



सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद

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

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DIN -20260171MN0000008E7D

क	फ़ाइल संख्या FILE NO.	S/49-236/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-658-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	23.01.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Order-in-Original no. MCH/ADC/AK/140/2024-25 dated 20.09.2024
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	23.01.2026
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)	बैगों के रूप में आयातित कोई माल.
(a)	any goods exported
(ख)	भारत में आयात करने हेतु किसी वाहन में लादा गया लेकिन भारत में उनके गन्तव्य स्थान पर उतारे न गए माल या उस गन्तव्य स्थान पर उतारे जाने के लिए अपेक्षित माल उतारे न जाने पर या उस गन्तव्य स्थान पर उतारे गए माल की मात्रा में अपेक्षित माल से कमी हो.
(b)	any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination.
(ग)	सीमाशुल्क अधिनियम, 1962 के अध्याय X तथा उसके अधीन बनाए गए नियमों के तहत शुल्क वापसी की अदायगी.
(c)	Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.
3.	पुनरीक्षण आवेदन पत्र संगत नियमावली में विनिर्दिष्ट प्रारूप में प्रस्तुत करना होगा जिसके अन्तर्गत उसकी जांच की जाएगी और उस के साथ निम्नलिखित कागजात संलग्न होने चाहिए :
	The revision application should be in such form and shall be verified in such manner as may be specified in the relevant rules and should be accompanied by :
(क)	कोर्ट फी एक्ट, 1870 के मद सं.6 अनुसूची 1 के अधीन निर्धारित किए गए अनुसार इस आदेश की 4 प्रतियां, जिसकी एक प्रति में पचास पैसे की न्यायालय शुल्क टिकट लगा होना चाहिए.
(a)	4 copies of this order, bearing Court Fee Stamp of paise fifty only in one copy as prescribed under Schedule 1 item 6 of the Court Fee Act, 1870.
(ख)	सम्बद्ध दस्तावेजों के अलावा साथ मूल आदेश की 4 प्रतियां, यदि हो
(b)	4 copies of the Order-in-Original, in addition to relevant documents, if any
(ग)	पुनरीक्षण के लिए आवेदन की 4 प्रतियां
(c)	4 copies of the Application for Revision.
(घ)	पुनरीक्षण आवेदन दायर करने के लिए सीमाशुल्क अधिनियम, 1962 (यथा संशोधित) में निर्धारित फीस जो अन्य रसीद, फीस, दण्ड, जब्ती और विविध मदों के शीर्ष के अधीन आता है में रु. 200/- (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 nos. MCH/ADC/AK/140/2024-25 dated 20.09.2024 (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 pertains to a complex, multi-layered investigation and the subsequent seizure of import goods relating to eighteen (18) separate consignments processed through eight (08) distinct importers. These activities were identified by the Directorate of Revenue Intelligence (DRI) as part of a highly organized and systematic operation managed by a common smuggling cartel. The investigation was precipitated by specific, actionable intelligence gathered by the DRI, which indicated that a transport vehicle moving toward Mumbai was laden with concealed foreign-brand electronic cigarettes that had been cleared through Mundra Port. Following a rigorous analysis of system data by the DRI Gandhidham unit, Vehicle No. GJ12BV0610 was identified as the carrier of Container No. TLLU4615592. The vehicle was intercepted by the DRI Surat Regional Unit on September 1, 2022, near Palsana Chokdi on the National Highway.

2.1 A meticulous search of Container No. TLLU4615592 was conducted in the presence of two independent Panchas and documented under the Panchnama dated September 1/2, 2022. During the examination, officers recovered 107 cartons containing a total of 85,600 units of "DK123 XXL" (Yuotto brand) electronic cigarettes. These products were found in an array of flavors designed for the domestic market, including Strawberry Watermelon, Two Apples, Blueberry Ice, Watermelon Ice, Peach Ice, Mint Ice, Grape Ice, Energy Drink, Mango Ice, Pina Colada, Aloe Black Currant, Passion Fruit, and Milk Coffee.



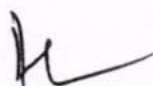
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2.2 The investigation established that these electronic cigarettes fall under HS code 85434000. Their importation is explicitly prohibited vide Notification 20/2015-2020 dated September 26, 2019, and the Prohibition of Electronic Cigarettes (Production, Manufacture, Import, Export, Transport, Sale, Distribution, Storage and Advertisement) Act, 2019. Consequently, the entire consignment was detained and later formally seized under the provisions of the Customs Act, 1962, as the goods were knowingly used for concealment and represented a direct violation of national health and trade policies. This interception served as the catalyst for a wider inquiry into the syndicate's use of multiple dummy entities and "benami" importers to facilitate illegal trade.

2.3 The specific scope of this impugned order focuses on an import consignment associated with M/s. JYM Global Trading Company (IEC No. ANUPG6581F) involving Container No. TEMU7694450. In this instance, the goods were declared in the manifest and IGM No. 2320512 as "754 carton Floor Clean MOP (Misc. Item non-popular brand)" under HS Code 96039000. However, physical examination conducted by DRI officials under the Panchnama dated September 12, 2022, revealed a total absence of the declared moulds or mops.

2.4 Instead, the container was found to be entirely stuffed with 98,000 pieces of "Pop-up Toys" and 24,000 pieces of "Dancing Cactus" toys. It was observed that the importer deliberately refrained from filing a Bill of Entry (B/E) for this specific consignment. This was identified as a strategic omission—a "wait and watch" tactic—intended to evade interception after the syndicate realized that the DRI had already initiated enforcement actions against their other containers at Mundra Port. By withholding the B/E, the cartel attempted to distance the entity from the physical goods once they became "hot."

2.5 Beyond the gross mis-declaration of the items, these toys were found to be in direct contravention of Policy Condition 2 of Chapter 95 of the Customs Tariff. This regulation is a critical safety safeguard, mandating that all imported toys (under EXIM Codes 95030010, 95030020, 95030030, and 95030090) must be accompanied by certificates demonstrating compliance with Bureau of Indian Standards (BIS) safety norms. These standards include:
 IS: 9873 (Part 1): Safety aspects related to mechanical and physical properties.
 IS: 9873 (Part 2): Flammability requirements.



IS: 9873 (Part 3): Migration of certain elements (ensuring no toxic heavy metals are present).

IS: 15644: Safety of Electric Toys (specifically relevant to the "Dancing Cactus" models).

2.6 The investigation confirmed that no such compliance certificates were produced. In the absence of mandatory BIS compliance and NABL accredited lab testing, the toys were classified as "offending goods." They were held liable for absolute confiscation under Sections 111(d), 111(f), and 111(m) of the Customs Act, 1962, as they posed a potential risk to public safety and bypassed essential quality control protocols designed to protect children.

2.7 The DRI investigation identified Shri Asif Sathi as the primary architect and beneficial owner of the smuggling racket. Acting as the mastermind, he utilized a network of front or "benami" entities to import prohibited, restricted, and grossly undervalued products. The syndicate's operational methodology involved the acquisition of Import Export Codes (IECs) from various firms by offering fixed monetary benefits to the proprietors—ranging from INR 15,000 to INR 50,000 per consignment—in exchange for their signatures on blank or fraudulent import documents.

2.8 Shri Asif Sathi effectively remained "behind the curtain," managing the operations through a sophisticated logistical chain. He utilized encrypted communication and WhatsApp groups, such as the group named "Mm," to coordinate with associates. These communications included instructions on how to "stuff" containers to hide prohibited items like e-cigarettes and managing the "crossing" of containers—moving goods from one vehicle to another after customs clearance—to avoid tracking through e-way bills.

2.9 Several key associates were found to have facilitated these illegal clearances:

Shri Baldevsinh Vala (M/s. Kalpana Exim): Acted as the primary logistical coordinator at Mundra. He was instrumental in forging documents provided by foreign suppliers, manipulating invoice values, and ensuring the smooth transition of goods from the SEZ to warehouses in Bhiwandi.

Shri Samir Sharma (G-Card Holder, M/s. Al Cargo Services): Misused sub-login IDs on the SEZ online portal—a practice deemed unauthorized under the SEZ Act—to file clearances for dummy importers without ever verifying the

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genuineness of the IEC holders. He allegedly received between INR 2.5 lakh to INR 3 lakh per consignment for facilitating these high-risk clearances.

Shri Mohammed Tahir Menn: Acted as a primary coordinator, introducing the mastermind to customs clearers and managing the administrative needs of the dummy firms, including M/s. MM Enterprises and M/s. JH Enterprises.

Shri Hanif Kapadia: A business associate of Shri Asif Sathi who managed firms in China, such as M/s. AH International Trading Co. Limited and M/s. HK Longcheng Trade Co. Limited. These entities were used to route mis-declared and undervalued goods to India, providing the necessary international leg of the smuggling operation.

2.10 The financial infrastructure of the cartel was designed to obscure the true source of funds. Cash deposits and bank transfers from domestic purchasers were funneled through the accounts of dummy firms to settle liabilities with foreign suppliers. This "closed-loop" financial system allowed the syndicate to bypass traditional banking scrutiny. When the DRI initiated its crackdown in September 2022, the syndicate attempted desperate evasive maneuvers. For example, in the case of Container No. TGBU5160748, the importers in connivance with the shipper attempted to change the port of discharge from Mundra to Jebel Ali, Dubai, and even changed the name of the importer to "Sasco Global Logistics" to divert the contraband and avoid seizure. These efforts were unsuccessful as the DRI had already flagged the containers.

2.11 Due to the systematic and gross mis-declaration in terms of description, classification, and quantity, the transaction values declared in the associated invoices (such as Invoice No. YY2022117) were rejected under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. The investigation noted that actual transaction values were unavailable because the goods found bore no relation to the goods declared. A formal redetermination of value was performed in accordance with Rule 9 (Residual Method), utilizing market price assessments provided by a government-approved Chartered Engineer, Shri Kunal Ajay Kumar. The value of the toys found in the JYM Global consignment was reassessed at INR 2,44,20,000/-.

2.12 On the basis of the investigation, Show Cause Notice dtd. 30.08.2023 was issued to M/s. JYM Global Trading Company and other persons involved including the appellant. Consequently, the Adjudicating Authority confirmed the liability of the goods for confiscation and the

imposition of significant personal penalties on M/s. JYM Global Trading Company, Shri Asif Sathi, Shri Hanif Kapadia, and other accomplices under Sections 112(a) and 114AA of the Customs Act, 1962, for their roles in a "well-hatched conspiracy" to defraud the national exchequer. Vide impugned order, following penalty was imposed on the appellant.

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

- (i) He imposed penalty of Rs. 8,00,000/- 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 the Respondent failed to grant a proper and effective opportunity for a personal hearing. Despite multiple requests by the Appellant's advocate—both in writing and telephonically—to schedule a common hearing for five related Show Cause Notices arising from the same investigation, the requests were ignored or summarily dismissed. The Appellant argues that procedural fairness and the right to be heard (*audi alteram partem*) are fundamental jurisprudential requirements, and the denial of this opportunity necessitates that the order be quashed on this ground alone.

3.2 The Appellant asserts that his involvement was strictly limited to the physical loading and unloading of containers at the instructions of his employers, Shri Asif Sathi and Shri Sarfarazbhai. As an employee, he was responsible only for supervising the movement of cargo into rented warehouses and had no role in placing orders, negotiating with suppliers, arranging shipments, or filing Bills of Entry. The appeal emphasizes that under settled law, an employee should not be held liable for the malpractices of an employer unless there is specific evidence of independent involvement, which the Department has

failed to produce in this case.

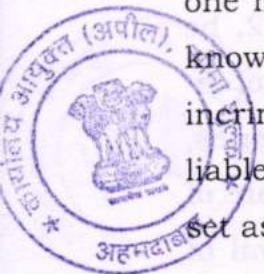
3.3 The Appellant maintains that he had no knowledge of the actual contents of the cartons or any alleged mis-declaration, undervaluation, or concealment. He argues that the Department's investigation and subsequent questioning focused almost exclusively on the import of e-cigarettes rather than the valuation or declaration of the other goods. Furthermore, the Appellant notes that no e-cigarettes were actually found in the containers relevant to this specific case, and he was not obliged to inspect the internal contents of the packages he was hired to move.

3.4 The appeal highlights that the Appellant received no additional consideration or illicit "benefit" that would suggest participation in a smuggling conspiracy. His remuneration was fixed at a nominal rate of ₹3 per carton for loading and ₹3 for unloading, along with a small fee for maintaining stock. Because there is no evidence of extra remuneration or mens-rea (guilty mind), the Appellant argues that the essential elements for imposing a penalty are missing. He contends that any infraction was unintended and bona fide, and therefore he should not be penalized for the actions of the importers.

3.5 The Appellant argues that the penalties imposed under Section 112(a) of the Customs Act, 1962, are legally unsustainable because he did not act as an abettor or conspirator. To be held liable for "abetment" under the law, one must intentionally aid or instigate an illegal act, which requires a level of knowledge the Appellant did not possess. Since the Revenue has not provided incriminating evidence showing that the Appellant knowingly rendered the goods liable for confiscation, he maintains that the penalty is baseless and should be set aside.

PERSONAL HEARING:

4. Personal hearing was granted to the Appellant on 18.12.2025 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.



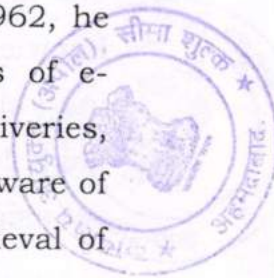
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DISCUSSION AND FINDINGS:

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 central issue is whether the Appellant, Shri Parwej Alam, was a knowing participant in the smuggling syndicate and whether the penalty imposed is legally sustainable. The investigation conducted by the DRI has meticulously dismantled the Appellant's defense of being a "mere employee." The evidence suggests a high degree of integration within the criminal enterprise. The most damning evidence is the physical presence of the Appellant at ICD Sachin during the interception of Container TLLU4615592. It is highly improbable for a "low-level supervisor" from a godown in Bhiwandi to travel to a dry port near Surat to "represent the buyers" unless he held a position of trust within the syndicate. The Appellant explicitly identified himself to the officers as the representative of Shri Asif Sathi and Shri Sarfaraz, the beneficial owners of the contraband. This act of representation proves he was not just a laborer but an authorized agent facilitating the illicit clearance and transport of smuggled goods.

5.2 The Appellant served as the "Godown In-charge" at the Bhiwandi warehouses, which functioned as the primary distribution nodes for the syndicate's smuggled goods in the Mumbai/Thane region. His responsibilities went beyond simple supervision; he was the custodian of the prohibited inventory. In his statement under Section 108 of the Customs Act, 1962, he admitted to receiving and managing several previous consignments of e-cigarettes in July and August 2022. The systematic nature of these deliveries, concealed within regular cargo, indicates that the Appellant was fully aware of the illicit modus operandi used to bypass Customs controls. The retrieval of WhatsApp communications between the Appellant and the freight forwarder, Shri Baldevsinh Vala, provides a digital footprint of his active participation. The messages contain specific details of container numbers, truck licenses, and driver contacts. More importantly, the timing of these messages aligns perfectly with the arrival of the intercepted container. The Appellant provided the essential logistics link that allowed the "masterminds" to remain behind the scenes while the goods were moved.



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5.3 The Appellant's admission in his statement regarding his work for Asif Sathi for a monthly salary of Rs. 20,000/- plus commissions on "successful deliveries" confirms a profit-sharing motive rather than a simple employment contract. Under the Customs Act, statements recorded by Customs Officers are not hit by Section 25 of the Evidence Act. As held in Naresh J. Sukhawani v. Union of India [1996 (83) E.L.T. 258 (S.C.)], the statement of a person who is part of a conspiracy can be used to prove the involvement of others, and more so, his own admission is sufficient to sustain a penalty. The Appellant never retracted this statement in a timely or credible manner, rendering his current plea of "ignorance" an afterthought. The goods involved—85,600 e-cigarettes—are prohibited under the Prohibition of Electronic Cigarettes Act, 2019. The sheer volume and the method of concealment make it impossible for any person managing the inventory to claim lack of knowledge. The "Doctrine of Wilful Blindness" applies here; even if the Appellant claims he didn't "open every box," his active coordination of a concealed cargo demonstrates he consciously disregarded the illegal nature of the trade.

5.4 The legality of the penalty rests on the liability of the goods for confiscation. The investigation has established that the goods imported were both "prohibited" and "restricted," and were brought into the country through active concealment and mis-declaration. The import of Electronic Cigarettes, including all forms of Electronic Nicotine Delivery Systems (ENDS), Heat-Not-Burn Products, e-Hookahs, and similar devices, is absolutely prohibited in India. The Prohibition of Electronic Cigarettes (Production, Manufacture, Import, Export, Transport, Sale, Distribution, Storage and Advertisement) Act, 2019: Section 4 of this Act explicitly prohibits the import of e-cigarettes. DGFT Notification No. 20/2015-2020 dated 26.09.2019 amended the Import Policy of items under HS Codes 2403, 3824, and 8543 to reflect this absolute prohibition.

5.5 In the instant case, 85,600 e-cigarettes were found concealed. Since these goods are "prohibited," their mere presence in the import consignment, that too in a concealed manner, renders them liable for absolute confiscation under Section 111(d) of the Customs Act, 1962, which deals with goods imported contrary to any prohibition imposed by or under the Act or any other law for the time being in force. The declared goods, "Toys," are subject to stringent Restricted entry conditions under the Foreign Trade Policy. Chapter 95 of the ITC (HS) provides that Toys are importable only if they comply with the Quality Control Orders (QCO) issued by the Ministry of Commerce and Industry. Importers must provide a Certificate of Conformity from the Bureau of Indian Standards (BIS)

and ensure that each toy bears the "ISI" mark. The investigation revealed that the toys imported by M/s. JYM Global Trading Company lacked the necessary BIS certifications and were used as a "cover" for the e-cigarettes. Mis-declaring restricted goods or failing to meet the mandatory technical standards renders them liable for confiscation under Section 111(m) of the Customs Act, 1962, as they do not correspond in "entry" or "value" to the declaration made in the Bill of Entry.

5.6 The goods were found in a vehicle/container that did not match the declared route or destination, and were "concealed" behind legitimate cargo. The discovery of e-cigarettes hidden behind cartons of toys is a classic case of concealment intended to bypass the "Green Channel" or Risk Management System (RMS) of Customs. This physical act of concealment is the primary "omission or commission" that triggers the penalty provisions. Once the goods are held liable for confiscation under Section 111, the persons involved attract penalties under Section 112. Section 112(a) penalizes any person who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111. The Appellant's role in managing the warehouse and coordinating the receipt of these goods constitutes an "act" facilitating the smuggling. The Appellant's involvement in the Bhiwandi hub directly falls under "harbouring, keeping, and concealing" the smuggled goods. The legal bar for "reason to believe" is met by the Appellant's admission of handling previous such consignments and his presence at the interception site.

5.7 The Appellant's claim that he was unaware of the contents is contradicted by his own actions and the digital evidence. The WhatsApp chats between the Appellant and Shri Baldevsinh Vala (Forwarder) included specific truck/container numbers, driver details, and locations of vehicles carrying prohibited items. In an organized smuggling racket, the "godown in-charge" is a critical link. He ensures that the "concealed" items reach the intended buyers without being detected. The argument of "no mens rea" fails in light of Section 123 of the Customs Act and the nature of "prohibited goods." When a person deals with 85,600 e-cigarettes and thousands of toys requiring BIS certificates in a concealed manner, the "knowledge" of the illegality is inherent in the act of concealment itself.

5.8 The Appellant cited cases like Imperial Trading LLC v. C.C. to argue that penalties shouldn't be imposed without direct evidence. However, those

cases involved isolated incidents with no evidence of a "syndicate" or "organized cartel." In the present case, the "syndicate" is a proven fact with multiple importers, forged documents, and consistent modus operandi. The Appellant's role as the "distribution hub" in Bhiwandi makes the cited cases inapplicable to the current factual matrix.

5.9 The Appellant has contended that the penalty of Rs. 8,00,000/- is excessive and disproportionate. I have evaluated this claim against the statutory provisions of the Customs Act and the judicial principles of "deterrence" and "proportionality." The investigation involved the seizure of 85,600 e-cigarettes with an estimated market value exceeding Rs. 20 Crores. Under Section 112(a) of the Customs Act, the maximum penalty can extend to the value of the goods or five times the duty sought to be evaded. In the case of prohibited goods where "duty" is not the only criterion, the "value" of the contraband is the benchmark. Comparing a penalty of Rs. 8,00,000/- to a seizure value of Rs. 20 Crores shows that the Adjudicating Authority has exercised extreme moderation. The penalty represents a mere fraction of the value of the illicit trade the Appellant was facilitating. Therefore, the argument of "excessiveness" is factually and legally untenable.

5.10 The Appellant was not an accidental participant. As established in above, he was the manager of the "Bhiwandi hub" and a profit-sharing operative. In organized crime, the "logistics manager" is as vital as the "financier." The Appellant's presence at the scene of interception and his active coordination via digital platforms confirm a high degree of personal culpability. The items smuggled—e-cigarettes—are prohibited not just for revenue reasons but for public health and social policy as per the Prohibition of Electronic Cigarettes Act, 2019. Dealing in prohibited goods that are socially harmful warrants a stricter punitive approach. By facilitating the entry and distribution of these prohibited items, the Appellant acted against the public interest, justifying the penalty imposed.

5.11 The Appellant's plea for leniency on the ground of being a "salaried employee" is rejected. Following the orders of a master (Asif Sathi) to commit an illegal act does not provide immunity from the legal consequences of that act. As a "Godown In-charge," the Appellant had a "reason to believe" that the goods were illicit, especially given the concealment and the lack of proper documentation. The penalty under Section 112 is "in addition" to the confiscation of goods and is intended to punish the individual for their

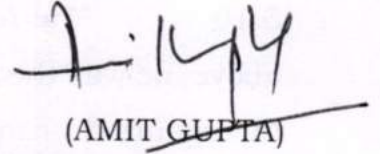
"commission or omission." Given the Appellant's proven involvement in multiple past consignments and his pivotal role in the distribution network, I find that the penalty of Rs. 8,00,000/- is perfectly aligned with the gravity of the offense. It is neither arbitrary nor excessive, and it satisfies the legal requirement of being proportional to the scale of the smuggling operation.

5.12 The evidence clearly points to the Appellant being a key operative of the smuggling cartel. He managed the receipt and storage of prohibited goods and was a conduit for their illegal distribution. The procedural grounds regarding the "personal hearing" are also not sustainable as the records show that multiple opportunities were provided, which were either not utilized or used to delay the process.

6. In view of the detailed discussion above, I find no merit in the appeal filed by Shri Parwej Alam. The findings of the Adjudicating Authority in OIO No. MCH/ADC/AK/140/2024-25 are well-reasoned and supported by substantive 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/49-236/CUS/MUN/2024-25
 5608

Date:23.01.2026

By Speed post/E-Mail

To,
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Copy to:

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