



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 - 20260171MN000094879B

क	फ़ाइल संख्या FILE NO.	S/49-280/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- 659-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	27.01.2026
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:	27.01.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	Shri Asif Sathi, Flat No. 4104, 41st Floor, B-Wing Orchid Enclave, Belasis Road, Mumbai Central Mumbai 400008



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



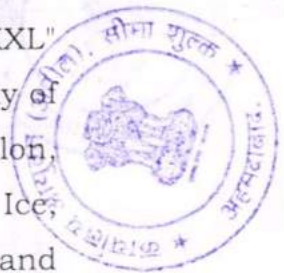
ORDER-IN-APPEAL

Appeal has been filed by Shri Asif Sathi, Flat No. 4104, 41st Floor, B-Wing, Orchid Enclave, Belasis Road, Mumbai Central, Mumbai 400008, (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.

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.

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,



Handwritten signature or mark.

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).

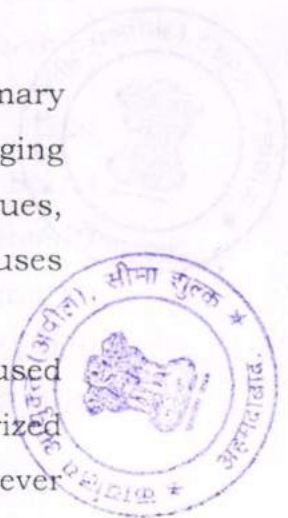
2.6 The investigation confirmed that no such compliance certificates were produced. In the absence of mandatory BIS compliance and NABL accredited lab testing, the toys were classified as "offending goods." They were held liable for absolute confiscation under Sections 111(d), 111(f), and 111(m) of the 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:

- a. 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.
- b. 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 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.
- c. 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.

- d. 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 re-determination 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 was issued to M/s. JYM Global and other persons involved. Consequently, the Adjudicating Authority confirmed the liability of the goods for confiscation and the imposition of significant personal penalties on M/s. JYM Global, 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. 15,00,000/- on the appellant under section 112(a)(i) of the Customs Act, 1962.

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

- (i) He imposed penalty of Rs. 8,00,000/- upon appellant under Section 114(AA) 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 blatant violation of the principles of natural justice, specifically the right to a fair hearing (audi alteram partem). Despite multiple requests to schedule a common hearing for five interconnected cases arising from the same investigation, the Respondent allegedly refused further opportunity for a hearing after the third scheduled date, even though the Appellant's advocate was actively seeking a virtual link and coordination. Furthermore, the Respondent denied the Appellant's request to cross-examine the Chartered Engineer whose valuation report formed the basis for the allegations of undervaluation. The Appellant argues that cross-examination is a legal right necessary to test the veracity of evidence, and its denial on the grounds of "dilatory tactics" or the Appellant's presence during the Panchnama is legally unsustainable.

3.2 The Appellant challenges the valuation adopted by the Respondent, asserting that the transaction value declared under Section 14 of the Customs

Act should have been accepted. It is argued that the Revenue failed to provide cogent evidence—such as contemporaneous imports of identical goods at higher prices—to justify rejecting the declared value. The Appellant further disputes the reliance on the Chartered Engineer's report, labeling it deficient because it failed to provide specific data on quality comparisons, international price benchmarks, or adjustments for bulk quantity discounts and post-import costs. To support the accuracy of the declared value, the Appellant submitted numerous Bills of Entry from other importers who cleared identical or similar goods at comparable prices.

3.3 A significant ground of appeal is that the charges are based on "assumption and presumption" rather than independent documentary evidence. The Appellant points out that investigative searches at various premises yielded no incriminating documents, such as correspondence with suppliers or evidence of financial "flowback," which would typically accompany a scheme of undervaluation. Furthermore, the Appellant argues that the Respondent improperly relied on the statements of co-accused individuals to implicate him as a "mastermind" or "kingpin". Under settled law, such statements cannot be the sole basis for a charge without independent corroboration and without the adjudicating authority first examining the witnesses as prescribed under Section 138B of the Customs Act.

3.4 The Appellant maintains that he was not involved in any conspiracy to import prohibited or mis-declared goods. Regarding the use of third-party Importer-Exporter Codes (IEC), the appeal argues that lending or using another entity's IEC is not prohibited under the Customs Act. The Appellant cites judicial precedents stating that as long as the customs duty is paid and the goods are not otherwise prohibited, the identity of the actual beneficiary versus the "name lender" does not render the import illegal. It is also asserted that any discrepancies in quantity or description were due to supplier errors, and the Appellant had proactively requested to re-export such goods upon discovering the mistakes through the DRI investigation.

3.5 Finally, the Appellant contests the legality of the confiscation under Sections 111(d), (f), and (m), as well as the imposition of penalties under Sections 112 and 114AA. He argues that Section 111(d) is inapplicable because the goods (toys) are not "prohibited" but merely lacked a BIS certificate, which is a regulatory rather than a prohibitory issue. Additionally, since there was no mens



rea (guilty mind) or intentional use of false documents, the Appellant claims that heavy penalties and "harsh" redemption fines—especially for goods already intended for re-export—are unjustified and should be quashed.

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.

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 contends that there is no documentary evidence linking him to the imports of M/s. JYM Global Trading Company. However, I find this argument to be a mere attempt to distance himself from the overt acts of smuggling. The investigation relies on the statements of Shri Baldevsinh Vala (Authorized Signatory of the forwarder M/s. Kalpana Exim) and Shri Tahir Menn. Both individuals categorically named the Appellant as the controller of the IECs and the person who provided forged/fabricated documents (Invoices/Packing Lists) to be used for Customs clearance. Under Section 108 of the Customs Act, statements made before a Customs officer are admissible evidence. In the case of **K.I. Pavunny vs. Asst. Collector (1997 (90) ELT 241 SC)**, the Hon'ble Supreme Court held that a confession made before a Customs officer, if found voluntary, can form the sole basis for conviction. In the present case, the statements of co-accused are not only consistent but are also corroborated by digital evidence.

5.2 Incriminating chats from the "Mm" group show the Appellant giving specific instructions regarding the "crossing" of containers to avoid interception and the types of "copy goods" to be stuffed. The Appellant's contention that these cannot be used without a Section 138C certificate is technically misplaced at the adjudication stage when the authenticity is corroborated by the participants of the chat themselves. The participation of the Appellant in these chats establishes "mens rea" and active management of the smuggling operation.



[Handwritten signature]

5.3 The investigation found that M/s. JYM Global Trading Company was a non-existent/dummy entity at its declared address. The proprietor, Shri Yadagiri Gawayya, admitted to providing signed documents to the Appellant for monetary benefits. The misuse of an IEC by a person other than the holder is a violation of Paragraph 2.09 of the Foreign Trade Policy and Section 7 of the FT(DR) Act, 1992. The Appellant's role as the "beneficial owner" is clearly defined under Section 2(3A) of the Customs Act, 1962.

5.4 The container TEMU7694450 was declared to contain "Plastic Chocolate Moulds." The physical examination revealed "Pop-up Toys" and "Dancing Cactus." This is not a case of "excess quantity" or "wrong supply" as claimed by the Appellant; it is a case of total substitution of cargo. As per DGFT Notification No. 33/2015-2020 dated 02.12.2019, the import of Toys is permitted only if they conform to BIS standards (IS 9873 and IS 15644). Imports without a valid BIS certificate are prohibited. In Sheikh Mohd. Omer vs. Collector of Customs (1983 (13) ELT 1439 SC), the Apex Court held that the expression "prohibition" includes any restriction or condition. Since the toys did not meet the mandatory policy conditions, they are "prohibited goods" under Section 2(33) and are liable for absolute confiscation under Section 111(d).

5.5 The toys were not mentioned in the import documents. This attracts Section 111(f) (goods not mentioned in manifest) and Section 111(m) (goods not corresponding with entry). The claim of "supplier error" lacks credibility because the Appellant attempted to divert the container to Jebel Ali immediately after the DRI started intercepting other containers of the same cartel. This "guilty conduct" further reinforces the findings of the Adjudicating Authority.

The Appellant argues that the transaction value must be accepted under Rule 3 of CVR 2007. Rule 12 of CVR 2007 allows the proper officer to doubt the truth or accuracy of the declared value if there is a "misdeclaration of parameters such as description, quality, quantity, configuration, etc." In this case, since the description was entirely false (Chocolate Moulds vs. Toys), the declared value in the invoice for "moulds" cannot be applied to "toys." The Adjudicating Authority rightly rejected the transaction value. Once the transaction value is rejected and there are no contemporaneous imports of "identical" or "similar" goods available due to the nature of the smuggling (concealed unbranded toys), the value must be determined under Rule 9.



[Handwritten signature]

5.7 The use of a Chartered Engineer's report to determine the market value is a recognized "reasonable means." The Appellant's challenge to the Chartered Engineer's qualifications is frivolous, as valuation of plastic/mechanical toys falls within the technical competence of a mechanical engineer. Furthermore, the Appellant or his representative was present during the examination and signed the Panchnama without protest.

5.8 Records show that the Adjudicating Authority granted three opportunities for a personal hearing. The Appellant failed to appear in the first two and only submitted a written reply at the last moment. The request for a "common hearing" for five different SCNs is a dilatory tactic. Each SCN represents a distinct cause of action. The law requires a "reasonable opportunity," not an infinite one. The Appellant sought cross-examination of the Chartered Engineer. It is a settled position of law that cross-examination is not an absolute right in quasi-judicial proceedings, especially when the findings are based on physical recovery and documentary evidence. In case of **PATEL ENGINEERING LTD Versus UNION OF INDIA reported at 2014 (307) E.L.T. 862 (Bom.)**, the Hon'ble High Court held that "*irrespective of the facts and circumstances and in all inquiries, the right of cross examination can be asserted. Further, as held above which rule or principle of natural justice must be applied and followed depends upon several factors and as enumerated above. Even if there is denial of the request to cross examine the witnesses in a inquiry, without anything more, by such denial alone, it will not be enough to conclude that principles of natural justice have been violated.*" Here, the case rests on the physical recovery of undeclared toys—a fact that cannot be "cross-examined" away.

5.9 The Appellant, as the beneficial owner, was "concerned" in the carrying, concealing, and dealing with prohibited/restricted goods. His actions rendered the goods liable for confiscation. Therefore, the penalty under Section 112 is fully justified. Section 114AA was introduced specifically to penalize use of "false or incorrect" documents in customs transactions. The Appellant provided forged invoices to the forwarder/CHA to file Bills of Entry (or in this case, to manifest the goods). This intentional use of fraudulent documents squarely attracts Section 114AA. The Appellant's reliance on the case of Challa Systems vs. CCE is inapplicable here. In Challa Systems, the issue was a difference of opinion in valuation. Here, the issue is fraudulent misdeclaration



and smuggling of prohibited items. Fraud vitiates everything (Fraus et jus nunquam cohabitant).

5.10 The evidence collected by the DRI Gandhidham establishes beyond reasonable doubt that the Appellant was the kingpin of a smuggling syndicate. The import of toys without BIS certification poses a risk to public safety and is a blatant violation of India's trade policy. The misdeclaration of cargo description was a deliberate attempt to evade higher duties and policy restrictions. The Adjudicating Authority has correctly applied the law regarding the rejection of valuation and the imposition of penalties. The Appellant's claims regarding natural justice are found to be procedural excuses intended to delay the recovery of government dues.

6. In view of the detailed discussion above, I find no merit in the appeal filed by Shri Asif Sathi. 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 Asif Sathi is hereby rejected.



सत्यापित/ATTESTED
[Signature]
अधीवक/SUPERINTENDENT
सीमा शुल्क (अपील), अहमदाबाद.
CUSTOMS (APPEALS), AHMEDABAD.

[Signature]
(AMIT GUPTA)
Commissioner (Appeals),
Customs, Ahmedabad

F. No. S/49-280/CUS/MUN/2024-25
5588

Date:27.01.2026

By Speed post /E-Mail

To,
Shri Asif Sathi,
Flat No. 4104, 41st Floor, B-Wing
Orchid Enclave, Belasis Road,
Mumbai Central
Mumbai 400008

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.



UNTESTED
CUSTOMS
MUNDR