



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

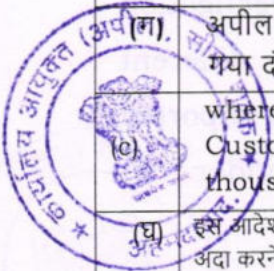
DIN - 20260171MN0000000EE1

क	फ़ाइल संख्या FILE NO.	S/49-318/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-667-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	28.01.2026
ङ	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Order-in-Original no. MCH/ADC/AKM/175/2024-25 dated 25.10.2024
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	28.01.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	Shri Hanif Kapadia, 2704, A-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/- (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, 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 Hanif Kapadia, 2704, A-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 no. MCH/ADC/AKM/175/2024-25 dated 25.10.2024 (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 case involves an intricate and wide-ranging investigation conducted by the Directorate of Revenue Intelligence (DRI), Gandhidham, which unearthed a large-scale, highly organized smuggling cartel operating through the Mundra Port. The investigation revealed that a common group of persons had established a sophisticated, multi-layered syndicate designed specifically to exploit the regulatory relaxations and procedural flexibilities inherent in the Special Economic Zone (SEZ) to Domestic Tariff Area (DTA) clearance mechanism. This syndicate was created for the primary purpose of importing prohibited and restricted goods—specifically high-value foreign-brand electronic cigarettes and various types of toys requiring mandatory Bureau of Indian Standards (BIS) compliance—by resorting to gross and calculated mis-declaration of description, quality, quantity, and value. While the broader investigation covered a staggering 18 import consignments involving eight different importers, the specific subject of this adjudication is the consignment imported in the name of M/s. M.M. Enterprises (IEC: BMEPM3625G) covered under DTA Bill of Entry No. 2012895 dated 26.08.2022.

2.1 The genesis of the case lies in specific, actionable intelligence gathered by the DRI suggesting a systematic and predatory abuse of the "self-assessment" and "trusted trader" schemes that underpin modern customs operations within the SEZ. The intelligence indicated that a smuggling cartel was utilizing front companies to move prohibited contrabands into the domestic market. Analysis of system data revealed that Vehicle No. GJ12BV0610 was carrying the import consignment imported through Container No. TLLU4615592. Acting swiftly upon this intelligence, DRI officers,

in coordination with the Surat Regional Unit, intercepted the truck near Palsana Chokdi on the National Highway on 01.09.2022.

2.2 The vehicle was found to be carrying Container No. TLLU4615592, which had been cleared from the SEZ Warehouse Unit of M/s. Empezar Logistics, Mundra, and was supposedly destined for a godown in Bhiwandi. Upon interception, the driver, Shri Chuna Singh Rawat, was questioned regarding the nature of the cargo. The preliminary inquiry and the recovery of incriminating documents from the driver—including e-way bills featuring unrelated entities—corroborated the intelligence that the container did not merely contain the declared items but was a vessel for contraband. Given the complexity of the concealment, the vehicle was escorted to ICD Sachin, where DRI officials requested the assistance of mechanical labor and equipment to de-stuff the entire container for an exhaustive examination in the presence of two independent arbitrators (Panchas). During the process, a person named Mr. Parvez Alam arrived at ICD Sachin, introducing himself as the representative of the actual buyers, Shri Mohammad Asif Sathi and Shri Sarfaraj Kamani, confirming the syndicate's oversight of the transit.

2.3 The rigorous examination of the impugned goods at ICD Sachin was conducted under Panchnamas dated 01/02.09.2022 and 19.10.2022. This process revealed a masterclass in smuggling techniques. Amidst the declared cargo of "Head Massagers" and "Exercise Books," officers recovered 107 cartons marked with the brand "DK123 XXL." Upon opening these cartons, they discovered a total of 85,600 pieces of electronic cigarettes of the "Yuoto" brand. These were found in a wide array of flavors clearly designed to appeal to younger demographics, 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, Milk, and Coffee. These goods, falling under CTH 85434000, are strictly prohibited for import in terms of DGFT Notification No. 20/2015-2020 dated 26.09.2019 and the Prohibition of Electronic Cigarettes Act, 2019.

2.4 Furthermore, the examination revealed 89,000 pieces of silicon "Pop up" toys falling under CTH 9503. These items were imported in direct violation of Policy Condition 2 of Chapter 95 of the Customs Tariff. This policy mandates that all imported toys conform to rigorous BIS standards, including IS: 9873 Part 1 (Safety aspects related to mechanical and physical properties), Part 2 (Flammability), and Part 3 (Migration of certain elements). The importer failed to produce any valid BIS compliance certificates, rendering the toys



"prohibited goods" under Section 2(33) of the Customs Act, 1962. The examination also found excess quantities of declared items, such as 240 additional Head Massagers and 1,364 Exercise Books. These "filler" goods were strategically used to pad the container, ensuring that the prohibited items remained shielded from the container doors and providing a facade of legitimacy during any casual visual inspection at the port or SEZ gate.

2.5 The investigation into the role and culpability of the noticees revealed a deep-rooted conspiracy characterized by a high degree of planning and division of labor. M/s. M.M. Enterprises, through its proprietor Shri Mohammed Tahir Hanif Menn, acted as a willing front for the syndicate. Shri Tahir Menn admitted that he allowed the smuggling cartel led by Shri Mohammad Asif Sathi to use his firm's IEC and bank accounts in exchange for "rental" monetary benefits ranging from Rs. 15,000 to Rs. 50,000 per consignment. To further insulate the mastermind from detection, Shri Tahir Menn facilitated the creation of dummy firms like M/s. J.H. Enterprises in the names of domestic workers, such as Shri Juma Hamir Halepotra, demonstrating the predatory nature of the syndicate's recruitment.

2.6 A critical aspect of the syndicate's modus operandi was the "crossing" operation, a tactical maneuver designed to disrupt the surveillance of enforcement agencies. After a container was cleared from the Mundra SEZ, the syndicate would monitor its movement in real-time via "Wheelseye" tracking links. To evade detection by agencies tracking e-way bills or container numbers, the syndicate would arrange for the "crossing" of goods at intermediate locations like Navsari or Surat. This involved transloading the contraband from the original container into secondary vehicles, effectively breaking the digital and physical trail between the port of entry and the final destination. In the present case, Shri Parvej Alam was dispatched specifically to oversee this transloading just before the vehicle was tactically intercepted.

2.7 During the investigation, it was revealed that the smuggling cartel had utilized the IEC of M/s. M.M. Enterprises for successful importations in the past. Shri Tahir Menn, Shri Asif Sathi, and Shri Parvez Alam all confirmed in their voluntary statements that a total of 265 cartons (comprising 125 and 140 cartons respectively) had been imported in July and August 2022. These consignments contained approximately 212,000 pieces of electronic cigarettes. Although these goods had already been disposed of in the domestic market and were not available for physical seizure, the Adjudicating Authority held them

liable for confiscation under Section 111, noting that the proceeds of these past crimes were laundered through the same dummy accounts.

2.8 The individual roles in this well-oiled machinery were established through various voluntary statements recorded under Section 108:

- a. Shri Mohammad Asif Sathi (The Mastermind): Sathi was the architect and financier of the racket. He coordinated directly with overseas suppliers in China (such as "Mrs. Shelly") and finalized deals through firms like "AH International Trading Co." and "HK Longcheng Trade Co." He managed the financial trail, collecting cash from domestic purchasers and depositing it into dummy firm accounts to facilitate outward remittances, thereby bypassing legitimate forex regulations.
- b. Shri Mohammed Tahir Menn (The Facilitator): As the proprietor of M.M. Enterprises, he lent the "credibility" of a local business to the cartel. He introduced Shri Baldevsinh to Sathi to handle port-side logistics and was actively involved in monitoring the location of trucks via shared GPS links. He admitted that his firm never conducted any actual business in the goods imported but served merely as a conduit for Sathi's contrabands.
- c. Shri Sarfaraj Kamani (The Associate): A close partner of Sathi, Kamani was involved in the loading phase in China and was identified as a joint owner of the Bhiwandi godowns. Evidence confirmed his participation in planning the import of counterfeit goods and mobile phone accessories infringing the Intellectual Property Rights (IPR) of brands like Vivo, Oppo, and Realme.
- d. Shri Baldevsinh Vala (The Logistical Operative): Operating through M/s. Kalpana Exim, Vala was the operative who manipulated the shipping documents and invoices provided by the overseas suppliers. For ensuring the smooth clearance of prohibited items, he charged Sathi a premium of approximately Rs. 17 Lakhs per container—a fee far exceeding any legitimate forwarding commission.
- e. Shri Samir Sharma (The Customs Broker): A G-Card holder of M/s. Al Cargo Services, Sharma misused the SEZ Online portal's sub-login functionality. He filed the Bills of Entry despite knowing that the descriptions were false. To facilitate the exit of the trucks from the SEZ gate, he submitted e-way bills featuring unrelated parties, ensuring the actual destination remained masked.



2.9 The investigation also highlighted gross professional negligence on the part of the then-Preventive Officer, Shri Vipin Sharma. Charged with the statutory duty to verify the physical cargo against the invoice, Sharma submitted an examination report stating he had "inspected the lot." The subsequent seizure of nearly 175,000 units of prohibited or un-declared cargo from that very container proved that no meaningful physical examination was ever performed. This "casual approach" provided the syndicate with a virtual "green channel," directly enabling the entry of prohibited contrabands that pose a risk to national health and child safety.

2.10 Under the Customs Valuation Rules (CVR), 2007, the Adjudicating Authority rejected the transaction values declared in Bill of Entry No. 2012895. Rule 12 was invoked because the significant mis-declaration rendered the declared values—and the associated invoices—fraudulent. Consequently, the value was re-determined using the "Best Judgment Method" under Rule 9. A government-approved Chartered Engineer assessed the market price of the seized goods at approx. Rs. 21.67 Crores, compared to a declared value of approx. Rs. 4.43 Lakhs.

2.11 On the basis of the investigation, Show Cause Notice dtd. 31.08.2023 was issued to the appellant and other persons. Consequently, the Adjudicating Authority passed the following order in respect of the appellant.

IN RESPECT OF GOODS IMPORTED AND CLEARED THROUGH BILL OF ENTRY NO. 2012895 DT. 26.08.2022:

- (I) He imposed penalty of Rs. 6,00,000/- upon Shri Hanif Kapadia (associate of beneficial owner) under Section 112(a)(i) of the Customs Act, 1962.
- (II) He imposed penalty of Rs. 5,00,000/- on Shri Hanif Kapadia (associate of beneficial owner) under Section 114AA 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 Department failed to provide any cogent or clinching evidence to prove his involvement in the alleged mis-declaration or undervaluation of imported goods. In his statement, the Appellant categorically denied any role in the alleged offense, stating he was only associated with Shri Asif Sathi through M/s. Astrum Trading Pvt. Ltd., a company that does not import or export goods and has no connection to the entities involved in the investigation. Furthermore, the Appellant denies forming or managing overseas companies such as M/s. AH International Trading Co. Limited or M/s. HK Longcheng Trade Co. Limited, noting that the Department failed to verify the ownership of these firms with foreign authorities despite his request to do so.

3.2 The Appellant argues that the Department's case is baseless because it has not shown that he played any role in placing orders, contacting suppliers, arranging shipments, negotiating deals, remitting payments, or filing Bills of Entry. Additionally, there is no evidence to suggest the Appellant was aware of the actual contents of the containers or received any financial consideration or benefit from the alleged mis-declaration. The Appellant emphasizes that statements from co-appellants, including Shri Asif Sathi and Shri Dirgesh Dedhia, do not reveal any involvement in the offense, with Mr. Sathi only mentioning a social visit to Dubai to watch a cricket match and explore the dry dates business.

3.3 The Appellant challenges the legality of the impugned order on the grounds that he was denied the opportunity to cross-examine Shri Tahir Memn, whose statement served as the primary basis for the charges against him. He argues that Shri Memn's statement regarding the naming of overseas companies (e.g., "H" standing for Hanif) is mere assumption and lacks concrete evidence. Relying on Section 138B of the Customs Act and various judicial precedents, the Appellant asserts that an adjudicating authority cannot straightaway rely on investigative statements without first summoning and examining the witness in the presence of the accused, as doing so amounts to an ex parte proceeding.

3.4 A significant ground for appeal is the recent decision by the Hon'ble



CESTAT, Ahmedabad, in a related investigation involving the same common investigation and allegations. The Appellant highlights that in Order No. 13094-13108/2024 dated December 5, 2024, the Tribunal already set aside penalties imposed on Shri Hanif Kapadia for similar charges. He argues that since his alleged role in the common investigation has already been struck down by a higher judicial body, the penalty in the current impugned order should likewise be quashed and set aside.

3.5 Finally, the Appellant maintains that penalties under Sections 112(a) and 114AA of the Customs Act are not applicable in this case. He argues that Section 112(a) requires proof of "abetment" or mens rea (guilty mind), neither of which has been established, as he had no knowledge that the goods were liable for confiscation. Similarly, he contends that Section 114AA is not invocable because he did not knowingly or intentionally sign or use any false declarations or documents; he was not involved in the preparation or filing of the import documents at all.

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 investigation reveals a sophisticated and deliberate scheme designed to circumvent Customs laws through the systematic misuse of Import Export Codes (IECs) belonging to dummy entities such as M/s. M.M. Enterprises. The Adjudicating Authority has correctly identified this as an organized operation where the actual beneficial owners remained in the shadows while "associates" like the Appellant managed the operational mechanics. The



Appellant's primary contention is that he was a mere employee with no decision-making power. However, the depth of his involvement, as evidenced by the case records, suggests a role far more critical than that of a subordinate. He was instrumental in handling the logistics and the documentation required to facilitate these imports. The investigation by the DRI specifically points out that the Appellant acted as a vital link between the kingpins of the syndicate and the ground-level operators at Mundra Port.

5.2 The operation involved the import of high-value, restricted goods under the guise of low-value commodities to minimize duty liability. For such a scheme to succeed, it required meticulous coordination of fake invoices, packing lists, and clearance documents. The findings in the Impugned Order establish that the Appellant was not only aware of these misdeclarations but actively managed the flow of this fraudulent information. His role as an "Associate of the beneficial owner" is substantiated by the fact that he was entrusted with managing the affairs of multiple dummy firms, a responsibility that is never given to an "innocent employee."

5.3 Furthermore, the Adjudicating Authority has noted that the Appellant was involved in the financial logistics of the scheme, coordinating payments and ensuring that the front entities maintained an appearance of legitimacy. This level of participation constitutes "abetment" under Section 112 of the Customs Act, 1962. Abetment in Customs law includes any act that facilitates the commission of an offense, and by providing the logistical framework for these fraudulent imports, the Appellant directly contributed to the duty evasion. The argument of lack of knowledge is further dismantled by the digital evidence found during the search operations, which showed the Appellant discussing operational details of these imports in real-time. Consequently, I find that the Appellant was a conscious participant in a conspiracy to defraud the government exchequer, and his "employee" status was merely a convenient facade.

5.4 The Appellant has challenged the reliance on statements recorded during the investigation. It is a well-settled principle that statements made before Customs Officers under Section 108 of the Customs Act, 1962, are admissible in evidence. Unlike statements before the Police, these are judicial proceedings for certain purposes. In the case of **K.I. Pavunny vs. Assistant Collector (HQ), Central Excise, Collectorate, Cochin [1997 (90) E.L.T. 241 (S.C.)]**, the Hon'ble



[Handwritten signature]

Supreme Court held that a statement recorded under Section 108 is a material piece of evidence and can form the basis of a conviction/penalty if it is found to be voluntary and truthful. In the present case, the Appellant's own statements, corroborated by the statements of Shri Dirgesh Dedia and others, clearly point toward a shared intent to circumvent Customs regulations.

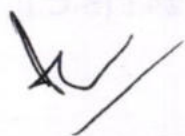
5.5 The Adjudicating Authority has correctly applied Section 112. The Appellant's actions—managing the flow of information and coordinating the movement of restricted goods—directly contributed to the "omission or commission" that rendered the goods liable to confiscation under Section 111. The Appellant's role fits perfectly into this description. He was not merely a salaried employee; he was an active participant in the "beneficial owner's" inner circle.

5.6 The Appellant argues that since he did not sign the Bills of Entry or invoices, Section 114AA cannot be invoked. This is a narrow and incorrect interpretation of the law. Section 114AA reads:

"If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty..."

The phrase "causes to be made, signed or used" is of paramount importance. By managing the dummy firms and providing the data used to create the false invoices, the Appellant "caused" the use of false documents. He was the architect of the data that ended up in the Customs system. The Appellant was part of the "brain" that orchestrated the misdeclaration.

5.7 The Appellant has cited several cases where penalties were set aside for lack of evidence of mens rea or direct involvement. However, those cases typically involve "innocent" service providers (like certain CHAs or transporters) who had no reason to suspect the nature of the goods. In the instant case, the Appellant was part of the core group. He was involved in the financial dealings and the management of multiple "front" identities. This level of involvement precludes any claim of "innocence" or "lack of knowledge." Therefore, the case laws cited by the Appellant are distinguished on facts and are not applicable here.



5.8 The syndicate used various IECs as a "smoke screen." The Appellant was one of the individuals operating behind that smoke screen. The findings in the OIO regarding the Appellant's nexus with the beneficial owner are supported by WhatsApp chats retrieved during the DRI investigation. These digital footprints are "contemporaneous evidence" that provides a high degree of certainty regarding the Appellant's culpability.

5.9 Regarding the Appellant's contention that he received no direct financial benefit, I find that a penalty under the Customs Act is not a tax on profit but a punishment for a statutory violation; therefore, whether or not the Appellant received a specific share of the evaded duty is irrelevant to his liability under Sections 112 and 114AA. Addressing the alleged violation of natural justice, the records clearly demonstrate that the Appellant was provided with the Show Cause Notice, the Relied Upon Documents, and multiple opportunities for a personal hearing, and his failure to utilize these fully or his general dissatisfaction with the adjudicatory outcome does not constitute a procedural breach. Furthermore, the claim that he was merely an employee is rejected on the principle that an employee who knowingly carries out illegal instructions is an accomplice rather than a victim, and the high degree of responsibility and coordination revealed by the investigation far exceeds the scope of a simple office assistant's duties.

5.10 Based on the detailed discussion above, I find that the Appellant was a key associate in an organized syndicate involved in large-scale Customs fraud. The Appellant's role in "causing" the use of false documents is clearly established, making him liable under Section 114AA. The Appellant's role as an abettor in the illicit import of restricted/misdeclared goods is established, making him liable under Section 112(a). The penalty imposed is commensurate with the gravity of the offense and the value of the goods involved. The Adjudicating Authority has passed a well-reasoned order based on a thorough investigation. There is no merit in the appeal filed by Shri Hanif Kapadia.

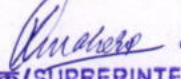
6. In view of the detailed discussions and findings recorded above, I find no reason to interfere with the Order-in-Original No. MCH/ADC/AKM/175/2024-25 dated 25.10.2024.

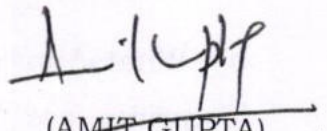


[Handwritten signature]

7. The Appeal filed by Shri Hanif Kapadia, is hereby rejected.

सत्यापित/ATTESTED


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


(AMIT GUPTA)

Commissioner (Appeals),
Customs, Ahmedabad

F. No. S/49-318/CUS/MUN/2024-25

Date: 28.01.2026

By Speed post/E-Mail

To,
Shri Hanif Kapadia,
2704, A-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.