



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
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DIN - 20260171MN000000CB11

क	फ़ाइल संख्या FILE NO.	S/49-224/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-CUSTOM-000-APP-653-25-26
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.	MCH/ADC/AK/129/ 2024-25 dated 28.08.2024
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 Dirgesh Dedhia, Plot No.156, Ghanshyam Park, Baroi Road, Mundra-Kutch



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/- (रुपए दो सौ मात्र) या रु. 1000/- (रुपए 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, केंद्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ
	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench
	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016
	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.
	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.

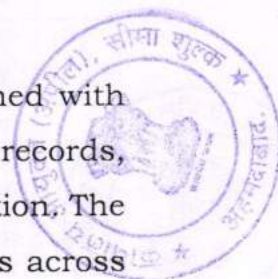


ORDER-IN-APPEAL

Appeal has been filed by Shri Dirgesh Dedhia, Plot No.156, Ghanshyam Park, Baroi Road, Mundra-Kutch, (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/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

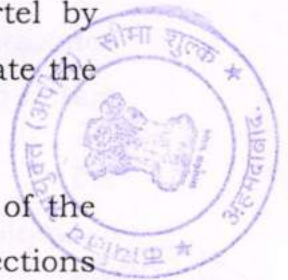


plausible deniability. He orchestrated the illegal imports by arranging IECs from various individuals—such as Shri Narayan Gourayya Rajkar (Proprietor of M/s. Aditi Trading Company)—in exchange for fixed monetary benefits ranging from ₹15,000 to ₹50,000 per consignment. Sathi managed the logistical movement 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 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 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 was issued to M/s. Aditi 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. 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. 1,00,000/- 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:

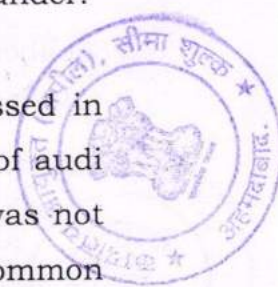
- (i) He imposed penalty of Rs. 200,000/- on the appellant under section 112(a)(i) of the Customs Act, 1962.

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 gross violation of the principles of natural justice, specifically the rule of audi alteram partem, because a proper opportunity for a personal hearing was not granted. Despite multiple written and telephonic requests to schedule a common hearing for five related Show Cause Notices arising from the same investigation, the Respondent proceeded to adjudicate the matter unilaterally. The Appellant argues that procedural fairness is a mandate for quasi-judicial authorities and that the failure to hear their side rendered the decision-making process flawed and the resulting order liable to be quashed.

3.2 Furthermore, the Appellant asserts that the Department failed to



bring any evidence on record to prove their active involvement in the alleged offence of mis-declaration or undervaluation. In his statement, the Appellant clarified that while he obtained an IEC for M/s. Exemplar Trading, he was unaware of the actual description, quantity, or value of the goods imported by Shri Asif Sathi. The Appellant emphasizes that he was merely a proprietor of M/s. Exemplar Trading and had no connection to the imports made in the name of M/s. Skyblue International Trading Company, which is the subject of the present dispute.

3.3 The appeal also challenges the legality of the penalties imposed under Section 112(a) and (b) of the Customs Act, 1962, arguing that lending an IEC is not an illegal act prohibited by the statute. Citing various judicial precedents, the Appellant argues that an importer is not required to be the end consumer or even the actual buyer of the goods. Since the Department produced no evidence that the Appellant received any consideration beyond a one-time commission for the IEC, or that he had any mens rea (guilty mind) or knowledge regarding the concealment of e-cigarettes or toys, the Appellant maintains he cannot be held liable as an abettor or conspirator.

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.

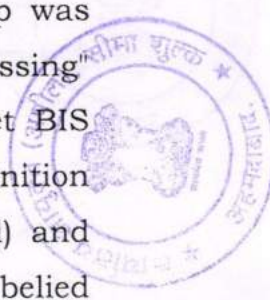
5.1 The Appellant has contended that the mere lending of an Importer-Exporter Code (IEC) does not attract penal provisions unless direct involvement in the physical act of smuggling is proven. This Appellate Authority finds such a contention to be legally flawed and contrary to the established framework of the Customs Act, 1962. The IEC is not merely a registration number but a regulatory instrument of trust. By obtaining an IEC, the holder assumes the legal responsibility for the veracity of the declarations made under that code. The

Foreign Trade (Development and Regulation) Act, 1992, read with the Customs Act, 1962, mandates that the person whose name appears on the Bill of Entry is the "Importer" and is responsible for complying with all prohibitions and restrictions. When an IEC holder "lends" their code to a third party, they are effectively providing the legal cloak necessary for goods to enter the country. If those goods are prohibited or mis-declared, the act of providing the code constitutes "abetment" under Section 112 of the Customs Act.

5.2 Section 112(a) applies to any person who "does or omits to do any act" which renders goods liable to confiscation. In this case, the Appellant's act was twofold:

- **Passive Abetment:** Letting out his IEC to Shri Asif Sathi for a consideration of ₹10,000/- to ₹15,000/- per container. This shows a clear financial motive and a conscious decision to relinquish control over his regulatory identity.
- **Active Abetment:** The investigation clearly established that the Appellant was not a "sleeping" partner. He was physically present and supervised the "crossing" operations. "Crossing" refers to the clandestine offloading of high-value/prohibited goods and replacing them with low-value scrap or miscellaneous items before the container reaches its declared destination or for the purpose of evading scanning. This physical presence at the site of the offense converts "negligent lending" into "active participation in a criminal conspiracy."

5.3 In the present case, the Appellant's own statement recorded under Section 108, which has not been retracted in a timely or legally sustainable manner, admits to his role in the "Mm" WhatsApp group. This group was specifically used to coordinate the movement of containers and the "crossing" activities. The supervision of the offloading of toys that did not meet BIS standards and the smuggling of e-cigarettes falls squarely within the definition of "acts" that render goods liable to confiscation under Section 111(d) and 111(m). The Appellant's defense that he was unaware of the contents is belied by the specialized nature of the "crossing" operation. One does not supervise the clandestine swapping of container contents unless they are aware that the contents are illegal or mis-declared. Therefore, the "lending of IEC" in this context was a deliberate choice to facilitate a smuggling syndicate, making the penalty under Section 112(a) fully justified.



5.4 The Appellant has challenged the Adjudicating Authority's reliance on the statement of co-accused Shri Baldevsinh Vala and his own statement, alleging they were extracted under duress. This Authority finds that the legal sanctity of statements recorded under Section 108 of the Customs Act, 1962, is vastly different from that of police statements, and the evidence in this case is robustly corroborated. Statements made before a Customs Officer under Section 108 are admissible in evidence. Unlike a police officer, a Customs Officer is not a "police officer" within the meaning of Section 25 of the Indian Evidence Act. Furthermore, under Section 108(4), every such inquiry is deemed to be a "judicial proceeding" within the meaning of Sections 193 and 228 of the Indian Penal Code. Therefore, the Appellant was under a legal obligation to state the truth.

5.5 The Appellant argues that a co-accused's statement cannot be used against him. However, the Hon'ble Supreme Court in **Naresh J. Sukhawani vs. Union of India [1996 (83) E.L.T. 258 (S.C.)]** held that:

"The statement made before the Customs officials under Section 108 of the Customs Act is a material piece of evidence and though it is made by a person who is subsequently made an accused, it can be used against a co-accused... such a statement can be used as substantive evidence to connect the other person with the contravention."

5.6 In the present case, Shri Baldevsinh Vala gave a detailed account of how the smuggling operation functioned, specifically naming the Appellant as the person responsible for the "crossing" of containers. This testimony is not a mere bald allegation; it provides a sequence of events that matches the physical movement of the containers and the digital trail. While a co-accused's statement is substantive, courts generally look for "independent corroboration" as a matter of prudence. In the instant case, the corroboration is overwhelming:

- **Digital Evidence:** The existence of the "Mm" WhatsApp group, where the Appellant was an active participant. The chats discuss container numbers, timings for "crossing," and instructions from the beneficial owner, Shri Asif Sathi. This digital footprint serves as a silent witness that corroborates the verbal testimony.
- **Physical Presence:** The Appellant admitted to being present at the locations where container swapping occurred. His explanation that he was merely a "bystander" or "facilitator for legal goods" lacks credibility given the clandestine nature of the offloading.



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- Financial Motive: The admission of receiving ₹10,000/- to ₹15,000/- per container—a sum far exceeding any legitimate service charge for mere IEC lending—points to a "participation premium" for illegal acts.

5.7 The Appellant's attempt to retract his statement at a later stage is seen as an afterthought. Judicial wisdom dictates that a retraction, to be valid, must be made at the earliest available opportunity and must specify the nature of the alleged coercion. The Appellant failed to produce any contemporaneous complaint evidence rendering the retraction legally ineffective. In **Surjeet Singh Chhabra v. Union of India [1997 (89) E.L.T. 646 (S.C.)]**, the Apex Court emphasized that since Customs Officers are not police officers, the confession made before them, even if later retracted, is an admission and binding on the maker. Therefore, the initial statements of the Appellant, which were detailed, factually rich, and corroborated by independent evidence, represent the true facts of the case. The subsequent retraction is found to be a tactical maneuver to escape the rigors of the law and is hereby rejected.

5.8 The Appellant argues that since he was not the beneficial owner of the goods and did not personally sign the Bills of Entry, he cannot be penalized under Section 112(a). This Authority finds that such a narrow interpretation of the law would render customs enforcement toothless against organized smuggling syndicates. Section 112(a) of the Customs Act, 1962, is widely worded. It provides for a penalty on 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, or abets the doing or omission of such an act." In this case, the goods were liable to confiscation under Section 111(d) (import of prohibited goods) and Section 111(m) (mis-declaration of value/description). Furthermore, the Appellant's active supervision of "crossing" was the final act that attempted to shield the illicit goods from detection. This clearly constitutes an "act" that abetted the smuggling.

5.10 It is a well-settled principle in Customs law that the person liable for penalty need not be the owner of the goods. The penalty under Section 112 is in personam and targets the conduct of the individual. Whether the Appellant was the owner or a mere employee/associate of the syndicate does not mitigate his liability if he actively participated in the sequence of events leading to the illegal import. Therefore, the imposition of penalty under Section 112(a)(i) for prohibited/restricted goods is legally sound and reflects the gravity of the Appellant's participation in the syndicate.



5.11 The Appellant cited Sapna Sanjeev Kohli vs. C.C. and Kamal Kapoor, arguing that intent was not proven. However, those cases involved bona fide mistakes or lack of evidence of knowledge. In the instant case, the "Mm" WhatsApp group chats and the "crossing" activity prove active, conscious participation. The Adjudicating Authority correctly applied the ratio of **D. Bhoormull [1983 (13) E.L.T. 1546 (S.C.)]**, stating that the department is not required to prove its case with "mathematical precision" but on the basis of "preponderance of probability."

5.12 The findings of the Adjudicating Authority are comprehensive and based on solid evidentiary footing. The Appellant was an integral part of a sophisticated smuggling operation. His acts of lending the IEC and supervising the evasion of enforcement agencies were pivotal to the success of the cartel. The penalties imposed are proportionate to the gravity of the offence.

6. In view of the detailed discussion and findings , I find no merit in the appeal filed by Shri Dirgesh Dedhia. 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 Dirgesh Dedhia is hereby rejected.



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

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

F. No. S/49-224/CUS/MUN/2024-25

Date: 23.01.2026

By Speed Post/E-Mail

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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.