended that he acted merely in his professional capacity as a Chartered Accountant, the material on record reveals that his role extended beyond routine advisory functions. He actively assisted in creation and operation of dummy entities, facilitated opening of bank accounts, filed GST returns for firms engaged in fraudulent exports and coordinated statutory compliances which enabled generation of artificial Input Tax Credit and claim of IGST refunds. The evidences clearly establish conscious facilitation of the scheme. I therefore concur with the adjudicating authority that Shri Ravi Kumar is liable for penalty under Section 117 of the Customs Act, 1962. However, since Section 117 prescribes a maximum penalty of ₹4,00,000/-, the penalty imposed in excess of the statutory limit requires modification to

that extent. Therefore, the penalty imposed upon Shri Ravi Kumar under Section 117 of the Customs Act, 1962 is reduced to ₹4,00,000/-.

5.4 On an overall appreciation of the facts and evidence, I find that the adjudicating authority has correctly appreciated the roles played by each of the appellants and has rightly imposed penalties commensurate with their respective involvement, subject to the statutory limitation in the case of Shri Ravi Kumar. I do not find any infirmity in the impugned Order-in-Original warranting interference in respect of all the three appellants, except to the limited extent indicated above.

6. The appeals filed by the Appellants are disposed of in above terms.

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

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

F. No. S/49- 03,65,66/CUS/JMN/2023-24/5603 Date: 30.01.2026

By Registered post A.D/E-Mail

To,

1. **M/s Premji Kanji Masani Pvt. Ltd.**, 8, Abhishek Complex, Near Union Bank, S T Road, Veraval – 362265.
2. **Shri Rajesh Goel**, 484, Ward No. 03, Purani Anaj Mandi, Gohana, Sonipat - 131301.
3. **Shri Ravi Kumar, CA**, 308, Kirteedeep Building, DDA Towers, Nangal Raya, New Delhi – 110046.

Copy to:

1. The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad.
2. The Principal Commissioner of Customs (Preventive), Jamnagar.
3. The Additional Commissioner of Customs (Preventive), Jamnagar.
4. Guard File.