



सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद

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

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DIN - 20260171MN0000318409

क	फ़ाइल संख्या FILE NO.	S/49-220/CUS/MUN/2024-25
ख	अपील आदेश संख्या ORDER-IN- APPEAL NO. (सीमा शुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962)	MUN-CUSTM-000-APP-647-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	21.01.2026
ङ	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN- ORIGINAL NO.	MCH/ADC/AK/129/ 2024-25 dated 28.08.2024
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	21.01.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	Shri Parwej Alam Anand Nagar, Shri Kiran Ubale Ki Chawl, Anjul Fata, Bhiwandi-Thane Maharashtra



1	यह प्रति उस व्यक्ति के निजी उपयोग के लिए मुफ्त में दी जाती है जिनके नाम यह जारी किया गया है। This copy is granted free of cost for the private use of the person to whom it is issued.
2.	सीमाशुल्क अधिनियम 1962 की धारा 129 डी डी (1) (यथा संशोधित) के अधीन निम्नलिखित श्रेणियों के मामलों के सम्बन्ध में कोई व्यक्ति इस आदेश से अपने को आहत महसूस करता हो तो इस आदेश की प्राप्ति की तारीख से 3 महीने के अंदर अपर सचिव/संयुक्त सचिव (आवेदन संशोधन), वित्त मंत्रालय, (राजस्व विभाग) संसद मार्ग, नई दिल्ली को पुनरीक्षण आवेदन प्रस्तुत कर सकते हैं। Under Section 129 DD(1) of the Customs Act, 1962 (as amended), in respect of the following categories of cases, any person aggrieved by this order can prefer a Revision Application to The Additional Secretary/Joint Secretary (Revision Application), Ministry of Finance, (Department of Revenue) Parliament Street, New Delhi within 3 months from the date of communication of the order.
	निम्नलिखित सम्बन्धित आदेश/Order relating to :
(क)	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। 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 हजार मात्र), जैसा भी मामला हो, से सम्बन्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दो प्रतियां. यदि शुल्क, मांगा गया ब्याज, लगाया गया दंड की राशि और रूपए एक लाख या उससे कम हो तो ऐसे फीस के रूप में रु. 200/- और यदि एक लाख से अधिक हो तो फीस के रूप में रु. 1000/-
(d)	The duplicate copy of the T.R.6 challan evidencing payment of Rs.200/- (Rupees two Hundred only) or Rs.1,000/- (Rupees one thousand only) as the case may be, under the Head of other receipts, fees, fines, forfeitures and Miscellaneous Items being the fee prescribed in the Customs Act, 1962 (as amended) for filing a Revision Application. If the



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

Appeal has been filed by Shri Parwej Alam, Anand Nagar, Shri Kiran Ubale Ki Chawl, Anjul Fata, Bhiwandi-Thane, Maharashtra, (hereinafter referred to as the 'Appellant') in terms of Section 128 of the Customs Act, 1962, challenging the Order-in-Original no. MCH/ADC/AK/129/2024-25 dated 28.08.2024 (hereinafter referred to as 'the impugned order') issued by the Additional Commissioner, Customs, Mundra (hereinafter referred to as the 'adjudicating authority').

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

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

2.2 Detailed physical examinations of the subject containers were conducted under various panchnamas in September 2022, unearthing



systemic and gross mis-declarations regarding the nature, quantity, and assessable value of the imported merchandise. The methodology employed by the cartel involved "stuffing" the rear of the containers with high-value or prohibited contraband while placing low-value "cover goods" near the container doors to mislead preventive officers during routine checks.

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

2.4 For Container No. BMOU6923481, the importer refrained from filing a Bill of Entry entirely. Investigators interpreted this as a tactical move to avoid interception once the DRI began seizing other containers linked to the cartel. Examination of this "orphaned" container revealed further concealed quantities of 17,258 toys, including robot cars and folding quadcopters, alongside mis-declared items like egg poachers and study books. The concealment was so thorough that even the quantity of the cover goods did not match the packing lists provided in the initial Import General Manifest (IGM).

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

2.6 The investigation exposed a sophisticated conspiracy characterized by the use of "paper firms" and dummy Import Export Codes (IECs). Shri Asif Sathi was identified as the mastermind behind the entire racket, orchestrating the illegal imports from behind the scenes to maintain plausible deniability. He orchestrated the illegal imports by arranging IECs from various individuals—such as Shri Narayan Gourayya Rajkar (Proprietor of M/s. Aditi Trading Company)—in exchange for fixed monetary benefits



ranging from ₹15,000 to ₹50,000 per consignment. Sathi managed the logistical movement of these goods to specialized warehouses in Bhiwandi, Maharashtra, and coordinated with a network of associates to offload the contraband to domestic buyers like "Raju Bhai" and "Sohail Bhai."

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

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

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

2.10 Reports submitted by the Chartered Engineer confirmed that the declared transaction values were not at arm's length and did not reflect the

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true transaction value under Section 14 of the Customs Act, 1962. The investigation found that the declared values were suppressed by as much as 70-80% of the actual market rate. Consequently, the declared values were rejected under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, on the grounds of significant mis-declaration of parameters such as description, quality, and quantity. The assessable values were re-determined under Rule 9 (Residual Method) using reasonable means consistent with the principles of the valuation rules.

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

- Section 111(d), (f), and (m): For importing goods contrary to prohibitions (such as the BIS mandate for toys) and for filing entries that did not correspond to the actual value or description of the goods.
- Section 112(a) and (b): For acts of omission and commission—including the failure to examine goods and the facilitation of fraudulent clearances—that rendered the goods liable for confiscation.
- Section 114AA: For the deliberate use of false and fraudulent documents, including forged invoices and manipulated packing lists, in the transaction of business with Customs.

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

2.13 On the basis of the investigation, Show Cause Notice dtd. 31.08.2023 was issued to M/s. Aditi Trading Company and other persons involved including the appellant. Consequently, vide impugned order, the Adjudicating Authority confirmed the liability of the goods for confiscation and the imposition of significant personal penalties on M/s. Aditi Trading Company and other accomplices under Sections 112 and 114 of the Customs Act, 1962,



for their roles in a "well-hatched conspiracy" to defraud the national exchequer. Vide impugned order, following penalties were imposed on the appellant

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

- (i) He imposed penalty of Rs. 1,50,000/- on the appellant under section 112(a)(ii) of the Customs Act, 1962.

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

- (i) He imposed penalty of Rs. 5,000/- on the appellant under section 112(a)(ii) of the Customs Act, 1962.

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

- (i) He imposed penalty of Rs. 700,000/- on the appellant under section 112(a)(i) of the Customs Act, 1962.

SUBMISSIONS OF THE APPELLANT:

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

3.1 The Appellant contends that the impugned order was passed in clear violation of the principles of natural justice because he was denied a proper and effective opportunity for a personal hearing. Despite multiple requests from the Appellant's advocate to schedule a common hearing for five related Show Cause Notices—given they arose from the same investigation—the Respondent failed to provide a link for a virtual hearing and ultimately adjudicated the matter without hearing the "other side". The Appellant argues that procedural fairness is a mandatory requirement for quasi-judicial authorities to prevent a miscarriage of justice.

3.2 The Appellant asserts that his role was strictly limited to supervising the loading and unloading of containers at warehouses in Bhiwandi based on the instructions of his employers, Shri Asif Sathi and Shri Sarfarazbhai. As an



employee, he did not have an independent existence from the company and was not responsible for the conduct of the business or the filing of import documents. He argues that he never verified the names of consignees or the contents of the cartons, as his responsibility ended with the physical movement of the cargo.

3.3 A major point of the appeal is that the Department failed to produce any incriminating evidence showing the Appellant had knowledge of, or was involved in, the alleged mis-declaration, undervaluation, or concealment of goods. The Appellant points out that during his interrogation, questions were only posed regarding the import of e-cigarettes—none of which were found in the containers relevant to this specific case—and no questions were raised regarding the valuation of other items. He maintains that he had no reason to believe the goods were liable for confiscation.

3.4 The Appellant emphasizes that he received no additional consideration or benefit beyond his standard fee of Rs. 3/- per carton for loading and unloading, plus a small amount for maintaining stock. He argues that the lack of "extra remuneration" proves he had no knowledge of any smuggling activity. Furthermore, he contends that mens rea is a prerequisite for imposing penalties under Section 112(a), and since any alleged infraction was unintended and bona fide, the penalty is baseless.

3.5 Finally, the Appellant argues that he does not meet the criteria of an "abettor" or "conspirator" as defined under the Indian Penal Code or the Customs Act. Because he did not intentionally aid or instigate any illegal act, and because there is no evidence of him being a party to a fraud, the conditions for invoking penalties under Section 112(a) and 112(b) are not satisfied. He maintains that the responsibility for any mis-declaration lies solely with the person who filed the Bill of Entry.

PERSONAL HEARING:

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



DISCUSSION AND FINDINGS:

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

5.1 The Appellant's primary contention is that he was merely a "salaried employee" or a "warehouse laborer" with no knowledge of the mis-declaration or the illegal nature of the imports. However, a deep dive into the investigative findings, corroborative digital evidence, and the Appellant's own admissions reveals a far more calculated and significant role within the smuggling syndicate. In customs cases involving large-scale smuggling cartels, it is a common defense for field operatives to claim ignorance by hiding behind the veil of "employment." However, the legal threshold for "knowledge" under the Customs Act, 1962, is not limited to having seen the Bill of Entry or having signed the commercial invoice. It extends to the "circumstantial awareness" and "active participation" in the logistics of contraband.

5.2 The Appellant was not an ordinary laborer hired at the gate; he was the Person-in-Charge of the Bhiwandi Godowns. These godowns served as the final destination and distribution hub for the syndicate. The investigation revealed that the Appellant was entrusted with the responsibility of receiving, unloading, and segregating goods that were cleared under the names of eight different dummy firms, including M/s Aditi Trading Company, M/s Kalpana Exim, and others. A bona fide employee of a legitimate firm would typically handle the cargo of that specific firm. The fact that the Appellant managed cargo for a diverse array of firms—all controlled by the same mastermind, Shri Asif Sathi—strongly indicates that he was aware of the shadowy nature of these operations.

5.3 The digital evidence recovered during the investigation is damning. The Appellant was found to be in frequent communication with Shri Baldevsinh Vala, the associate responsible for port-side clearance and logistics. These communications were not generic; they involved the transmission of truck numbers, container numbers (including the intercepted TLLU4615592), and specific instructions for unloading. Specifically, the records show that the Appellant was providing live updates to the syndicate on the arrival of containers at the Bhiwandi godown. He was managing the "labour" required for the discrete unloading of high-value items like e-cigarettes and toys (non-BIS), which were



concealed behind low-value "cover goods" like exercise books or promotional materials. His coordination ensured that the "offending goods" were quickly moved out of the containers to avoid detection by local authorities, indicating a high degree of "guilty knowledge" or mens rea.

5.4 In his statement dated 02/03.09.2022, the Appellant clearly admitted that he worked for Shri Asif Sathi and looked after the arrival and unloading of trucks at Bhiwandi. He admitted to knowing that the goods being received were not what they were declared to be on paper. Under the "Preponderance of Probability" standard applicable to quasi-judicial proceedings, these admissions, coupled with the recovery of 12 cartons of e-cigarettes from the godown premises under his control, leave no room for the plea of "innocent ignorance." The Hon'ble Supreme Court in the case of **Collector of Customs v. D. Bhoormull [1983 (13) E.L.T. 1546 (S.C.)]** held that the department is not required to prove its case with mathematical precision. It is sufficient if the circumstances are such that the only reasonable inference is that the person was concerned in the smuggling.

5.5 In the instant case, the Appellant's role fits perfectly into the definition of "abetment" under Section 112. By providing the "safe harbor" (godown) and the "logistics support" (unloading coordination) for prohibited goods, he directly facilitated the completion of the smuggling act. Without his active participation in the Bhiwandi hub, the "last mile" of the smuggling operation would have failed. Consequently, his involvement is not that of a "servant" but that of a "functional associate" whose contribution was essential to the syndicate's success. Therefore, the findings of the Adjudicating Authority regarding his knowledge and involvement are legally sound and backed by substantial evidence.

5.6 The Appellant has challenged the heavy reliance placed by the Adjudicating Authority on his statements recorded under Section 108 of the Customs Act, 1962. He contends that such statements, in the absence of independent corroboration, cannot form the basis of a penalty. This contention is legally untenable and runs contrary to a long line of settled judicial precedents. It is a fundamental principle of Customs Law that a statement recorded by a Customs Officer under Section 108 is substantive evidence. Unlike a police officer under the Code of Criminal Procedure, a Customs Officer is not a "Police Officer" within the meaning of Section 25 of the Indian Evidence Act, 1872. The



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Hon'ble Supreme Court in **Naresh J. Sukhwani v. Union of India [1996 (83) ELT 258 (SC)]** categorically held:

"A statement made before the Customs officials under Section 108 of the Customs Act is a material piece of evidence collected by Customs officials and that material incriminates the petitioner inculpating him in the contravention of the provisions of the Customs Act. The statement can be used as substantive evidence."

5.7 In the present case, the Appellant's statement was recorded in a clear and chronological manner, detailing the modus operandi of the syndicate, the roles of various associates like Shri Baldevsinh Vala and Shri Asif Sathi, and the specific locations of the godowns. Such intricate details, which were subsequently verified by the seizure of e-cigarettes from the very location pointed out by the Appellant, establish the "truthfulness" and "voluntariness" of the statement. The Appellant has attempted to distance himself from his earlier admissions by claiming they were coerced. However, the record shows that there was no contemporaneous retraction. A retraction made long after the statement was recorded, typically as an afterthought during the adjudication proceedings, carries very little evidentiary weight. In the instant case, the Appellant did not file any complaint of coercion or ill-treatment before any Magistrate or Medical Officer immediately after the statement was recorded. Furthermore, the information provided in the statement led to the discovery of fresh facts, which makes the statement admissible under the principle enshrined in Section 27 of the Indian Evidence Act.

5.8 The Hon'ble High Court of Bombay in **Surjeet Singh Chhabra v. Union of India [1997 (89) ELT 646 (SC)]** held that even if a statement is retracted, it can be acted upon if it is corroborated by other evidence. In the Appellant's case, the "link" between the mastermind and the physical contraband is established through the Appellant's actions and admissions. The Appellant's argument rests on the assumption that the Department must prove its case "beyond reasonable doubt." This is a misconception of law. As held in *Collector of Customs v. D. Bhoormull*, the standard of proof in Customs adjudication is the "Preponderance of Probability." Given the clandestine nature of smuggling, it is impossible to provide a "video recording" of every instruction given. The cumulative effect of the Section 108 statements, the seizure, and the digital evidence makes the Department's case overwhelmingly probable. Therefore, I find that the Adjudicating Authority was perfectly justified in relying upon the




Appellant's statements to conclude that he was "concerned" in the smuggling of prohibited goods, thereby attracting the penal provisions of the Customs Act.

5.9 The investigation established a clear "smuggling cartel" led by Shri Asif Sathi. The Adjudicating Authority correctly applied the principle of "Preponderance of Probability." In quasi-judicial proceedings under the Customs Act, the department is not required to prove the case "beyond reasonable doubt" as in criminal trials. The Appellant coordinated the receipt of goods cleared through 8 different dummy importers. A person acting in a bona fide capacity as a warehouse manager would have questioned why a single individual (Asif Sathi) was managing cargo belonging to 8 different firms. The Appellant's silence and active coordination prove his complicity.

5.10 The Appellant cited several cases to argue that employees should not be penalized. However, those cases generally apply to situations of "innocent ignorance." In the present case, the Prohibition of Electronic Cigarettes Act, 2019, made the import of e-cigarettes a widely publicized illegal activity. Storing and distributing such prohibited items in bulk cannot be categorized as an "unintended infraction."

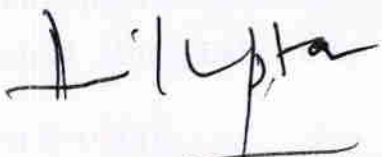
5.11 The Appellant's role in the smuggling syndicate is established beyond a preponderance of probability through voluntary statements under Section 108 which were never retracted, corroborative evidence in the form of WhatsApp chats with other cartel members (Baldevsinh Vala), the physical recovery of 12 cartons of e-cigarettes from the very godown he managed (Bhiwandi). His admission of coordinating arrivals of multiple containers belonging to dummy firms. The plea of being a "salaried employee" is a classic defense used to shield lower-level operatives of a cartel but holds no merit when active participation in illegal acts is proven. The Adjudicating Authority has been balanced in imposing the penalty, considering the massive scale of the smuggling.

6. In view of the above discussions and findings, I find no merit in the appeal filed by Shri Parwej Alam. The findings of the Adjudicating Authority in Order-in-Original No. MCH/ADC/AK/129/2024-25 dated 28.08.2024 are legal, proper, and based on sound evidence.

7. The appeal filed by Shri Parwej Alam is hereby rejected.

सत्यापित/ATTESTED

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


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

F. No. S/49-220/CUS/MUN/2024-25
5456

Date: 21.01.2026

By Speed Post/E-Mail

To,
Shri Parwej Alam
Anand Nagar,
Shri Kiran Ubale Ki Chawl, Anjul Fata,
Bhiwandi-Thane
Maharashtra



Copy to:

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